



RISK AND FINANCIAL MANAGEMENT

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As discussed in Chapter 1, the Commissioners were committed to conducting their inquiry in accordance with the highest standards of transparency and probity and to ensure that the outcome represented value for money. The Commissioners also repeatedly expressed their intention to complete the inquiry and deliver the final report on time and within budget. Further, they wanted to expressly account for the public monies provided to and spent by them.

The scale and complexity of the inquiry meant that risk and financial management were essential if these aims were to be met. Meeting these goals was also the foundation for the Commission's independence, integrity and credibility.

4.1 THE RISK-MANAGEMENT FRAMEWORK

Drawing on the Victorian Government's risk-management framework, the Commission developed its own risk-management framework and risk register. The Commission's framework was used to measure the risk inherent in the conduct of the inquiry, the likelihood of those risks materialising and their potential impact, as well as the associated mitigatory actions.

A specific register was developed for the preparation and production of the final report in view of the complexity of the task, the time pressures, and the associated logistical challenges. The registers were regularly reviewed and updated as necessary, and the strategic, operational and reputational risks that had been identified were managed whenever they were within the Commission's influence or control.

The risk framework was managed by the Business and Human Services team and overseen by the Commission's Audit Committee.

4.2 RELATED INTERESTS AND CONFLICT OF INTEREST

The independence and integrity of the Commission were essential to the influence, acceptance and legacy of its work. The Commission's related interest and conflict of interest framework—called the Col Framework—was designed to maintain public confidence, to ensure impartiality in all aspects of the Commission's work, and to be seen as impartial by the wider community. The Col Framework was developed in early 2009 with the assistance of probity specialists O'Connor, Marsden and Associates.

The framework encouraged transparency and accountability, promoted individual responsibility, and created a supportive organisational culture. It referred to the following:

- the Code of Conduct for Victorian Public Sector Employees
- the State Services Authority's *Good Practice Guide on Governance for Victorian Public Entities*
- the Victorian Ombudsman's report entitled *Conflict of Interest in the Public Sector*
- the OECD's *Guidelines for Managing Conflict of Interest in the Public Service: report on implementation*.

The framework applied to all personnel engaged by or for the Commission as an employee, contractor or consultant. It helped individuals working with the Commission understand, identify and disclose any related interest or conflict of interest pertaining to their involvement, and it provided a clear and consistent basis for any associated risks to be managed and mitigated.

The framework recognised that a conflict of interest can be actual, potential or perceived and applied to an individual's pecuniary and non-pecuniary interests. It was also recognised that a conflict can arise as a result of someone's personal associations (or related interests)—including a spouse or de facto partner, an immediate family member, a close friend or an employer.

The existence of an unmitigated conflict of interest could attract scrutiny or criticism, so all individuals working for or providing services to the Commission were required to disclose any involvement, on their part or that of their associates, in the bushfire-related events of 7 February 2009 and following, or any involvement with, or interest in, an organisation or group that was, or could be, affected by the Commission's work. In practice, this meant that all who were working with the Commission were required to do three things:

- disclose any conflict of interest or related interest
- sign a deed of confidentiality
- undergo a national police records check.

The HR adviser and the CEO assessed each declaration and records check. Where something was identified as giving rise to an actual, potential or perceived conflict of interest, the most suitable strategy for dealing with this was determined and discussed with the individual concerned. All risks were reviewed periodically, and individuals were called on to advise the Commission of any change in their personal circumstances.

It is important to note that the existence of a related interest was not grounds for automatic exclusion from the Commission. The magnitude and impact of the 2009 fires were such that, as in the broader community, many Commission personnel knew directly or through associates someone affected. Similarly, many knew or knew of people involved in the response, relief and recovery efforts or in other activities, including as a party to the Commission.

Devising the appropriate mitigation and management strategy depended on the nature of the related interest. In most cases this simply involved the interest and the mitigation strategy being placed in the Conflict of Interest Register. In a small number of instances stronger action was required, including the following:

- A candidate in a recruitment process was excluded because an actual conflict of interest was identified.
- It was assessed as inappropriate for an individual who knew someone who had died in the fires to work on the inquiries into the fire-related deaths.
- In response to changing circumstances, the potential for a perceived conflict of interest arose and an individual ceased work at the Commission.
- On the basis of the potential for a perceived conflict of interest an individual was excluded from any participation in a specific topic of inquiry and the associated records.

Counsel assisting was not subject to the Col Framework: the Victorian Government Solicitor's Office would have discussed any potential conflicts of interest that might have disqualified counsel before their engagement with the Commission.

A particular conflict of interest did arise in relation to e.law and required specific action. e.law advised the Commission that several parties with leave to appear had approached it in connection with the provision of document management services to support the parties' engagement with and appearance before the Commission.

With the assistance of a specialist probity consultant, the Commission and e.law agreed on a mitigation strategy that required disclosure of requests by e.law and approval in writing from the Commission to provide services to third parties with an interest in the proceedings. e.law was also required to implement 'separations' within its business in order to protect the interests of the Commission and those of the other parties. This involved e.law staff who were working at the Commission not working at a second site and all personnel being trained in protocols relating to business practice separation.

Ultimately, there was only one third party relationship that was subject to this regime. The Victorian Government Solicitor's Office retained e.law to assist with processing material to be provided to and received from the Commission. The Commission approved the engagement but had no role in or knowledge of the contractual arrangements between e.law and the VGSO.

4.3 FINANCIAL INFORMATION

Royal commissions have major legal, information management, research and administrative requirements and as a result are costly. One of the difficulties for government in establishing a commission is estimating the funds that will be needed because it is not until the investigation is under way that the true requirement is ultimately revealed.

The Victorian Government allocated \$40 million to cover the set-up and operations of the Commission. As a matter of interest, this compares with the £920 (or almost \$67,000 in current dollars) provided to the 1939 Stretton Royal Commission, which concluded a four-month inquiry and produced a 36-page report with simple technology. There is no requirement for the Commission to publish its accounts. The Commission felt, however, that it was necessary and important to be open about the expenditure of the public monies made available to it. The Commission notes the observations of the Australian Law Reform Commission in its report *Making Inquiries: a new statutory framework* on the cost of inquiries and supports its recommendation that summary expenditure of inquiries ought be published.¹

4.3.1 BUDGET AND FINANCIAL MANAGEMENT

On 16 February 2009 an Order in Council published in the government *Gazette* under r. 8 of Victoria's Financial Management Regulations 2004 authorised the Commission to incur expenses and obligations up to \$40 million.

These monies were made available to the Commission in two instalments: the first instalment, of \$15 million, was granted for the period to 30 June 2009; the second instalment, of \$25 million, was granted for the period to 30 June 2010. (In practice, a small amount of this will carry into 2010–11, reflecting the Commission's reporting date and wind-up.) The first instalment was made available by way of a temporary advance issued by the Minister for Finance, on 3 March 2009, pursuant to s. 37 of the State's *Financial Management Act 1994*. The allocated funding was to cover the total cost of the Commission, incorporating the following:

- initial set-up costs, construction of hearing rooms and purchase of assets
- payments to employees and contractors
- preparation of the interim and final reports
- decommissioning costs associated with the closure of the Commission.

Pursuant to the powers conferred by the Commission's letters patent and the Order in Council of 16 February 2009, and so that there could be no doubt, the Commission Chairperson issued written instruments of delegation conferring authority to incur expenditure on the behalf of the Commission and within defined limits, as follows:

- Commissioners—\$40,000,000
- Chief Executive Officer—\$500,000
- Business Services Manager—\$20,000.

An external accountant was contracted to establish a financial reporting framework and oversee and advise on the Commission's accounting and financial governance. Internal controls, systems and procedures, reconciliation and reporting, and governance processes allowed careful tracking and analysis of all monetary outlays by the Commission. Controls and processes also ensured consistency and efficiency at all times. Budgets and forecasts were continually updated to take into account any new initiatives adopted by the Commission. The CEO and the Business Services Manager reviewed the budget accounts monthly, and any concerns or anomalies identified were dealt with immediately.

The broad intention of the Commission's internal financial reports was to track actual expenditure and ensure that it remained within budget. Cost centres were developed to allow the preparation of more relevant and meaningful financial reporting. The centres represented the Commission's major projects or activities—for example, hearings, community consultations and regional hearings. Each cost centre included all expenses identified as relevant to the particular initiative, excluding the costs of staff directly employed by the Commission. All staff costs are included as part of general administration.

Although many of the Commission's financial processes were managed independently, the Commission still drew on the Department of Treasury and Finance and the Department of Premier and Cabinet for a limited number of support services. It did not have its own bank account: all funding was held by DPC on behalf of the Commission and disbursed in accordance with the directions of the Commission's internal accounting team. All original documentation relating to disbursement of funds was kept by the Commission. DTF provided weekly and monthly reports on monies disbursed for the Commission. These reports were reconciled back to the internal reports of the Commission.

DPC's outsourced human resources service provider, Accenture, provided payroll support for the Commission, administering all on-staff payments on a fee-for-service basis. Each payroll period the Commission's Human Resources Adviser and the accounting team carried out reconciliations of the payroll and leave entitlement reports provided by Accenture.

4.4 SUMMARY OF EXPENDITURE

Table 4.1 shows the Commission's expenditure.

Table 4.1 Commission expenditure, 16 February 2009 to 31 August 2010^{a,b}

Expense	Total costs ^b (\$)
Legal fees (counsel assisting)	2,899,978
Legal fees (solicitors) ^c	9,008,518
Commissioners	1,206,409
Staff costs	3,133,582
Hearing related costs ^d	958,643
Information and records management	5,793,837
IT and telecommunications	3,476,857
Other professional services ^e	1,085,865
Report production ^f	1,896,650
Travel and accommodation	15,755
Occupancy ^g	4,403,919
General administration	747,420
Depreciation and provisions	2,930,972
Total expenditure	37,558,405

Notes:

- a. This summary has been prepared in accordance with applicable Australian Accounting Standards (including the Australian Accounting Interpretations).
- b. The 2009 Victorian Bushfires Royal Commission discharged its terms of reference with delivery of its final report on 31 July 2010. The expenditure shown reflects actual costs incurred by the Commission to 30 June 2010 as well as an estimate of costs of the final month of operation in July 2010 and expected wind-down and decommissioning costs to 31 August 2010, to provide an accurate reflection of all costs associated with the Commission.
- c. Solicitors fees only, disbursements for example associated with expert witnesses, are distributed across relevant cost centres.
- d. Including costs of community consultations and costs associated with expert witnesses engaged.
- e. Including costs of research, probity, procurement, accounting and other contracted professional services.
- f. Predominantly costs of layout, design and editing, with a small proportion of printing costs. The majority of printing and distribution costs for the Commission's reports were incurred by the Department of Premier and Cabinet.
- g. Includes building lease and initial set-up costs.

4.5 AUDIT

An Audit Committee—consisting of the Commissioners, the CEO, the Business Services Manager and the external accountant—was formed in the early stages of the Commission. Its role was to review the budget against the Commission's actual financial position and to discuss strategies to mitigate any actual or perceived risks. Meetings were held quarterly or as required.

The Commissioners were furnished with reports that highlighted both consolidated financial positions and cost centres reflecting the areas of work in the Commission. This allowed expenditure to be tracked against estimates and budget implications of proposed initiatives to be considered. It also allowed for a continued focus on emerging cost pressures, enabling the development of mitigation strategies to effectively manage costs.

As noted, the Department of Premier and Cabinet held funds on behalf of the Commission. Although the department had no influence over the Commission's expenditure of the monies, aggregate financial information related to the Commission was included as an administered item in the notes to the financial statements in the department's annual report for each of the three financial years in which the Commission operated.

As a result, the Victorian Auditor-General's Office audited the Commission's internal financial controls as part of its audit of the Department of Premier and Cabinet's 2008–09 and 2009–10 financial statements. The Commission received no formal reports about the audits, but a positive verbal report was conveyed on each occasion. The final figures of the Commission will be included in the department's 2010–11 financial statements.

¹ Australian Law Reform Commission 200, Report no. 111, *Making Inquiries: a new statutory framework* ALRC, Sydney—see Part C, 'Funding and costs of inquiries', particularly pp. 236–41.