

Regulation and Regulators proliferating in a changing world

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Show of Hands:

Your experience on some of the following

How many of you are involved in regulatory organisations?

1- ASQUA?

2- TEQSA

3- ACNC?

4- Other ?

What experience do you have with your organisation being:

a) **Accredited** (with what authority?)

b) **Registered** (with what authority?)

c) **Audited by a regulator?**

d) **Externally evaluated?**

If not *Why* are you attending this paper?



The Regulators – are they Evaluators?

Australian Skills Quality Agency (ASQA)

subsumed regulation & evaluation of VET sector RTOs & TAFE;

Tertiary Education Quality and Standards Agency (TEQSA)

subsumed regulation & evaluation of Higher Education sector (including private sector and not-for-profit providers, as well as Universities);

Australian Charities and Not-for-Profits Commission (ACNC)

subsumes some functions of the states and territories in registration of charities and introduces a new regulatory regime.

What lessons are there for the rest of us involved in evaluation from this changing world of the regulators?





AUSTRALIAN CHARITIES AND NOT-FOR-PROFITS COMMISSION LEGISLATION INTRODUCED

JOINT MEDIA RELEASE WITH

23 August 2012

MARK BUTLER MP MINISTER FOR SOCIAL INCLUSION

The Gillard Government today introduced into the House of Representatives legislation to establish the Australian Charities and Not-for-profits Commission (ACNC).

"The NFP sector has long called for a dedicated national regulator that understands the sector and its needs, and the Gillard Government is committed to establishing the ACNC to drive the implementation of a national approach to regulation," Mr Bradbury said.

Minister for Social Inclusion, Mark Butler, said the new body was an essential step in the government's NFP agenda **to strengthen and support the sector, reduce re-tape and create an independent one-stop shop regulator for the sector.**

"This is about letting NGOs and charities get on with what they do best, rather than being weighed down by regulation and red-tape," Mr Butler said.

The Australian Taxation Office (ATO) is currently the de facto Commonwealth regulator of charities, with the dual roles of determining an entity's charitable status and enforcing the taxation laws.



Australia's Tradition of Evaluation

“Baume Report” (1979) Defined *Program Evaluation* as

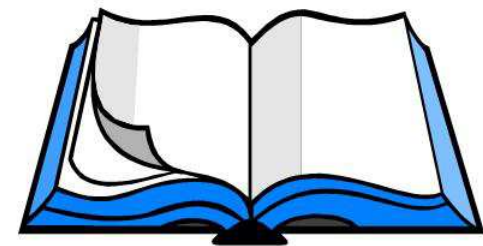
"social program evaluation is the process of thoroughly and critically reviewing the

***efficiency, effectiveness and
appropriateness***

of any program or group of programs."

(Senate Standing Committee on Social Welfare, 1979a, p. 5).

“Through a Glass Darkly?”



EVALUATION vs AUDIT?

- As a result of the Baume Report (SSCSW, 1979) in late 1980s and early 1990s systematic evaluation became *a recognized necessary professional practice* in Australia
- aroused a *perceived rivalry* with some auditing professionals.
- formation of the AES in 1987 coincided with ISO 9000 *Quality Management Systems Standard was first published in 1987.*

Brian Cruse (1993) then President of the Queensland Branch Institute of Internal Auditors (IIA) invited **Colin Sharp** (the President of the AES) to IIA Conference in attempt at re-conciliation

"There are **more similarities than differences** between internal audit and evaluation, and this *should lead to greater cooperation* between the two disciplines..." (Cruse, 1993, p. 35).



AUDIT as EVALUATION?

Scope of evaluation in Auditing

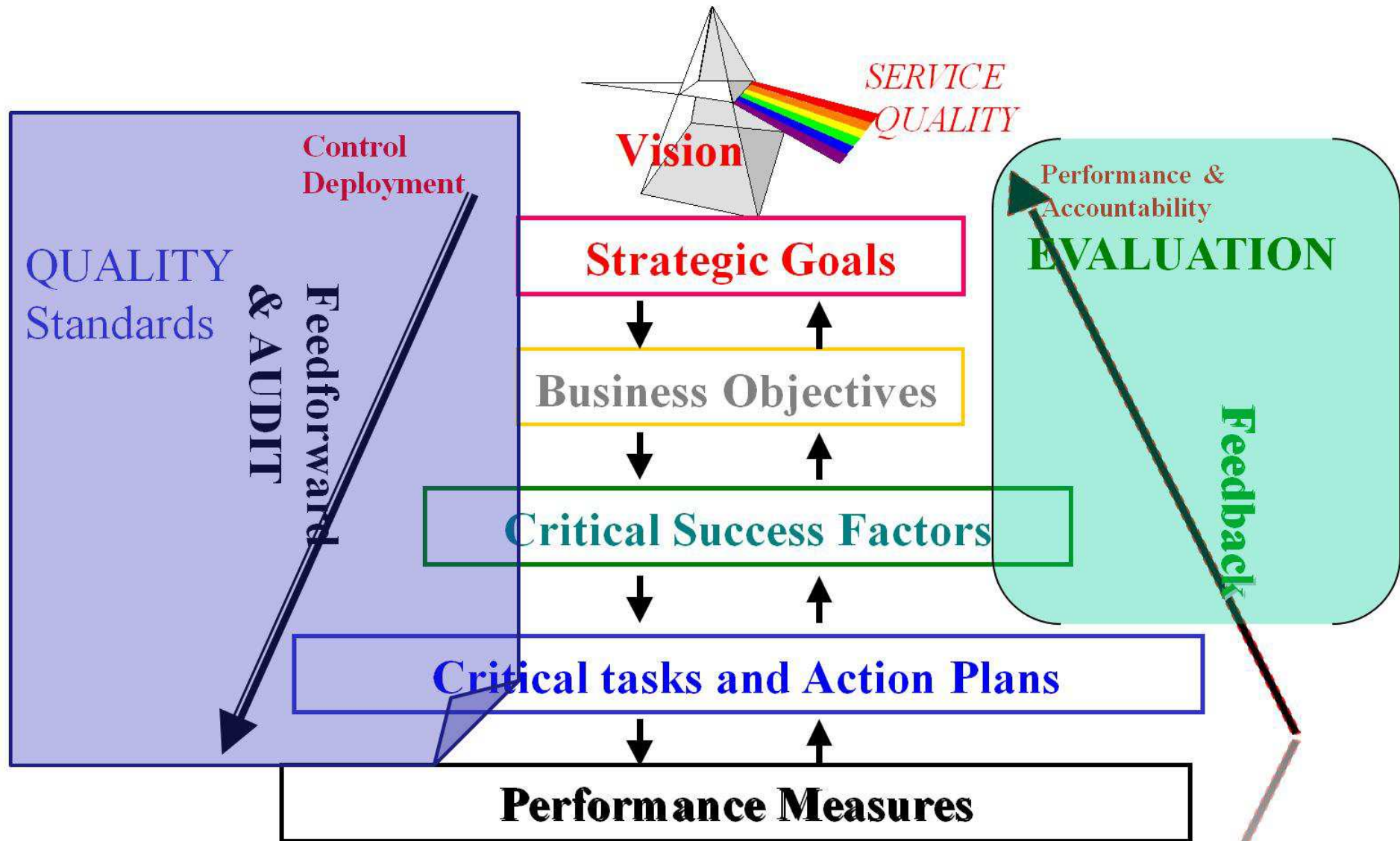
- * **Evaluation is a “trans-discipline”** (like logic)
- * Judgements about the *value* (merit or worth or quality) of some *evaluand* based on certain criteria (Scriven, 1991).
- * **Audit is a form of evaluation** which relies on agreed standards as the criteria for evaluation (Scriven, 1991).

Form & Approach of Evaluation of Quality Auditing

- * *Quality auditing: interactive form / Quality Review approach.* (Owen & Rogers 1999)
- * *Standards-Based and Responsive Evaluation* (Stake 2004)



AUDIT & EVALUATION ARE PART OF *QUALITY MANAGEMENT*



Based on Bititci, U.S., Carrie, A.S. & McDevitt, L. 1997, "Integrated Performance Measurement Systems: a Development Guide" *International Journal of Operations & Production Management*, Vol. 17, No. 5, pp. 522 - 534.



Theoretical Form & Approach of Evaluation of Quality Auditing

In terms of the classification scheme of Owen & Rogers (1999) *quality* auditing (as distinct from *performance auditing*) can be classified as an *interactive form* and a *Responsive or Quality Review approach to evaluation*.

According Stake (2004, p. 65) key to understanding standards-based evaluation is that:

**“Criteria tell us which characteristics to pay attention to.
We use criteria in order to facilitate making good selections.
Standards-based evaluators try to make the criterion picture
clear in advance.”**



Ethics & Standards in **Internal Audit**

Institute of Internal Auditors have for many years developed codes of conduct and standards for auditing (e.g., IIA, 2009; IIA, 2011).

Cover the following *mandatory requirements for membership and legal standing as an Internal Auditor:*

integrity,

objectivity,

confidentiality, and

competency

Ethics & Standards in **Evaluation**

By comparison evaluation practice has **no such legal standing;**
neither is it widely enough known.

Guidelines for the Ethical Conduct of Evaluations (1996)

<http://www.aes.asn.au/about/code.pdf>

Joint Committee on **Standards for Educational Evaluation** (1981,1994)



Methodology

Basis – I have:

- 24 years as a presenter and manager in the higher education and TEQSA's Expert Panel as an Auditor
- 8 years in VET sectors, qualified VET sector trainer and assessor
- over 30 years in not-for-profit sector.

In this review **I searched the legislation, www sites/available documents of the three regulatory agencies (ASQA, TEQSA & ACNC)** for the key words:

“evaluation” “evaluator”

“standards-based evaluation” “benchmark”.

Surprisingly there were very few hits.



LESSONS FROM THE NEW REGULATORY REGIME

A. Standards-based Evaluators are exclusively ‘the faithful’

To be able to be accepted as a standard-based evaluator one has to be enculturated **‘into the fold’** of those who hold to the standards which are being applied as evaluative criteria.

B. Standards are inflexible & mostly unchallengeable or undiscussable

- Even supposedly **“light – touch regulation”** there is an implicit imperative to comply with the prevailing standard or explain why the evaluand should be exempt or whether it is already above the required standard.
- position power for the Auditor based on the actual compliance requirements (see Sharp, 2012 Table 1)

C. Benchmarking is thriving

- imperative of **being seen to be competitive and attaining “best practice”** on the part of the organization being audited;
- government’s acquisition of data under these new regulatory regimes is intended to empower the consumers in a more market oriented accountability for quality
- **But there are the dangers of poor data quality and data gaming.**



RECOMMENDATIONS

Given these insights, I ask the new regulators and the government:

Quis custodiet ipsos custodes?

(translated as **Who will guard the guards themselves?** Renton 2004).

I think there is a role for the AES in reflecting on the new regulators.

I think that there is a role for “**meta-regulation**” & **study of this trend.**

Accordingly, the AES and its members ought to:

- be aware of, and proactive with regard to, standards based evaluation in these new regulatory regimes,
- engage with these Regulators and inform them of the AES and its *Guidelines for Ethical Conduct* and the *Program Evaluation Standards*.
- advocate the exemplar of the ***UK Charities Commission*** *in promoting evaluation and referral to the independent*

Charities Evaluation Services.

