



Government
of South Australia

Report
of the
Auditor-General
Supplementary Report
for the
year ended 30 June 2013

Tabled in the House of Assembly and ordered to be published, 27 November 2013

Second Session, Fifty-Second Parliament

Appointment and administration of authorised officers:
November 2013

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ISSN 0815-9157



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26 November 2013

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President
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House of Assembly
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Adelaide SA 5000

Dear President and Speaker

**Report of the Auditor-General: Supplementary Report for the
year ended 30 June 2013: Appointment and administration
of authorised officers: November 2013**

Pursuant to the provisions of the *Public Finance and Audit Act 1987*, I herewith provide to each of you a copy of my Supplementary Report for the year ended 30 June 2013 'Appointment and administration of authorised officers: November 2013'.

Yours sincerely

A handwritten signature in cursive script, appearing to read 'S O'Neill'.

S O'Neill
Auditor-General

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Acronyms and terms used in this Report

1 Executive summary

1.1 Background

Certain legislation (Acts) allows for the appointment of authorised officers to assist government agencies in the performance of their functions and responsibilities. Authorised officers may have powers to enter and inspect specific premises and make inquiries to ensure compliance with specific provisions of the relevant Act. In some cases the powers extend to enforcing penalties for non-compliance with legislation. As such, authorised officers play an important role in administering the legislation governing certain agencies. Deficiencies in the appointment of authorised officers may lead to adverse operational and legal consequences for the relevant agency and the Government.

In recognition of the importance of the proper appointment and administrative control of authorised officers, a legal and policy compliance review was undertaken for specific government agencies. The audit objective was to understand the organisational processes for the appointment and administration of authorised officers and assess compliance with relevant legislation. Four government agencies, together with applicable legislation, were selected for review.

1.2 Audit conclusion

Most of the Acts reviewed establish the authority for appointing authorised officers, their specific powers and the requirement to issue a certificate of authority (commonly referred to as an identity card). Some Acts have more extensive legislative requirements than others.

As previously mentioned, authorised officers have powers to make inquiries, gather documentary evidence and, in certain cases, enforce penalties. The unlawful appointment or mismanagement of an authorised officer may lead to such evidence being inadmissible in any legal proceedings and the enforcement of penalties. It is important that government agencies establish and maintain appropriate administrative processes for the appointment and management of authorised officers in compliance with relevant legislation.

Across the government agencies and legislation reviewed Audit found:

- the appointment processes of authorised officers are in accordance with legislative requirements except for two instances where it was unclear whether appointments were made in accordance with current delegations
- there is a lack of documented policies and procedures for the appointment and administration of authorised officers
- there are inconsistencies in administrative practices in managing authorised officer appointments within the agencies reviewed and across government.

These matters needed specific remedial attention by the relevant agencies to mitigate risks of unauthorised or inappropriate appointment of authorised officers, and to clearly demonstrate diligent supervisory administration over appointments and authorised officer performance responsibilities.

Overall the review evidenced the immediate need for agencies across government to review the effectiveness of their administrative practices for the appointment of authorised officers and their supervisory review to ensure proper conduct of their statutory responsibilities.

1.3 Audit recommendations and agency responses

The audit findings and recommendations arising from the four agency reviews were communicated in audit management letters to the relevant agencies and letters of response were received from those agencies. Detailed commentary covering these matters is provided in the following sections of this Report. In summary Audit recommended:

- one agency immediately clarify and resolve the uncertainties highlighted in instruments of delegations for the appointment of authorised officers (sections 3.1.2, 3.1.3 and 3.1.4 of this Report)
- one agency appoint authorised officers in accordance with current delegations (section 3.3.2 of this Report)
- all agencies establish documented policies and procedures for the appointment and administration of authorised officers (sections 3.1.5, 3.2.2, 3.3.3 and 3.4.3 of this Report)
- all agencies review and adopt consistent, where possible, administrative practices in managing authorised officer appointments within the government agency (sections 3.1.6, 3.2.3, 3.2.4, 3.3.4, 3.3.5 and 3.4.4 of this Report).

All four agencies responded proposing to undertake a review of all relevant legislation and ensure appropriate policies and procedures are implemented across the agency.

As the audit identified common issues across the four government agencies, it highlighted the likelihood of similar findings in other government agencies. As such, I wrote to the Chief Executive of the Department of the Premier and Cabinet (the central policy and administrative government agency), which provides leadership and support to other agencies, recommending the issues be raised with all agency chief executives to review the administrative practices over the appointment and administration of authorised officers within their agencies.

The Chief Executive of the Department of the Premier and Cabinet responded to my request in early November 2013. The letter of response advised that he had written to all agency chief executives to highlight the audit findings and to request that they consider undertaking a review of the appointment and administration of authorised officers within their agencies.

2 Audit mandate and scope

2.1 Introduction

Many government agencies undertake administrative and/or service responsibilities pursuant to certain enabling legislation (Acts) that allows for the appointment of authorised officers to assist the agencies in the performance of their responsibilities. Generally legislation requires the relevant Minister or delegate to appoint authorised officers, outlining the conditions of appointment and issuing identity cards. The authorised officers have powers to enter and inspect specific premises and make inquiries to ensure compliance with specific provisions of the relevant Act. In some cases the powers extend to enforcing penalties for non-compliance with legislation.

In essence, authorised officers play an important role in administering the agency's legislation and any deficiencies in appointment and administration processes may lead to adverse operational and legal consequences for the agency and the Government.

It is also relevant to mention that the responsibilities for administering certain Acts (by Ministers and government agencies) can change with machinery of government (MoG) changes. There were notable MoG changes in 2011 and 2012. These included the transfer of the administration of the *Family and Communities Services Act 1972* (FCSA) and the *Children's Protection Act 1993* (CPA) to the Department for Education and Child Development (DECD) and the *Development Act 1993* (DA) to the Department of Planning, Transport and Infrastructure (DPTI).

The above mentioned matters and a referral matter received from an external party about past issues concerning the lawful appointment of authorised officers were the influencing factors for performing a legal and policy compliance review of the appointment and administrative control of authorised officers for specific government agencies.

2.2 Audit mandate

The audit was conducted pursuant to section 36 of the *Public Finance and Audit Act 1987*, in particular the requirement of the Auditor-General to opine and report on the sufficiency of controls of public authorities in ensuring financial operations have been conducted properly and in accordance with law.

Authorised officers play an important role in agency operations with financial consequences that require adequate management and control attention by the relevant agency.

2.3 Audit objective and approach

The audit objective was to understand the organisational processes for the appointment and administration of authorised officers and assess compliance with relevant legislation. The areas of review covered the following matters:

- purpose of authorised officers within the government agency
- appointment process of authorised officers and assessing compliance with legislative requirements
- appropriateness of relevant policies and procedures
- adequate management of appointments and identity card processes.

Audit selected four government agencies, and applicable legislation, for review. The selection of agencies was based on the nature and significance of the agency's operations in providing public services and the significance of the authorised officers' powers. The agencies and legislation reviewed were:

- DECD – FCSA and CPA
- Department for Health and Ageing (DHA) – *Health Care Act 2008* (HCA), *Food Act 2001* (FA), and *Controlled Substances Act 1984* (CSA)

- DPTI – DA and *Passenger Transport Act 1994* (PTA)
- Attorney-General’s Department (AGD) – *Fair Trading Act 1987* (FTA), *Gaming Machines Act 1992* (GMA) and *Liquor Licensing Act 1997* (LLA).

The audit involved discussions with relevant officers within the agencies and review of documentation, including any legal advice provided on the appointment and powers of authorised officers.

Consistent with audit review processes, audit management letters were sent to the chief executives of the four government agencies communicating the audit findings and recommendations for consideration. The letters also requested responses from the agencies with advice of remedial action proposed or to be taken on the matters raised by Audit.

The following are the key audit findings and recommendations made to the four government agencies, together with their responses.

3 Detailed audit findings and recommendations

3.1 Department for Education and Child Development

3.1.1 Background

In line with MoG changes, DECD became responsible for administering the CPA and FCSA. Families SA, including the child protection and family support functions and officers of the Care Concerns Investigations Unit were transferred to DECD to assist in administering these Acts. These Acts provide for the authorisation of officers to exercise certain powers in accordance with the legislation as described below.

Children’s Protection Act 1993

Under section 15 an officer is an employee of the department authorised by the Minister to exercise powers under Division 2, Part 4 of the CPA. Specifically, the power to remove children from dangerous situations. Under section 16(2) an officer may only exercise this power with the Chief Executive’s prior approval.

Family and Communities Services Act 1972

An authorised officer means a person authorised by the Minister to exercise the powers of an authorised officer under the specific FCSA provision. Under section 45 an authorised officer may enter any place or premises for the purpose of providing an approved foster parent with support and guidance regarding the care of a child and to ascertain whether a child is being adequately cared for and whether there is compliance with the provisions of Part 4 of the FCSA.

3.1.2 Lawful appointment of authorised officers is unclear

The *Children’s Protection Regulations 2010* (CPR) prescribes the Department for Families and Communities (DFC) as the department for the purposes of the CPA. DFC was renamed the Department for Communities and Social Inclusion (DCSI) as a result of MoG changes.

The current Instrument of Authorisation, dated 6 June 2010 from the then Minister for Families and Communities, authorises managers and supervisors of Families SA to exercise the powers in Division 2, Part 4 of the CPA. As a result of the MoG changes, the employees of Families SA transferred to DECD from DCSI as of 1 January 2012. As a consequence, they are no longer employees of DCSI (formerly DFC) as prescribed in the CPR.

In the absence of amendments to the CPR, it is unclear whether the officers within Families SA have current and appropriate authority to exercise the powers in Division 2, Part 4 of the CPA. The inappropriate appointment of officers under the CPA increases the risk that the removal of a child from a dangerous situation may be found not to be lawful.

Recommendation and agency response

Audit recommended that DECD immediately clarify whether, given the current Instrument of Authorisation and legislative requirements, Families SA officers (employees of DECD) are lawfully appointed as authorised officers for the purposes of Division 2, Part 4 of the CPA.

DECD accepted that there is some ambiguity surrounding the appointments and authorisations of authorised officers. The Instrument of Authorisation will be updated.

Audit sought further clarification from DECD of the ambiguity regarding the appointment of authorised officers and requested provision of legal advice sought by DECD on this matter.

DECD sought legal advice which indicated that while the Instrument of Authorisation signed by the then Minister for Families and Communities clearly intends that the Families SA managers and supervisors be authorised officers, those officers are not the departmental officers provided for under the legislation. Crown Law confirmed that the legislation only permits authorisation to be given to officers within DCSI (formerly DFC).

Audit notes that on two separate occasions (November 2011 and October 2013) Crown Law recommended to DECD that the anomaly of the prescribed department could be resolved by a Governor's proclamation pursuant to section 8 (interpretative provision) of the *Administrative Arrangements Act 1994*. This course of action would avoid the need for a change in the CPA and CPR.

DECD advised that in September 2013 Cabinet approved the permission to draft amendments to the CPA. DECD also advised that these amendments include changes to the CPA to remove the anomaly of the department being prescribed by Regulation. DECD further advised that if the Bill does not proceed it will pursue a Governor's proclamation as recommended by Crown Law.

Audit is of the opinion that this critical matter should be resolved quickly to remove any doubt as to whether the Families SA managers and supervisors who exercise the powers and functions of authorised officers are lawfully appointed for the purposes of Division 2, Part 4 of the CPA.

3.1.3 Potential conflicts in delegated authority

As previously mentioned, on 6 June 2010 the then Minister for Families and Communities authorised managers and supervisors of Families SA to exercise the powers in Division 2, Part 4 of the CPA. Specifically, the authorised officer has the power to remove children from

dangerous situations. Pursuant to section 16(2) of the CPA an authorised officer may only remove a child from the custody of a guardian with the Chief Executive's prior approval. On 1 July 2010 the Chief Executive of the former DFC delegated this authority to the Executive Director, Director, managers and supervisors of Families SA.

The Chief Executive's delegation may be in conflict with the intention of the CPA placing a limitation on the powers of the authorised officer. That is, the current delegations allow a manager or supervisor to both approve and then proceed to remove a child from the custody of a guardian.

There is a lack of segregation of authority between the approval and removal of a child from the custody of a guardian. This increases the risk that the removal of a child from a dangerous situation may be found not to be lawful.

Recommendation and agency response

Audit recommended that DECD immediately clarify whether a conflict exists between the intention of the CPA and the delegated authority. Audit also recommended that approval be delegated at the Executive level to maintain an adequate level of segregation of authority.

DECD sought Crown Law advice on the matter which concluded that the current structure and delegations do not represent the intention of the legislative provision. DECD advised that Families SA is undertaking a fundamental redesign of its service delivery model to come into operation by early 2014. A new governance and team structure and delegations of authority are being implemented which will provide for an appropriate segregation of duties between the approval and removal of a child from a dangerous situation.

3.1.4 Duplication of delegated authority

On 1 July 2010 the Chief Executive of the former DFC signed two Instruments of Delegations for the delegation of specific powers under the FCSA. A review of these instruments revealed uncertainties in the delegations, for example:

- one instrument revokes all previous delegations made whereas the other does not make such a statement. Given that the instruments were signed on the same day, it is unclear whether the latter has been revoked
- where the instrument has been revoked then the power under section 54(1) (the power to enter and inspect a children's residential facility) has not been delegated. Without this delegation, it is unclear whether delegates can exercise the powers under section 56(2) (the power to investigate a complaint of a child or a guardian of any such child in a residential facility).

Recommendation and agency response

Audit recommended that DECD clarify the status of these Instruments of Delegations and the uncertainties highlighted.

DECD accepted that there is some ambiguity surrounding the appointments and authorisations of authorised officers. A new Instrument of Delegations has been drafted and provided to Crown Law for advice prior to executing.

3.1.5 Lack of documented policies and procedures

There are no documented policies and procedures for the appointment and administration process for authorised officers appointed under the CPA and FCSA.

Recommendation and agency response

Audit recommended that DECD establish a relevant policy and procedure and review the appointments of authorised officers on a regular basis.

DECD responded that as part of redesigning the service delivery model referred to in section 3.3 above, a practice guidance and delegations procedure will be prepared to support the operation of the new regime. It will include arrangements for the appointment of authorised officers and the issuing and management of identity cards.

3.1.6 Inappropriate form and content of identity cards

The CPA and FCSA do not require authorised officers to be issued with an identity card that supports the authorised officer's powers under the specific legislation. In practice, authorised officers within the Care Concerns Investigations Unit have a letter dated 9 June 2009 and signed by the Chief Executive of the former DFC outlining the authority of the officer to conduct investigations under various Acts. The letter is supported by the officer's building access pass. As a result of MoG changes, the information contained in the letter and employee passes are inaccurate and inconsistent across the Care Concerns Investigations Unit.

Recommendation and agency response

Audit recommended that DECD review the form and content of identity cards to ensure they provide accurate and sufficient information to support the powers of the authorised officer and adopt a consistent approach across DECD. Audit further recommended appropriate measures to manage the appointment of authorised officers and identity cards.

DECD responded that a register of the classes of authorised officers would be created and managed by a licensing team created under the new service delivery model referred to in section 3.3 above. Further, DECD would, in consultation with Crown Law, develop and issue appropriate identification cards.

3.2 Department for Health and Ageing

3.2.1 Background

DHA is responsible for administering a number of Acts that allow for the appointment of authorised officers. Audit's review included the following Acts.

Health Care Act 2008

Section 42(1)(n) provides for an incorporated hospital to make, alter and repeal by-laws for the appointment of authorised officers, and confer functions and powers on authorised officers in connection with the administration of the hospital or the operation or enforcement of the by-law.

Section 43(2) provides powers to an authorised officer to remove persons from a site on which an incorporated hospital provides any health services. The powers include asking the person questions, searching the person, seizing items from the person and requiring a person to leave the site.

Food Act 2001

Section 94 permits the Minister to appoint persons working within DHA as authorised officers. An authorised officer has the power to investigate offences against the FA and prosecute.

Controlled Substances Act 1984

Under section 50 the Minister may appoint authorised officers. The CSA confers a range of powers on authorised officers including the power to search any premises and investigate for the purposes of ascertaining compliance with the provisions of CSA, or a licence, authority or permit granted under the CSA.

3.2.2 Lack of documented policies and procedures

There are no documented policies and procedures for the appointment and administration process for authorised officers appointed under the abovementioned Acts.

Recommendation and agency response

Audit recommended that DHA establish a relevant policy and procedure for the appointment and administration of authorised officers under various legislation. Where possible, the content of the policy and procedure should be consistent across the various appointments.

DHA responded that a directive and guidelines on the appointment and administration of authorised officers across DHA and the Local Health Networks (SA Health) would be developed. In September 2013 DHA provided Audit with a draft directive for review with the intention of full compliance by six months from the date of approving the directive. Audit considers the draft directive positively responds to the important audit matters raised concerning authorised officer appointment and administration.

3.2.3 Inconsistent practices across SA Health

There are inconsistent practices across SA Health for the administration of authorised officers. Specifically the information maintained in various registers of authorised officers is inconsistent. Some registers do not provide essential details in managing the appointment and administration of authorised officers.

Furthermore, identity cards are not issued to authorised officers appointed under the HCA. While not a legislative requirement, proper management practice would be to issue an identity card to these authorised officers, consistent with those appointed under other Acts. In addition, the content of identity cards issued varied across SA Health.

Recommendation and agency response

Audit recommended that DHA adopt a consistent approach across SA Health for the content of registers and the form and content of identity cards.

DHA responded that in developing the directive and guidelines referred to in section 3.2.2 above, the content of registers and the form and content of identity cards will be reviewed. Furthermore, direction will be provided to ensure a consistent approach across SA Health for the content of registers. In addition, DHA will review the issuing of identity cards to employees who are appointed as authorised officers under the HCA.

3.2.4 *Lack of formal regular review*

Authorised officer appointments are ceased when revoked or the person is no longer an employee of SA Health. There is no formal regular review of the authorisations to determine whether they are current and accurate.

In addition, there is no provision for a review process when an authorised officer is on extended leave or is temporarily transferred to another position (which does not require the person to exercise the powers of an authorised officer). In these situations, proper management practice would be that the identity card is returned for safe keeping until the employee returns to their duties of an authorised officer.

Recommendation and agency response

Audit recommended that DHA implement a process to review authorisations on a regular basis and adopt a consistent approach across SA Health.

DHA responded that in developing the directive and guidelines referred to in section 3.2.2 above, a review process for authorised officers will be implemented.

3.3 Department of Planning, Transport and Infrastructure

3.3.1 *Background*

In line with MoG changes, DPTI became responsible for administering the DA. Planning SA was transferred to DPTI to assist in administering this Act. DA and PTA are two Acts that provide for the authorisation of officers to exercise certain powers in accordance with the legislation as follows.

Development Act 1993

Under section 18 the Minister may appoint a person to be an authorised officer who may be subject to specific conditions. Authorised officers may inspect any land or building and obtain information for the purpose of administering the provisions of the DA, such as investigating a suspected breach of an Act provision or determining whether the land or building is safe.

Passenger Transport Act 1994

Under section 53 the Minister may appoint persons to be authorised officers who may be subject to specific conditions. Authorised officers may inspect premises and vehicles being used for passenger transport service and obtain information relating to the administration and enforcement of the PTA.

3.3.2 Appointments not in accordance with current delegations

As a result of the MoG changes, the identity cards for DA authorised officers were reissued to identify these officers as employees of DPTI and provide for the Chief Executive's signature. DPTI's Chief Executive has authorised the appointments. However, the current delegations provide that the then Minister for Urban Development and Planning has delegated the authority to appoint authorised officers to the Executive Director, Planning SA. Further, the Instrument of Delegations states:

Reference to a position title that no longer exists is a reference to the position whose occupant performs the functions previously performed by the occupant of the named position.

The role of the Executive Director, Planning SA position within the former Department of Planning and Local Government is now performed by the Deputy Chief Executive, Planning within DPTI. As such, under the current delegations the Deputy Chief Executive, Planning is the appropriate delegate to appoint authorised officers.

Recommendation and agency response

Audit recommended that DPTI appoint all authorised officers in accordance with relevant legislation and current delegations.

DPTI responded that all the authorised officers issued with an authority card by the Chief Executive will be reappointed by the Deputy Chief Executive, Planning and authority cards reissued by early December 2013.

DPTI also advised that a comprehensive review of all Planning SA's Ministerial delegations has been completed and a new Instrument of Delegations is being prepared for the Minister's approval.

3.3.3 Lack of documented policies and procedures

There are no documented policies and procedures for the appointment and administration process for authorised officers appointed under the PTA.

At the time of the audit review, the DA authorised officers policy was being reviewed to reflect agency administrative changes and the authorised officer procedure supporting the policy could not be located.

Recommendation and agency response

Audit recommended that DPTI establish a relevant policy and procedure for the appointment and administration of authorised officers under various legislation. Where possible, the content of the policy and procedure should be consistent across the various appointments. Furthermore, DPTI should ensure current policies and procedures are readily available to staff.

DPTI advised that a framework has been developed where the relevant business areas were required to implement and maintain appropriate controls over the appointment and administration of authorised officers. DPTI further advised that a review of compliance with the framework's requirements will be conducted in early 2014.

3.3.4 *Lack of formal regular review*

Authorised officer appointments are ceased when revoked or the person is no longer an employee of DPTI. There is no formal regular review of the PTA authorisations to determine whether they are current and accurate.

In addition, there is no provision for a review process when a PTA or DA authorised officer is on extended leave or is temporarily transferred to another position (which does not require the person to exercise the powers of an authorised officer). In these situations, proper management practice would be that the identity card is returned for safe keeping until the employee returns to their duties of an authorised officer.

Recommendation and agency response

Audit recommended that DPTI implement a process to review authorisations on a regular basis and adopt a consistent approach.

DPTI responded that the recommendation to review authorisations consistently across the department would be considered. DPTI did not provide an indicative timeframe for implementing proposed action.

3.3.5 *Inconsistent practices across Department of Planning, Transport and Infrastructure – content of identity cards*

While the legislative requirements have been met, Audit considered that the PTA identity cards do not provide essential information to support the authorisation. For example, the name of the authorised officer, powers of the authorised officer under specific provisions of the PTA, and the signatures of the authorised officer and delegate are not included. Further, the PTA identity cards are inconsistent with the content of the DA identity cards.

Recommendation and agency response

Audit recommended that DPTI revise the content of the identity cards and adopt a consistent approach across the department.

DPTI responded that there is no legislative requirement for the name or signature of the authorised officer and delegate. Cards issued are a means of identification and the omission of the name and signature of the officer ensures persons committing offences are not able to target individual officers.

Notwithstanding that there is no legislative requirement, audit review of authorised officers under the DA and of practices adopted by other agencies reviewed found that identity cards do or would be updated to include these details. In this context, Audit will further relate to DPTI to reconsider this matter.

3.4 **Attorney-General's Department**

3.4.1 *Background*

AGD is responsible for administering a number of Acts that allow for the appointment of authorised officers. Audit's review included the following Acts.

Fair Trading Act 1987

Section 76 of the FTA specifies persons who are authorised officers, including any persons appointed by the Minister. An authorised officer has the power to obtain information, inspect any premises and seize goods in relation to the administration or enforcement of the FTA provisions.

Liquor Licensing Act 1997 and Gaming Machines Act 1992

Section 122(6) of the LLA and section 3 of the GMA specify persons or a class of persons who are authorised officers, which includes an inspector. An authorised officer has the power to obtain information, inspect any premises and seize items as evidence in relation to the administration or enforcement of the LLA and the GMA provisions or a license under these Acts.

3.4.2 *Inaccuracies in the instrument of delegations*

A review of the current Instrument of Delegations revealed that the references to FTA provisions did not reflect the current version of the FTA. The recent recommendations for appointment of authorised officers were made pursuant to the incorrect section resulting in the need to resubmit recommendations for approval.

Recommendation and agency response

Audit recommended that AGD review the Instrument of Delegations on a regular basis to ensure it is consistent with current legislation.

AGD responded that the Instrument of Delegations would be reviewed by 30 June 2013 to ensure consistency with current legislative requirements.

AGD has since confirmed that the review was completed by the due date.

3.4.3 *Lack of documented policies and procedures*

The authorised officers guideline is specific to the administration of authorised officers under the FTA and other related Acts relevant to the Commissioner for Consumer Affairs. There are no documented policies and procedures for the administration of authorised officers under the LLA and the GMA.

Recommendation and agency response

Audit recommended that AGD review current policies and procedures for authorised officers and adopt a consistent approach across the department.

AGD responded that a review of all processes relating to the appointment of authorised officers under the Acts administered by Consumer and Business Services would be undertaken. New policies and procedures would be developed to ensure a consistent approach. AGD anticipated the review of processes would be completed by 30 June 2013 with implementation of any findings to follow thereafter.

AGD has since confirmed that it completed a draft document outlining new policies and procedures by 30 June 2013 and is now in the process of implementing them.

3.4.4 *Inconsistent practices across Attorney-General's Department*

There are inconsistent practices across AGD for the administration of authorised officers. Specifically a register of authorised officers is maintained for FTA appointments whereas there is no register for LLA and GMA appointments.

Further, the content of the identity cards issued to the authorised officers varies across AGD.

Recommendation and agency response

Audit recommended that AGD adopt a consistent approach across the department for the maintenance and content of registers, and the content of identity cards.

AGD accepted the recommendation and advised a comprehensive register of authorised officers will be established and updated as required, providing proper control over numbered and signed identity cards.

3.4.5 *Overlap of statutory responsibilities*

In early 2007, AGD sought legal advice to clarify the overlap of responsibilities of authorised officers between the LLA and FA (which is administered by DHA). Crown Law recommended that a memorandum of understanding (MoU) between the then Office of Liquor and Gaming Commissioner and relevant health authorities be established to ensure a proper understanding of the roles and obligations of each agency so that a coordinated response can be developed.

At the time of receiving the Crown Law advice the matter was raised with representatives of DHA and a response remains outstanding. While there is merit in establishing an MoU, AGD has not pursued the matter as their compliance model was under review.

Recommendation and agency response

Audit recommended that AGD pursue discussions with DHA on the matter and develop an MoU to clearly outline the role and responsibilities of the relevant authorised officers in the interest of ensuring public health safety.

AGD responded that the development of an MoU would be considered once the new compliance model is fully functional. It was estimated that this would be in late 2013.

AGD has since advised that the new compliance model is in the implementation phase and the development of the MoU will be undertaken in 2014.

Acronyms and terms used in this Report

Acronym	Description
AGD	Attorney-General's Department
CPA	<i>Children's Protection Act 1993</i>
CPR	<i>Children's Protection Regulations 2010</i>
CSA	<i>Controlled Substances Act 1984</i>
DA	<i>Development Act 1993</i>
DCSI	Department for Communities and Social Inclusion
DECD	Department for Education and Child Development
DFC	Department for Families and Communities
DHA	Department for Health and Ageing
DPTI	Department of Planning, Transport and Infrastructure
FA	<i>Food Act 2001</i>
FCSA	<i>Family and Communities Services Act 1972</i>
FTA	<i>Fair Trading Act 1987</i>
GMA	<i>Gaming Machines Act 1992</i>
HCA	<i>Health Care Act 2008</i>
LLA	<i>Liquor Licensing Act 1997</i>
MoG	Machinery of government
MoU	Memorandum of understanding
PTA	<i>Passenger Transport Act 1994</i>
SA Health	Department for Health and Ageing and the Local Health Networks