



# SUBMISSION TO THE INDEPENDENT REVIEW OF THE PGPA ACT 2013

## OVERVIEW

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The *Public Governance, Performance and Accountability Act 2013* (PGPA Act) and Rule (the Framework) are generally effective in facilitating improved governance, performance and accountability across Commonwealth entities.

To be fully effective the framework needs to be underpinned by a shared understanding of how it can be implemented consistently and efficiently across the Australian Government. In this context, Australian National Audit Office (ANAO) audits are at their most helpful when the framework is clear and the opportunity for differing interpretations is limited.

There is an opportunity for the Department of Finance (Finance) to produce practical guidance and also reduce red tape through advice and documentation on the pragmatic, timely application of the Framework. The Resource Management Guides (RMG) are useful reference documents, however they would be more effective if they were shorter, had a sharper focus on practical implementation, and were released at the time they were first needed.

## AUDIT COMMITTEES

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In our view, the requirement in the PGPA Act for majority independent membership of audit committees is a positive and useful development. We suggest the chair of the committee should also be independent. We believe the option to have a minority of departmental staff on the audit committee should be retained. This keeps flexibility in the system and helps manage costs.

Independent members of PM&C's audit committee raised concerns about requirements relating to the level of assurance they are expected to provide on the performance statement. They also have concerns over the consultation process.

## PERFORMANCE REPORTING

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The corporate planning and performance framework is working reasonably well.

It is our experience, however, that the PGPA Act requirements have substantially increased the volume, complexity and cost of mandatory reporting in the Annual Report.

We find that performance measurement in areas such as policy advice are vexed and a common approach across government with an acceptance of implicit compromises would be helpful.

The transition costs of the Australian Government moving to a consistent, compliant performance reporting regime could be mitigated through the release of practical guidance from Finance and/or the ANAO. It would also assist the users of performance reporting (e.g. the Parliament, public).

## **ANNUAL REPORT**

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The annual report continues to play a key role in communicating the performance of entities to Parliament and the public.

Much of the content of the annual report is mandatory material based on rules set many years ago. As a consequence, large parts of the annual report are dense and hard to read. To make the document more approachable, the printed version (if still required) could be presented at a summary level with additional detail available on entity websites.

We believe, however, there is significant scope to streamline the mandatory reporting rules and we would welcome a move to electronic tabling and digital annual reports. The use of electronic tabling would allow annual reports to be tabled one to two weeks earlier than a printed version.

## **FINANCIAL REPORTING RULE**

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The Financial Reporting Rule (FRR) and the associated Commonwealth Entities Financial Statements Guide set the financial reporting requirements for Commonwealth reporting entities each financial year. The FRR is finalised late in the financial year. For example, the 2016-17 FRR was released in May 2017. To support effective planning and reduce the pressure on annual financial reporting deadlines, it would be helpful for these documents to be finalised earlier.

From the department's perspective, it would be ideal if there were no material differences in the interpretation of the FRR requirements. Consistency would be helped by early release of guides with new standards. For example, the new leases standard (AASB 16), has no accompanying advice, yet it's an issue that has a wide and material impact on all Government agencies. To support communication, regular dialogue with the ANAO to agree and settle guidance and facilitating more community of practice forums for financial reporting, budget, governance etc. may assist. However, we feel that where an issue impacts all entities (e.g. lease accounting or breaches of section 83 of the Australian Constitution) Finance should take more of a coordinating role. This will ensure entities apply consistent treatment and reduce the need for individual entities to seek private sector advice on similar matters.

## *Executive Remuneration Disclosure*

In recent years, there have been regular changes to Executive remuneration disclosure, leading to a decrease in comparability and accountability. Currently, executive remuneration is included in the financial statements, the human resource section of the annual report and on an entity's website. The reported information is calculated using different methods, which can be confusing to users of the reported information. We need a model that meets all reasonable requirements for the medium term and only needs to be reported once.

## **RISK**

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The legislative requirement to establish and maintain appropriate systems of risk oversight and management has been helpful in communicating the importance of changes to our current risk framework.

### *Risk and the Corporate Plan*

The *Commonwealth Risk Management Policy* is the primary document that interprets PGPA Section 16 into definitions and compliance requirements for entities. The Policy only makes a passing reference to the Corporate Plan for entities and does not provide any connection between the risk management requirements for entities and their Corporate Plan. The Policy could be strengthened by including meaningful information about the relationship between an entity's Corporate Plan, risk management policy and framework. The Policy should also expand on the requirements of Item 6 Risk oversight and management in the PGPA Rule — section 16E and link these requirements to the elements of the Policy. Additional guidance on the relationship between the Corporate Plan, risk management policy and framework would be helpful.

### *Element Five*

In our view, Element Five – 'Developing a positive risk culture' of the *Commonwealth Risk Management Policy* appears to duplicate other elements (three, four and six) and in effect defines a positive culture as one that is compliant. We suggest reviewing Element Five to clearly articulate how a culture should be positive and not just compliant.

### *Comcare Risk Management Benchmarking Survey*

The Comcare Risk Management Benchmarking Survey is assessed against the nine elements of the *Commonwealth Risk Management Policy* to produce maturity ratings. The Policy does not make any substantive reference to risk maturity. The Policy should be reviewed to include risk maturity and consolidate Element 5 – 'Developing a positive risk culture', Element Eight – 'Maintaining risk management capability' and Element Nine – 'Reviewing and continuously improving the management of risk'. Risk management capability should be linked to adequate resourcing in response to an entity's risk environment and profile as an indication of maturity.

## *Endorsement of accountable authority*

Elements One and Two of the Policy include a 'must' requirement for accountable authority endorsement. PM&C requests an amendment to the Policy. We think that, once an accountable authority endorses an entity's risk management policy and framework, any updates and insignificant changes resulting from a review through established governance processes could be endorsed by an appropriate delegate.

## **ACCOUNTABLE AUTHORITY INSTRUCTIONS**

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The PGPA Act, in contrast to the previous framework under the *Financial Management and Accountability Act 1997*, does not allow the Accountable Authority to delegate the power to issue Accountable Authority Instructions (AAIs). Under the current legislation, even minor changes to AAIs need to be approved by the Accountable Authority. Providing decision-making power to delegate minor changes would facilitate a more efficient process.

## **INDIGENOUS AFFAIRS**

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Several aspects of the Framework in relation to corporate Commonwealth entities need clarification. They relate to the procurement and provisions for the expenditure of money beyond the forward estimates. We see opportunities to streamline the legislation to avoid confusion. For example, the commitment or expenditure of relevant money is mentioned in three separate provisions in the PGPA Act, in sections 23, 52 and 71. Additionally, there is some debate and inconsistent advice on whether the wording of section 71 provides a power for a Minister to approve proposed expenditure, or conditions for approving proposed expenditure in accordance with a power already provided (such as under section 64 of the *Aboriginal Land Rights (Northern Territory) Act 1976* or elsewhere).