

Public Governance, Performance and Accountability Act 2013 and Rule

Independent Review

Ms Elizabeth Alexander AM

Mr David Thodey AO

Consultation Draft

Written comments, by 22 June 2018,
can be provided to
[**PGPAActReview@finance.gov.au**](mailto:PGPAActReview@finance.gov.au)

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Acronyms and abbreviations

AASB	Australian Accounting Standards Board
ANAO	Australian National Audit Office
APSC	Australian Public Service Commission
ASX	Australian Securities Exchange
Australia Post	Australian Postal Corporation
BCA	Business Council of Australia
CAC Act	<i>Commonwealth Authorities and Companies Act 1997</i>
CBST	Comcover Benchmarking Survey Tool
CGRGs	Commonwealth Grants Rules and Guidelines
Corporations Act	<i>Corporations Act 2001</i>
CPRs	Commonwealth Procurement Rules
CRMP	Commonwealth Risk Management Policy
Finance	Department of Finance
FRR	<i>Public Governance, Performance and Accountability (Financial Reporting) Rule 2015</i>
GPRA	<i>Government Performance and Results Act of 1993</i> (United States)
JCPAA	Joint Committee of Public Accounts and Audit
PGPA Act	<i>Public Governance, Performance and Accountability Act 2013</i>
PGPA Bill	<i>Public Governance, Performance and Accountability Bill 2013</i>
PGPA Rule	Public Governance, Performance and Accountability Rule 2014
PSPF	Protective Security Policy Framework
SES	Senior Executive Service

Terms of reference for the review

Context

The *Public Governance, Performance and Accountability Act 2013* (PGPA Act), [subsection 112\(2\)](#), requires that an independent review of the operation of the PGPA Act and the Public Governance, Performance and Accountability Rule 2014 (PGPA Rule) be conducted as soon as practicable after 1 July 2017. The Explanatory Memorandum to the Act explains that this will be a post-implementation review of how the PGPA Act and Rule have worked and whether improvements could be made.

The requirement for the review was included in the PGPA Act on the suggestion of the Joint Committee of Public Accounts and Audit (JCPAA).¹

The development of the PGPA Act and Rule was guided by the following principles:

1. Government should operate as a coherent whole;
2. A uniform set of duties should apply to all resources handled by Commonwealth entities;
3. Performance of the public sector is more than financial;
4. Engaging with risk is a necessary step in improving performance; and
5. The financial framework, including the rules and supporting policy and guidance, should support the legitimate requirements of the Government and the Parliament in discharging their respective responsibilities.²

The PGPA Act has the following objects ([section 5](#)):

- a) to establish a coherent system of governance and accountability across Commonwealth entities;
- b) to establish a performance framework across Commonwealth entities;
- c) to require the Commonwealth and Commonwealth entities:
 - (i) to meet high standards of governance, performance and accountability;
 - (ii) to provide meaningful information to the Parliament and the public;
 - (iii) to use and manage public resources properly;
 - (iv) to work cooperatively with others to achieve common objectives, where practicable; and
- d) to require Commonwealth companies to meet high standards of governance, performance and accountability.

Objective

1. To examine whether the operation of the PGPA Act and Rule is achieving the objects of the PGPA Act in a manner consistent with the guiding principles;
2. To identify legislative, policy or other changes or initiatives, to enhance public sector productivity, governance, performance and accountability arrangements covered by the PGPA Act; and
3. To examine whether policy owners' implementation of the PGPA Act and Rule has appropriately supported their operation in Commonwealth entities.

¹ Joint Committee of Public Accounts and Audit (JCPAA), *Report 438: Advisory Report on the Public Governance, Performance and Accountability Bill 2013*, p. 47, para 4.51.

² The fifth principle was included in response to Recommendation 2, JCPAA, *Report 441: Inquiry into Public Governance, Performance and Accountability Act 2013 Rules Development*, p. 88, para 3.147.

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Scope

The review will consider the broad scope of operations and functions under the PGPA Act and Rule, including, for example: policy and strategic initiatives, and procedural requirements.

In addition to the general consideration of the implementation and operation to the PGPA Act and Rule, the review will give consideration to issues such as:

- The impact of the new legislative framework including:
 - Consideration of the impact on small entities and previous *Commonwealth Authorities and Companies Act 1997* (CAC Act) bodies, how these entities are managing under the new framework and whether adjustments should be made for smaller entities;
 - Examination of how Commonwealth entities work cooperatively with others (in 'joined-up' government), as emphasised by the PGPA Act principles and objects;
- Accountability and governance, including examination of the:
 - Timely and transparent advice provided to Parliament:
 - reporting on contracts and consultancies in annual reports;
 - the reporting of senior executive remuneration and changes to accounting standards while balancing parliamentary accountability;
 - whether there would be benefit in bringing forward and potentially legislating an earlier annual report delivery and tabling date;
 - Requirements for and the role played by entity audit committees;
- The Commonwealth Risk Management Policy, including:
 - Risk maturity in entities, the Commonwealth, executive government and the Parliament;
- The enhanced Commonwealth performance framework, including:
 - Ongoing monitoring and public reporting of whole-of-government results for the framework;
 - Timely and transparent, meaningful information to the Parliament and the public, including clear read across portfolio budget statements, corporate plan, annual performance statements and annual reports;
- Support provided to Commonwealth entities including:
 - Review of the PGPA Act and Rule guidance issued by Finance and others, including the Attorney-General's Department;
 - Consideration of other communication strategies such as Communities of Practice, utilised to support entities.

The list above is intended to be illustrative and should not be considered exhaustive.

The review will not examine the:

- Commonwealth Procurement Rules (CPRs); and
- Commonwealth Grants Rules and Guidelines (CGRGs).

The CGRGs and the CPRs are subject to current and ongoing review by the Australian National Audit Office (ANAO) and the JCPAA and other parliamentary committees.³ Each change to these instruments has implications not only for the public sector, but also for external stakeholders in the private and not-for-profit sectors.

³ The Commonwealth Procurement Rules, including the new rules that came into effect on 1 March 2017, are subject to an inquiry by the [Joint Select Committee on Government Procurement](#). The inquiry report was published on 29 June 2017. The [Government response](#) was published on 14 November 2017. Since their issue in June 2009, the [Commonwealth Grants Rules and Guidelines](#) (CGRGs) have been reviewed and updated three times. They were reviewed and updated in December 2012 and again August 2013. The CGRGs were revised on 29 August 2017, in response to the recommendations in JCPAA reports 449, 452 and 454.

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Governance

Independent reviewers appointed by Senator the Hon Mathias Cormann, Minister for Finance (Finance Minister), in consultation with the JCPAA, will lead the review, and will report to the Finance Minister.

Methodology

The independent reviewers will consult with other parties and stakeholders, including the JCPAA, the ANAO and the Department of Finance, to gather sufficient evidence to meet the review objectives and to make sound recommendations. This may include interviews with Commonwealth entities and Commonwealth companies and key staff (such as Accountable Authorities, Chief Operating Officers and Chief Financial Officers). The independent reviewers will also seek written submissions.

A team within the Department of Finance will support the independent reviewers' conduct of the review.

Deliverables

The independent reviewers will provide a progress report to the Finance Minister. A written report of the review will be provided to the Finance Minister in early 2018. The Finance Minister will cause copies of the final report to be tabled in Parliament within 15 sitting days.

Matters referred by the Joint Committee of Public Accounts and Audit

After the terms of reference were settled between the JCPAA and the Minister for Finance, the JCPAA released two reports, Report 463 and Report 469, in which it referred a number of matters to this review. Some of these are new while others overlap with the terms of reference that had been agreed previously.

JCPAA Report 463 – Commonwealth Financial Statements

Recommendation 6

The JCPAA recommends that Finance note the JCPAA proposes the following matters be considered as part of the independent review of the PGPA Act:

- reporting on contracts, contractors and consultancies under the annual report provisions of the PGPA Rule and the Public Governance, Performance and Accountability (Financial Reporting) Rule 2015 (FRR)
- bringing forward the delivery and publication of Commonwealth entity annual reports
- further enhancing the effectiveness of entity audit committees.

JCPAA Report 469 – Commonwealth Performance Framework

Recommendation 2

The JCPAA recommends Finance note that the JCPAA refers the following matters to the attention of the Independent Review of the PGPA Act:

- the requirements relating to the inclusion in corporate plans of resourcing information and key entity risks, informed by the findings of ANAO Report No. 6 (2016–17), *Corporate Planning in the Australian Public Sector* (paragraphs 3.10–3.16).
- the content, interpretation and application of the mandatory process requirement relating to the four reporting periods of the corporate plan, informed by the findings of Audit Report No. 54 (2016–17), *Corporate Planning in the Australian Public Sector 2016–17* (paragraphs 2.21–2.24).

Recommendation 6

The JCPAA recommends that:

- the Australian Government amend the PGPA Act, and the accompanying rules and guidance as required, as a matter of priority, to enable mandatory annual audits of performance statements by the Auditor-General of entities selected by the Auditor-General for review, with Finance to report back to the JCPAA on progress on this matter, including consultation with the Auditor-General and Commonwealth entities on implementation timeframes and capacity building.
- Finance note that the JCPAA also refers the above matter to the attention of the Independent Review of the PGPA Act.

Recommendation 9

The JCPAA recommends that:

- the Australian Government amend, as necessary, the PGPA Act, and accompanying rules and guidance, to clarify that the functions and charter of Commonwealth entity audit committees need to reflect their role in assurance of the appropriateness of performance reporting, as well as specifying that some members must have skills in

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performance measurement and reporting, with Finance to report back to the JCPAA on progress on this matter.

- Finance note that the JCPAA also refers the above matter to the attention of the Independent Review of the PGPA Act.

Executive summary

Strong governance, performance and accountability practice drives enormous value for organisations. It helps secure outcomes, improve transparency and trust, and leads to better engagement with key partners and stakeholders. However, the art of good governance is inherently difficult. This is true for all organisations in all sectors, especially in our world of fast-changing technology, greater public scrutiny and general volatility. Setting measurable and well-articulated objectives, defining clear strategy, and implementing strong governance and accountability structures can be a long and difficult journey. The challenge for public sector organisations is more acute because of multiple stakeholders, intense public and political scrutiny, and the growing expectations of citizens.

From 2014, the *Public Governance, Performance and Accountability Act 2013* (PGPA Act) and the Public Governance, Performance and Accountability Rule 2014 (PGPA Rule) established a coherent, principles-based system of governance and accountability, and a performance framework, for the Commonwealth. It has replaced, and is an improvement on, the *Financial Management and Accountability Act 1997* and the *Commonwealth Authorities and Companies Act 1997*, and it compares favourably with similar frameworks in other countries.

In the Commonwealth, a well-articulated governance framework is critical for good performance and accountability. But of itself, the framework is not enough to bring about improvement and change. The key to success is leadership. Leadership at all levels must be actively involved. Ministers, secretaries and all accountable authorities need to set the tone at the top. A values-led culture of transparency, trust and aligned purpose underpins, and is essential for driving sustained improvement in governance, performance and accountability; and leads to improved performance and better quality of information being provided to the Parliament.

In September 2017 the Finance Minister appointed us, under section 112 of the PGPA Act, to conduct an independent review of progress in the implementation of the Act. We have consulted widely with stakeholders, both within and outside of government (see Appendix B), to inform our findings and recommendations for this review.

In summary, we believe that the impact of the PGPA Act and Rule could be enhanced by adopting the 46 recommendations we have made under the following nine headings:

- Driving change through leadership
- Performance framework
- Managing and engaging with risk
- Audit committees
- Clarifying reporting requirements and reducing the reporting burden
- Annual report timing and Parliamentary scrutiny
- Cross-government cooperation
- Reporting of executive remuneration
- Reporting of contracts and consultancies
- Finance support.

We trust that our recommendations provide actionable steps to improve governance practices in the Commonwealth, underpin better performance and accountability, and enhance the contribution of the public sector to the prosperity of our nation.

Recommendations

Driving change through leadership

Strong operational management, ongoing review and leadership are required to maintain a dynamic and effective performance, governance and accountability framework. To achieve this, we recommend:

1. The Secretaries Board should periodically assess progress by Commonwealth entities in achieving the objectives of the PGPA Act, in particular meeting high standards of governance, performance and accountability and providing meaningful information to the Parliament and citizens. This work could be informed by portfolio secretaries monitoring progress achieved by entities within their portfolio.

Performance framework

The PGPA Act and Rule provide a sound framework for the measurement and reporting of the performance of entities across the Commonwealth, but the quality of performance reporting needs to improve. To improve the quality of performance reporting, we recommend:

2. The PGPA Rule should be amended to raise the minimum standard for performance reporting by including a requirement that performance information must be relevant, reliable and complete. This will require entities to improve the quality of their performance measures.
3. The Secretaries Board should take initiatives to improve the quality of performance reporting, including through the greater use of evaluation, focussing on strategies to improve the way entities measure the impact of government programs.
4. Accountable authorities should ensure their audit committees have the skills, capability and resources to provide advice on the appropriateness of their performance reporting, in particular that audit committee members:
 - (a) are clear on the level of advice on performance reporting sought by the accountability authority, which is at least that required by the PGPA Rule; and
 - (b) have sufficient knowledge of the business of the entity and access to information and advice about the performance of the entity.
5. Finance should use learning programs for audit committee chairs [see *Recommendation 21*] to share information about the performance reporting requirements of the PGPA Act and Rule and the role of audit committees to review the appropriateness of performance reporting. This will build their capability to review performance reporting.
6. Finance should continue to develop guidance on performance reporting to assist entities to meet the requirements of the PGPA Act and Rule and develop high-quality performance reports. This will also assist audit committees to review performance reporting.
7. The Finance Minister should request that the Auditor-General pilot assurance audits of annual performance statements to trial an appropriate methodology for these audits.
8. Finance should encourage the Australian Accounting Standards Board to develop a standard for performance reporting to assist entities and audit committees to develop and review performance reporting. We also support the Auditing and Assurance Standards Board further developing an auditing standard for performance reporting to assist auditors with auditing performance reporting.

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9. Finance should develop ‘lessons learned’ papers that cover complete performance cycles to identify good-practice examples of a clear read of performance information across portfolio budget statements, corporate plans and annual reports.

Managing and engaging with risk

Risk management and engagement remains immature across Commonwealth entities, particularly non-corporate entities. To improve risk management and engagement practices, we recommend:

10. Accountable authorities should identify ways to embed effective risk management and engagement into policy development and program management, and incentivise officials at all levels to manage and engage better with risk.
11. Accountable authorities should engage with key stakeholders to identify their risk appetite and explain how risks will be identified, accepted and managed. In doing this, adequate attention should be given to upside, as well as downside, risk. The Parliament could also acknowledge the complex environment in which government operates.
12. Accountable authorities of large Commonwealth entities, or entities with complex risks, should consider appointing a Chief Risk Officer to support the accountable authority to implement a strong risk culture and behaviours across all levels of the organisation.
13. Accountable authorities of large entities, or entities with complex risks, should consider establishing a separate risk committee, with an independent chair and membership linkage with the audit committee, to strengthen the governance of risk. Where an entity establishes a separate risk committee, the risk committee should be responsible for reviewing the appropriateness of the entity’s system of risk oversight and management, with the audit committee’s functions amended accordingly.
14. For entities where a separate risk committee is not established, audit committees should be called ‘audit and risk committees’ to reinforce the important role of these committees in supporting accountable authorities to manage and engage with risk.

Audit committees

The effectiveness of audit committees is mixed, particularly in non-corporate Commonwealth entities. To improve their effectiveness, we recommend:

15. The independence of audit committees should be strengthened by requiring all audit committee members to be independent, with independence defined as not being an official or employee of a Commonwealth entity.
16. The accountable authority and senior management of entities should be actively engaged with their audit committees, including attending meetings, to give their authority and imprimatur to audit committee activities in their entity. This will ensure that audit committees are briefed on the operations and performance of the entity and are able to question management on matters and information relevant to the role of the audit committee.
17. Accountable authorities should ensure:
 - (a) their audit committee members, both individually and as a group, have the appropriate qualifications, knowledge, skills and experience to meet their responsibilities, as required in the PGPA Rule;
 - (b) committee members are sourced broadly, with greater representation from other industries, sectors and locations; and

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- (c) the remuneration of audit committee members is commensurate with the importance of their responsibilities and the commitment required.
- 18. Accountable authorities should establish an audit committee membership rotation policy, with maximum appointment terms, to ensure regular rotation of committee membership.
- 19. Accountable authorities should ensure that independent members are inducted into the business of the entity and briefed on its operations and performance on an ongoing basis.
- 20. Smaller Commonwealth entities with limited resources and similar purposes should consider sharing an audit committee.
- 21. Finance should initiate a learning program similar to those offered by professional bodies such as the Chartered Accountants Australia and New Zealand, the Australian Institute of Company Directors and the Actuaries Institute, for audit committee chairs to facilitate sharing information about the performance of audit committee functions.
- 22. Audit committees should be subject to greater transparency by requiring disclosure in annual reports of their charter; membership; the qualifications, skills and experience of each committee member; details of each member's attendance at meetings; and the remuneration of each audit committee member, broadly consistent with the practice of Australian Securities Exchange (ASX) listed companies.

Clarifying reporting requirements and reducing the reporting burden

Duplicative performance reporting requirements impose unnecessary reporting burden on entities. The linkages between the reporting requirements of portfolio budget statements, corporate plans and annual reports need to be clarified and requirements for corporate plans strengthened. To clarify reporting requirements and reduce the reporting burden, we recommend:

- 23. Finance should work with smaller entities to consider further options to address the reporting burden on smaller entities, taking into account arrangements in state and territory governments and international jurisdictions.
- 24. The annual performance statement should be the primary vehicle for reporting the performance of Commonwealth entities. Duplicative performance reporting requirements – for example, those under the Regulator Performance Framework – should be reviewed and integrated to reduce the reporting burden and improve clarity.
- 25. Finance should simplify the reporting burden for smaller Commonwealth entities by developing standardised corporate plan and other templates to help reduce the amount of work required.
- 26. Finance should amend the PGPA Rule on corporate plans to require the plans to outline how entities will achieve their purpose(s) over a four-year reporting horizon, how they cooperate and coordinate with others, and to identify key risks and how these will be managed.
- 27. Finance should clarify and explain the integrated performance reporting requirements and linkages in portfolio budget statements, corporate plans and annual reports to achieve transparency to the Parliament, with reference to the views of the Joint Committee of Public Accounts and Audit and in consultation with the Australian National Audit Office.

- 28.** Finance should explore opportunities to better link performance and financial information presented in entities' corporate plans and annual reports.

Annual report timing and parliamentary scrutiny

Current arrangements for presenting annual reports to the Parliament do not ensure they receive adequate scrutiny by the Parliament. To improve the timeliness and scrutiny of annual reports, we recommend:

- 29.** *[Subject to implementation of Recommendation 30, below]* Annual reports should be presented to the Parliament on or before 30 September. This would ensure the Parliament has annual reports available before the Senate Supplementary Budget Estimates hearings. Annual reports should be presented to the responsible minister no later than seven days before this date.
- 30.** The Parliament and Finance should continue to implement a fully digital reporting platform and reporting process for annual reports and other relevant reporting requirements, with a view to entities phasing out hard copy reporting by 2019–20. Sufficient resources and funding should be allocated to achieve this goal.
- 31.** The Senate should consider amending its Standing Orders to provide that entity annual reports, including annual performance statements, are referred to Senate standing committees for examination at Senate Supplementary Budget Estimates hearings. This would provide for greater scrutiny of annual reports at Senate Estimates hearings.

Cross-government cooperation

The PGPA Act encourages cooperation by Commonwealth entities, but there is limited evidence that cooperation has been enhanced as a result of the Act. To improve cooperation by Commonwealth entities, we recommend:

- 32.** The Government should consider using section 34 of the PGPA Act to set priorities and objectives in key areas of activity, which will facilitate trials of alternative planning, resourcing, governance and reporting arrangements for these priorities.
- 33.** *[Subject to the implementation of Recommendation 32, above]* The Secretaries Board should leverage its leadership role by driving the implementation of priorities and objectives identified by the Government, including the development and reporting of whole-of-government performance information.

Reporting of executive remuneration

Current arrangements for reporting executive remuneration across Commonwealth entities and companies does not provide sufficient transparency and accountability for the use of public resources for this purpose. To improve transparency and accountability, we recommend:

- 34.** Accountable authorities should disclose executive remuneration in annual reports on the following basis, as shown in Appendix C to this report:
- (a) the individual remuneration, including allowances and bonuses, of the accountable authority and their key management personnel, in line with the disclosure of ASX listed companies; and
 - (b) the number and average remuneration (including allowances and bonuses) of all other senior executives and highly paid staff, by band, consistent with the reporting arrangements in place up to 2013–14.

- 35.** Accountable authorities should provide an explanation of their entity's remuneration policy and practice, consistent with the practice of ASX listed companies, similar to the remuneration report in a company's annual report.

Reporting of contracts and consultancies

Current arrangements for reporting spending on contracts and consultancies do not provide sufficient transparency to the Parliament and citizens. To clarify confusion on the reporting of consultancies and improve transparency on spending on contracts and consultancies, we recommend:

- 36.** The definition of 'consultancy' and the use of the 'consultancy flag' to identify consultancy contracts in AusTender should be clarified to ensure that spending on consultancies is reported consistently and accurately by non-corporate Commonwealth entities in their annual reports.
- 37.** Non-corporate Commonwealth entities should provide the following information on expenditure on contracts and consultancies in their annual reports:
- (a) total aggregate expenditure on contracts and consultancies and the number of new and ongoing contracts in the reporting period (extending the current reporting requirements for consultancies to contracts in general); and
 - (b) lists of all organisations and/or individuals that receive 5 per cent or more of the entity's total expenditure on contracts and consultancies, respectively (or, where this includes fewer than five organisations/individuals, the five organisations/individuals that receive the greatest level of expenditure).

Finance support

Finance has provided strong support throughout the development and early implementation of the resource management framework, but there is a need to continue to provide support as entity practices mature. To support ongoing improvement of entity practices, we recommend:

- 38.** Finance should enhance its role in providing advice and support to Commonwealth entities and companies to reflect maturing practices by:
- (a) continuing communities of practice and one-on-one interactions with entities;
 - (b) enhancing guidance material to be more pragmatic and practical in nature, with appropriate case studies, in consultation with entities and a cross-portfolio advisory committee;
 - (c) periodically reviewing guidance material to ensure it remains appropriate; and
 - (d) developing Finance's internet presence and its use of web-based materials.

Technical and other matters

The submissions received identified a number of technical and other legislative and policy matters (see Appendix A). In order to continue to streamline the application of the resource management framework, remove ambiguity, and strengthen coherence, clarity and consistency, we recommend:

- 39.** Finance should review and determine whether any aspect of the Commonwealth Risk Management Policy and the Comcover Benchmarking Survey Tool require changes to

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be made to improve coherence and operation, and consult with relevant stakeholders in making those changes.

- 40.** Finance and the Attorney-General's Department should explore how legal advice on the PGPA Act and Rule can be shared across Commonwealth entities.
- 41.** Finance should amend the PGPA Rule to ensure consistency with the construction of the provisions relating to the disclosure of material personal interests contained in the PGPA Act.
- 42.** Finance should engage with relevant stakeholders to explain the reasons for the particular governance and accountability requirements applied to corporate Commonwealth entities and companies.
- 43.** Finance should evaluate the merits of making a rule under section 61 of the PGPA Act, relating to indemnities, guarantees or warranties by corporate Commonwealth entities, in consultation with relevant stakeholders and the Finance Minister.
- 44.** Finance should evaluate the merits of legislating a provision, equivalent to section 27L of the former *Commonwealth Authorities and Companies Act 1997*, to allow board members of corporate Commonwealth entities to inspect the books of the entity.
- 45.** Finance, in consultation with relevant stakeholders, should review the existing Finance Minister delegation under section 63 of the PGPA Act in relation to waiver of debts to reduce red tape.
- 46.** Finance, in consultation with relevant stakeholders, should examine introducing greater flexibility into the Finance Minister's delegation of section 53 of the PGPA Act in relation to banking by the Commonwealth.

1. Driving change through leadership

At the core of the success of any reform or transformation is leadership. Where it is absent, there is more likely to be failure. The *Public Governance, Performance and Accountability Act 2013* (PGPA Act) seeks to bring significant improvement to the practice of the Commonwealth in governance, the management of public resources, working cooperatively, and planning and reporting for accountability. In many of the key areas examined by this review – improving the quality of performance reporting, enhancing accountability to the parliament and citizens, managing and engaging with risk, cross-government cooperation – the PGPA Act places responsibility on the accountable authorities of Commonwealth entities to deliver results. An accountable authority is the head of an entity – a departmental secretary, the head of a statutory body, the CEO or governing board responsible and accountable for the operations of the entity. These are the people who lead an organisation; who set the tone at the top and shape its culture.

The PGPA Act, as principles-based legislation, gives accountable authorities discretion in how many of its key provisions are enabled in their organisation. While it establishes a set of uniform duties for accountable authorities, and places other responsibilities on them, there is flexibility around how these can be practised on the ground. The Commonwealth is large and diverse and the PGPA framework needs to allow the 182 entities that make up the Commonwealth Government to operate in their own way to achieve their purposes while meeting minimum standards of governance, performance and accountability. Decisions about how a number of the requirements of the Act are applied in particular entities rest with accountable authorities. In short, it relies on leadership-driven success.

Our review has highlighted that different Commonwealth entities have differing levels of focus on particular elements of the PGPA Act and have reached different levels of maturity in their practice. Put another way, some accountable authorities are focused on leveraging the opportunities offered by the PGPA Act to secure cultural change and transform their operations, others are interested in meeting their minimum obligations and take a compliance based approach. We do not think that diversity of practice of this type helps the cause of reform.

Many of our recommendations go to technical aspects of the PGPA Act and Rule. These recommendations and proposed policy changes, in themselves, are not a sufficient catalyst to bring about sustained improvements and change. There needs to be material improvement in practice, and this needs to be driven from the top.

It is our view that a regular review of progress across all entities and portfolios is necessary to incentivise the system to achieve ongoing improvement of practice. The Auditor-General and the Department of Finance (Finance) play a role in sharing learnings and good practice, and the JCPAA has a constructive and influential engagement in scrutinising the implementation of PGPA Act related reforms. However, there needs to be action at the operational leadership level for the quality of governance, performance and accountability, and for achieving ongoing improvement of practice. We see scope for the Secretaries Board to undertake regular reviews of the operational practice in relation to the reforms, supported by work by each secretary in their respective portfolios.

The Secretaries Board is responsible for stewardship of the Australian Public Service (APS) and for developing and implementing strategies to improve the APS. It is best placed to drive performance, governance and accountability improvements in the APS. In playing its role, the Secretaries Board can draw together advice from senior leaders in government, business and the community. Indeed, it has done so in recent work to modernise APS practice as part of a transformation agenda. While the APS constitutes around half of the

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Commonwealth, and the PGPA Act covers the whole, the role of departmental secretaries extends beyond APS entities to include ensuring the delivery of government programs and collaboration to achieve outcomes within their portfolios as a whole. In reviewing the progress of reforms in the APS, individual departmental secretaries can enrich the discussion of Secretaries Board by drawing on their insight on issues across all of their portfolio agencies. And the conclusions that the Secretaries Board draws about the APS's progress on transformation and reform issues, and the initiatives it may develop to drive behavioural change, may also be insightful to non-APS entities.

Recommendation 1: The Secretaries Board should periodically assess progress by Commonwealth entities in achieving the objectives of the PGPA Act, in particular meeting high standards of governance, performance and accountability and providing meaningful information to the Parliament and citizens. This work could be informed by portfolio secretaries monitoring progress achieved by entities within their portfolio.

2. Performance framework

Background

External reporting in all sectors of the economy is broadening out from the mere reporting of financial information and basic business metrics. In the corporate sector, social reporting is an emerging practice; and overseas – including in New Zealand, the United Kingdom, Canada and Italy – governments are taking up citizen-centric reporting. By publishing good-quality information on the value created by using public resources, governments can better meet their accountability obligations to parliaments and citizens. Citizens have a right to know how their money is used and what difference that is making to their community and the nation – what outcomes are being achieved, how, and at what price. Insightful performance reporting goes beyond simply measuring activities. It talks in terms of outcomes and impacts (the value created by these activities). We believe that internationally, the Australian Government should be a leader on this front. It needs to push harder to get there.

A guiding principle of the PGPA Act is that the ‘performance of the public sector is more than financial’.⁴ The PGPA Act established a single performance framework across the Commonwealth, with key common reporting requirements and obligations on all entities. With strong support from the JCPAA, it promoted the idea of a clear read of performance information between portfolio budget statements, corporate plans and annual reports. These three documents are the key reporting artefacts of the PGPA Act’s performance framework. Chapters 5 and 6 of this report deal with the reporting requirements of the PGPA Act framework in more detail.

Like other elements of the PGPA Act, the performance framework is largely principles-based and is supported by guidance issued by Finance as the policy-owner and standard-setter. The framework is designed to provide flexibility to entities to accommodate the diversity and complexity of activity in the Commonwealth public sector. What is sought is good-quality, insightful performance information. Accountable authorities have a fair degree of latitude to determine what that might look like for their entities.

Finance supports Commonwealth entities by giving advice, issuing written guidance, hosting communities of practice and providing one-on-one feedback. It publishes ‘lessons learned’ papers to highlight examples of good practice. There have been five lessons learned papers to date – three on corporate plans and two on annual performance statements. For his part, the Auditor-General has published three performance audits on corporate plans and two on annual performance statements. The Auditor-General has sampled a small number of entities for each of these audits, and has made specific recommendations as well as identified key learnings for the system as a whole. The JCPAA has also completed two inquiries on the new performance framework since its introduction and has asked this review to look further at some of the issues that have been identified in their work.

Review findings

We recognise that the business of government is complex. The challenges faced in designing and delivering public programs and services can be many and varied. For every relationship that can be leveraged, there is some dependency that cannot be budged; for every enabler, there is some inhibitor. Often a number of parties are involved in achieving an outcome, and measuring the contribution of each party can be difficult.

⁴ See [Revised Explanatory Memorandum](#) to the Public Governance, Performance and Accountability Bill 2013 (PGPA Bill), p. 2, para 17.

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Despite this complexity, we have heard that the PGPA Act's performance framework has had an overall positive impact on the quality of performance reporting. At the three-year mark, it is generally well regarded and understood by entities. We are told the performance framework provides a good platform to drive improved planning and performance measurement, shifts the focus from accounting for outputs to measuring outcomes, and gives better information to the Parliament. But we are also told that it takes time and effort to develop good-quality performance information and that practice is still maturing and the pace of improvement is too slow.⁵

A number of the international jurisdictions that we consulted also noted that measuring public sector performance is difficult, including the quality of policy outputs, and the effectiveness of government activities and programs. These countries have implemented a variety of approaches to measuring the performance of their public sectors, including by focusing on a limited number of targets or assessment criteria. For example, the New Zealand public sector has a performance budgeting framework that includes reporting publicly against a clear set of national outcome goals. The overall aim of the framework is to deliver better public services to New Zealanders. The United Kingdom has a Public Value Framework for assessing how value is maximised across four pillars – pursuing goals, managing inputs, engaging users and citizens, and developing system capacity. The framework focuses on how to use funding effectively to deliver outcomes and maximise value for the taxpayer.

Broadly speaking, Finance, the Auditor-General and the JCPAA agree that the overall quality of published performance information is better than it was before the framework was introduced, but that progress has been uneven, and in some cases modest.

Our view is that no single action will deliver a 'silver bullet'. Different elements must be drawn together to give focus to the objective, which is to get more insightful and meaningful performance reporting.

Entities need clear criteria to guide the development of performance information. Finance and the ANAO have developed a matrix of 'relevant', 'reliable' and 'complete' as a guide for what constitutes good-quality performance reporting. The matrix is explained in Finance guidance, and a variant has been used for performance audits done by the ANAO. Variation does not help clarity, even if the variation is minor. There should be a single set of criteria settled between Finance and the ANAO as a matter of priority. In doing this, greater emphasis should be given to the importance of the measurability of performance information.

The flexibility given to entities to develop fit-for-purpose planning and performance approaches is a good design feature of the framework. Rich and insightful performance information is unlikely to come from the application of hard and fast rules or the widespread use of a template approach. However, the framework should be clear on the minimum standard of reported performance information. This should be done in the PGPA Rule.

Recommendation 2: The PGPA Rule should be amended to raise the minimum standard for performance reporting by including a requirement that performance information must be relevant, reliable and complete. This will require entities to improve the quality of their performance measures.

⁵ See, for example, submissions from the Australian Bureau of Statistics, Australian Institute of Aboriginal and Torres Strait Islander Studies, Department of Defence, Department of Agriculture and Water Resources, Grains Research and Development Corporation, National Health and Medical Research Council, the Special Broadcasting Service Corporation and the Attorney-General's Department.

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The head of an organisation is best placed to know how to measure success and how to drive the organisation to get there. The tone is set at the top. The JCPAA, successive Auditors-General and Finance have all observed that strong and sustained leadership on improving performance monitoring, reporting and evaluation regimes is needed to improve performance reporting in entities.⁶ The Australasian Evaluation Society suggested that a culture of 'performance leadership' at senior levels would provide incentive for all officials to engage with performance measurement and reporting.⁷

The international jurisdictions we spoke to noted that strong political and public sector leadership was a critical successful factor in gaining traction on measuring the effectiveness of government. Where it is absent, reform fails. The Commonwealth is no different.

For mainstream Commonwealth programs, which are mostly delivered by the Australian Public Service, the Secretaries Board,⁸ as a coordinated leadership group, should have a greater role in driving lasting change in our system. The Secretaries Board should take initiatives to improve the quality of performance information across the public sector, focussing on strategies to improve the way entities measure the impact of government programs. They should also oversee the implementation by Commonwealth entities of the insights of various ANAO and JCPAA reviews and leverage off the better practice that has been identified by Finance and the Auditor-General.

Accountable authorities should also drive a wider use of policy evaluation approaches by government departments to improve the quality of performance reporting. Academics suggested to us that the use of independent evaluation of government programs and services could be increased and was more frequent in the 1990s than it is now.⁹ The Australasian Evaluation Society identified the incorporation of evaluation findings into performance measurement and reporting as an area requiring improvement.¹⁰ It is not clear why evaluation practice has fallen away, but it can be reinvigorated through attention from the top, including from accountable authorities and ministers.

Recommendation 3: The Secretaries Board should take initiatives to improve the quality of performance reporting, including through the greater use of evaluation, focussing on strategies to improve the way entities measure the impact of government programs.

Under section 17 of the PGPA Rule, the audit committee of an entity is to review the appropriateness of the accountable authority's performance reporting. The JCPAA has identified a range of issues to enhance the effectiveness of audit committees and the role that they play.¹¹

A number of the submissions made to us suggested there is a lack of clarity on the role of audit committees in relation to performance information.¹² Some noted the importance of maintaining the distinction between the audit committee's role and the accountability of management for reporting on the performance of an entity.¹³ The Auditor-General has

⁶ See, for example, JCPAA, *Report 453: Development of the Commonwealth Performance Framework*, pp. 54–59.

⁷ See [submission](#) from the Australasian Evaluation Society (p. 9).

⁸ The Secretaries Board is responsible, among other things, for the stewardship of the Australian Public Service (APS) and for developing and implementing strategies to improve the APS; see section 64(3)(a) of the *Public Service Act 1999*.

⁹ See [submission](#) from Professor John Halligan.

¹⁰ See [submission](#) from the Australasian Evaluation Society (p. 7).

¹¹ See JCPAA, *Report 463: Commonwealth Financial Statements – Inquiry Based on Auditor-General's Report 33 (2016–17)*, pp. 12–13.

¹² See [submissions](#) from the Attorney-General's Department, Clean Energy Regulator, Department of the Prime Minister and Cabinet, Department of Veterans' Affairs and Sydney Harbour Federation Trust.

¹³ See [submissions](#) from the Australian Bureau of Statistics, Australian Taxation Office and Reserve Bank of Australia.

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expressed concerns over the assurance processes of audit committees in meeting their obligations on performance reporting.¹⁴

There is a clear delineation of roles in relation to performance information. Accountable authorities are responsible for developing performance information and reporting on performance. Audit committees cast an independent eye over the performance information that is gathered and reported. They are trusted advisers and are in a position to offer independent counsel to the accountable authority. Their reviewing, probing and judgement can help build the quality of management practice. Some international jurisdictions we consulted have established discrete independent bodies to enhance the integrity of performance reporting. Italy, for example, has established Independent Performance Evaluation Units within each ministry that are responsible for supporting and reviewing the performance measurement and reporting of ministries.¹⁵

We spoke to a number of audit committee chairs, the majority of whom were chairs of non-corporate Commonwealth entity committees and Canberra-based. Their views were varied. Some were supportive of the audit committee reviewing the appropriateness of performance information and were getting on with the job. Others were struggling in the absence of clear, mandatory criteria or a formal standard issued by the Australian Accounting Standards Board (AASB). Some also raised concerns about the meaning of the word 'appropriate'.

Accountable authorities may need to enhance the skills of some audit committees in this area, a point that has been made more broadly by both the ANAO and the JCPAA.¹⁶ We consider the expansion of the functions of audit committees to encompass reviewing the appropriateness of performance reporting is a positive development. We understand that there can be some teething problems in new areas of activity, but we don't see there are any barriers to audit committees obtaining explanations from officials on how performance measures were arrived at, how data is collected and how the measures selected present a complete picture of an entity's performance.

Accountable authorities need to ensure that this happens. They need to set clear expectations in the charter about the quality of the advice that they expect to receive, consistent with the requirements of the PGPA Rule. They should also ensure their audit committees have sufficient knowledge of the business of the entity, and access to information and advice about the performance of the entity, to perform this role.

We canvass a range of audit committee issues – including their responsibilities, skills and capabilities – in Chapter 4 of this report.

Recommendation 4: Accountable authorities should ensure that their audit committees have the skills, capability and resources to provide advice on the appropriateness of their performance reporting, in particular that audit committee members:

- (a) are clear on the level of advice on performance reporting sought by the accountability authority, which is at least that required by the PGPA Rule; and**
- (b) have sufficient knowledge of the business of the entity and access to information and advice about the performance of the entity.**

¹⁴ See ANAO, *Report No. 58 of 2016–17: Implementation of the Annual Performance Statements Requirements 2015–16*.

¹⁵ In his second supplementary submission, Professor Andrew Podger referred to a report of the US Commission on Evidence-Based Policymaking, *The Promise of Evidence-Based Policymaking*, which recommends establishing a Chief Evaluation Officer within each Federal department to coordinate evaluation and policy research, and to collaborate with other evidence-building functions (p. 3).

¹⁶ See JCPAA, *Report 463: Commonwealth Financial Statements – Inquiry based on Auditor-General's report 33 (2016-17)*, pp. 43–46.

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The broad support provided by Finance in implementing the new performance framework, including one-to-one assistance, has received positive comment.¹⁷ An ANAO survey found that 84 per cent of their sample were ‘satisfied’ or ‘very satisfied’ with the support they received from Finance.¹⁸ However, Finance has done limited face-to-face work with audit committees to support their role in relation to performance information. This should change.

In Chapter 4 of this report, we recommend that Finance establish a learning program similar to those offered by professional bodies such as the Chartered Accountants Australia and New Zealand, the Australian Institute of Company Directors and the Actuaries Institute, for audit committee chairs to facilitate sharing information about the performance of audit committee functions. Finance should use this learning program to share information about the performance reporting requirements of the PGPA Act and Rule and the role of audit committees to review the appropriateness of performance reporting. This will build their capability to review performance reporting.

Recommendation 5: Finance should use learning programs for audit committee chairs [see Recommendation 21] to share information about the performance reporting requirements of the PGPA Act and Rule and the role of audit committees to review the appropriateness of performance reporting. This will build their capability to review performance reporting.

Finance should also build on its existing guidance on performance reporting to further assist entities to develop their performance frameworks and to report on their performance through meaningful and insightful annual performance statements.

Recommendation 6: Finance should continue to develop guidance on performance reporting to assist entities to meet the requirements of the PGPA Act and Rule and develop high-quality performance reports. This will also assist audit committees to review performance reporting.

The Auditor-General believes that a sound policy framework is not sufficient, in itself, to improve the quality of performance reporting. The policy framework sets minimum standards and expectations; but the aspiration should be to achieve high standards. Whether high standards are achieved depends on the incentives on accountable authorities to drive improvement. The Auditor-General believes that transparency and external assurance are likely to be the strongest incentives.¹⁹

The JCPAA supports the Auditor-General getting legislative power to conduct mandatory assurance audits of annual performance statements, as the Auditor-General conducts assurance audits of annual financial statements.²⁰ No such power exists under either the *Auditor-General Act 1997* or the PGPA Act. We also support this step in the medium term. It would send a clear signal to all entities about the quality of performance information appropriate for parliamentary accountability. However, we believe that now is too early to put this arrangement in place. Practice across the Commonwealth is not mature enough to support systematic assurance audits of annual performance statements. Rather, practice is still evolving. It needs to be supported with appropriate structures and tools to first build improvements and then bed down practice.

¹⁷ See [submissions](#) from Aboriginal Hostels Limited, Australia Post, Australian Broadcasting Corporation, Australian Communications and Media Authority, Australian Maritime Safety Authority, Australian War Memorial and Special Broadcasting Service Corporation.

¹⁸ See ANAO, *Report No. 6 of 2016–17: Corporate Planning in the Australian Public Sector*, p. 12.

¹⁹ See [submission](#) from the Australian National Audit Office, (p. 4).

²⁰ See JCPAA, *Report 469: Commonwealth Performance Framework*, Recommendation 6, p. viii, para 3.21.

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The Auditor-General also needs time to prove an assurance audit methodology for performance information and develop professional capability within the ANAO to conduct these assurance audits.

Prior to introducing mandatory assurance auditing of annual performance statements, we consider the Finance Minister should request the Auditor-General, under section 40 of the PGPA Act, to conduct a limited pilot program of assurance audits. This would assist the Auditor-General to trial an appropriate audit methodology. On the satisfactory completion of a trial, we consider mandatory assurance audits should be introduced. This should occur in a two- to three-year timeframe. This timeframe should also see a maturing of the performance framework across entities.

Recommendation 7: The Finance Minister should request that the Auditor-General pilot assurance audits of annual performance statements to trial an appropriate methodology for these audits.

There are currently no professional accounting standards specifically relating to performance information. The AASB released an exposure draft on performance information in August 2015²¹ but this has not been progressed to a standard and the AASB is undertaking further work before preparing any new proposals. We have been advised that the Auditor-General would conduct assurance audits of annual performance statements in accordance with the existing standard ASAE 3000 *Assurance Engagements Other than Audits or Reviews of Historical Financial Information*. The audit methodology being developed by the ANAO is consistent with this standard. In addition to the steps outlined earlier, we see merit in the AASB progressing, as a matter of priority, the development of a standard on performance information that has particular application in the public sector. This would give accountable authorities, audit committees and the Auditor-General a firmer basis for developing, reviewing, reporting and auditing performance information. We also support the Auditing and Assurance Standards Board developing a standard on audits or reviews of performance information.

Having a standards framework in place that deals specifically with performance information would mirror the arrangements applicable to financial statements. This is likely to be a longer-term goal and all parties have a clear responsibility to continue to working to improve the quality of performance information presented to the Parliament.

Recommendation 8: Finance should encourage the Australian Accounting Standards Board to develop a standard for performance reporting to assist entities and audit committees to develop and review performance reporting. We also support the Auditing and Assurance Standards Board further developing an auditing standard for performance reporting to assist auditors with auditing performance reporting.

For its part, the Parliament, through its committees, could increase its focus on the performance information included in portfolio budget statements and annual performance statements. Greater scrutiny of performance information by the Parliament is a strong incentive for accountable authorities to improve the quality of their reporting.²² The use that the Parliament makes of reported information can have a strong influence on the quality of that information.

²¹ Australian Accounting Standards Board (AASB) Exposure Draft 270: [*Reporting Service Performance Information*](#) (August 2015).

²² In their [submission](#) to the review, Professors Andrew Podger and John Wanna noted that they were not clear on whether the efforts of entities to improve their performance reporting had affected parliamentary scrutiny.

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An active and engaged JCPAA has shaped the development of the performance framework. Their impact has been positive. For example, the JCPAA has recommended that the Auditor-General consider conducting an audit of a complete performance reporting cycle.²³ We support this idea, and think that, as a next step to help grow the maturity of the performance framework, Finance should give a similar focus to its ‘lessons learned’ work.

Recommendation 9: Finance should develop ‘lessons learned’ papers that cover complete performance cycles to identify good-practice examples of a clear read of performance information across portfolio budget statements, corporate plans and annual reports.

²³ See JCPAA, [*Report 469: Commonwealth Performance Framework*](#), pp. vii–viii.

3. Managing and engaging with risk

Background

Effective risk management and engagement underpins strategic and operational success. It is an essential feature of good governance practice. Governments take on a range of risks in the public interest, for example, where there is some market failure. As observed earlier, the delivery of new policy initiatives and public services can be complex. It requires an active engagement with risk. Prudent risk-taking is necessary to improve productivity and innovation in the public sector. However, risk practice in the government sector in Australia and other jurisdictions is observably different to that in other sectors of the economy.

A guiding principle of the PGPA Act is that ‘engaging with risk is a necessary step in improving performance’. An expected benefit of the PGPA Act was for a ‘more mature approach to risk across the Commonwealth’ to emerge.²⁴ The PGPA Act requires accountable authorities to ‘establish and maintain a system of risk oversight and management’.²⁵

The Commonwealth Risk Management Policy was put in place in July 2014 to support the PGPA Act. It aims to embed risk management as part of the culture of Commonwealth entities where the shared understanding of risk leads to well-informed decision-making.²⁶

Review findings

There are some examples of strong risk management in the public sector, such as the Reserve Bank of Australia’s management of foreign exchange risk. However, there are also examples of failures because risk planning was inadequate, for example the Home Insulation Program. As a general observation, the risk practices of corporate Commonwealth entities are probably better developed than those of non-corporate Commonwealth entities.

The corporate sector has strong commercial incentives to have robust risk management and engagement practices. The consequences for getting it wrong can be significant, from commercial consequences such as loss of market share, to financial penalties for non-compliance with regulation. Proper engagement with risk is critical in both the private and public sectors, and in both the cost can be substantial where risks are not well managed. The private sector is more advanced in balancing downside risk (the likelihood and consequences of things going wrong) with upside risk (potential for, and gains from, things going well) and the public sector can learn from the private sector in this area.

We recognise that risk management is often more complex in the public sector than it is in the corporate sector. Companies can walk away from ventures that are too risky. Government cannot always avoid risk. It must provide certain services for the safety and wellbeing of citizens. Some of the risks faced by government can be complex and profound. Public sector entities must implement the decisions of government or perform functions assigned to them in legislation enacted by the Parliament. Often these decisions and functions are bound by policy, compliance and accountability requirements that limit options for managing risk.

²⁴ See the [Revised Explanatory Memorandum](#) to the PGPA Bill, p. 3.

²⁵ See paragraph 16(a) of the [Public Governance, Performance and Accountability Act 2013](#) (PGPA Act).

²⁶ See the [Commonwealth Risk Management Policy](#), p. 9.

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Entities told us the PGPA Act and the Commonwealth Risk Management Policy have helped them to improve the way they manage risk.²⁷ We have seen evidence that many entities have developed the foundations for risk management, establishing frameworks and identifying responsibilities for risk.²⁸ Private sector stakeholders with expertise in risk have said to us that risk management in the Commonwealth public sector is improving, albeit slowly.²⁹

Overall, we suggest that risk practice across the Commonwealth is still relatively immature. In many Commonwealth entities, there is an almost exclusive focus on downside risk, identifying and managing what could go wrong (or has gone wrong). Non-corporate Commonwealth entities in particular are highly risk averse and there is little evidence this risk appetite has changed. There is still significant work to be done to embed an active engagement with risk into policy development processes and program management practice, and to have officials at all levels appreciate their role to identify and manage risk.

The pace of technological change and changing expectations of citizens for services is a particular challenge. Risk aversion in the face of new opportunities to use technology to improve service delivery will mean that new opportunities are not taken, or taken later than they could have been. Rather than leading, the government sector will lag behind other sectors of the economy and behind community expectations in terms of how it engages with citizens, and provides services to them. The public fallout around the delivery of the 2016 Census, which saw a conscious attempt to take advantage of a new delivery platform, shows what is at stake when government entities actively embrace upside risk.

The Government of Singapore is undertaking a process of ‘future thinking’, a type of horizon scanning, to mitigate risks. Singapore considers engagement with technology is a key aspect of dealing with risk, and that risk engagement is the product of culture and leadership.³⁰

The legislative framework and policies are not enough for Commonwealth entities to develop a more mature approach to risk. They do not change risk culture.³¹ The risk culture of the Commonwealth public sector is more likely to be shaped by the behaviour of leaders – accountable authorities, ministers and the Parliament – in responding to events like the 2016 Census than it is by the provisions of the PGPA Act and the Commonwealth Risk Management Policy.

Despite this, we believe that accountable authorities have both the ability and a responsibility to instil a more positive risk culture within their entities. They should find ways of embedding good risk management practice and constructive risk engagement into policy development and service delivery. Officials at all levels must be empowered to monitor and engage with risk in a manner consistent with the objectives and risk appetite of the entity. Risk management systems must ensure that the responsibility for monitoring and engaging with risk is clear so that risk events can be quickly identified and escalated to the person (or persons) best placed to respond.³² And, importantly, accountable authorities must give

²⁷ See [submissions](#) from the Australian Commission for Law Enforcement Integrity (p. 1), Clean Energy Regulator (p. 2), Department of Agriculture and Water Resources (p. 3), Department of Foreign Affairs and Trade (p. 1), Department of the Prime Minister and Cabinet (pp. 3–4), Great Barrier Reef Marine Park Authority (p. 1), Murray–Darling Basin Authority, National Health and Medical Research Council (p. 3), and Special Broadcasting Service Corporation (p. 3).

²⁸ Comcover Benchmarking Survey Tool, Australian Public Service Commission employee census and ANAO audit into risk management.

²⁹ Consultations with EY, PwC, Deloitte and KPMG.

³⁰ Consultation with the Government of Singapore, 19 February 2018.

³¹ See [Professor Peter Shergold AC](#), p. 40.

³² Ibid.

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officials the right incentives to positively engage with risk, by rewarding effective risk engagement and encouraging learning from failure, rather than rushing to punish failure.

Recommendation 10: Accountable authorities should identify ways to embed effective risk management and engagement into policy development and program management, and incentivise officials at all levels to manage and engage better with risk.

We recognise that this needs to happen in the context of an accountable political system. The risk appetite of accountable authorities is strongly influenced by that of ministers and the Parliament. To effectively instil a more positive risk culture within entities, accountable authorities need support from their ministers, and the Parliament. Put another way, they need to be given some leeway to fail. However, there is no evidence the risk appetite of ministers, or the Parliament, has shifted in recent years.

Accountable authorities should have a clear understanding of the risk appetite of their key stakeholders across their areas of responsibility. To help get this understanding, they should explain to their stakeholders how risks will be identified, accepted and managed within the entity's areas of responsibility. Accountable authorities can then communicate to their officials how risks within their entity should be managed and what level of risk is acceptable.

Entities' approach to risk could be enhanced if the Parliament acknowledged the complex environment in which government operates. Risk is not something to be avoided, but something to be identified, managed professionally and engaged with strategically and operationally. Not all risks can be foreseen and, from time to time, things will go wrong, even when risks were identified and properly managed. As we have noted above, an over-reaction to things that go wrong, particularly where consequences are limited, does not help to create a more mature approach to risk management in the Commonwealth. To the contrary, it reinforces risk aversion and stifles innovation.

Recommendation 11: Accountable authorities should engage with key stakeholders to identify their risk appetite and explain how risks will be identified, accepted and managed. In doing this, adequate attention should be given to upside, as well as downside, risk. The Parliament could also acknowledge the complex environment in which government operates.

Professor Peter Shergold's 2015 report on government processes for implementing large programs and projects dedicated a whole chapter to risk management.³³ He made a number of findings and recommendations to improve risk management in the public sector, a number of which have not been implemented.

We would like to highlight one recommendation in particular. As we have noted above, dedicated leadership is needed to support the development of a positive risk culture. While accountable authorities need to set the tone at the top, they need dedicated support to drive change in their organisations. We have been told that risk aversion is deeply embedded in the psyche of Commonwealth officials, and in the Commonwealth's business practices, in part due to the political implications when things go wrong. Professor Shergold's conclusion that certain entities should appoint a Chief Risk Officer should be revisited.

Large Commonwealth entities, and those with complex risks, should consider appointing a Chief Risk Officer to support the accountable authority to implement a strong risk culture and behaviours across all levels of the organisation. Some entities, such as the Department of the Prime Minister and Cabinet and the Department of Defence, have already done so.

³³ Professor Peter Shergold AC, [Learning from Failure](#), 12 August 2015 Chapter C pp. 36 – 44.

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We do not suggest that a Chief Risk Officer is needed for every entity. However, we do believe that, where circumstances are right, they can support accountable authorities to improve risk management, drive innovation, and help to build more positive, engaged and active behaviours around risk. To be successful, Chief Risk Officers should be a member of the senior management team and have detailed knowledge of their entity and the government's objectives in relation to the entity's purposes.³⁴

Recommendation 12: Accountable authorities of large Commonwealth entities, or entities with complex risks, should consider appointing a Chief Risk Officer to support the accountable authority to implement a strong risk culture and behaviours across all levels of the organisation.

Under section 17 of the PGPA Rule, audit committees review the appropriateness of the accountable authority's system of risk oversight and management. Frequently, especially in smaller Commonwealth entities, this role involves monitoring and advising on the risks themselves. Establishing a standalone risk committee is increasingly common in the private sector, and consistent with the Australian Prudential Regulation Authority's Prudential Standard for governance.³⁵ In large Commonwealth entities, and those with complex risks, a standalone committee focusing on risk could play a positive role in developing a mature risk culture.

Again, we do not suggest that a separate risk committee is needed for every entity. But, as in the case of a Chief Risk Officer, where the circumstances are right, they can help to improve the risk practice and culture of an organisation, and support senior management in managing risk. Risk committees should be chaired by an independent chair, preferably sourced from the audit committee or the board (an option for corporate Commonwealth entities), and include other independent members with skills and expertise in managing risks in both the corporate and government sectors.

Standalone risk committees, chaired by an independent chair, would not only allow for greater focus on and attention to risk management than is possible under current audit committee arrangements, but, over time, could help build the capability of the entity to manage and engage with risk.³⁶ Where such a committee is established, we consider that this committee should be responsible for reviewing the appropriateness of the entity's system of risk oversight and management, with the audit committee's functions amended accordingly.

Recommendation 13: Accountable authorities of large entities, or entities with complex risks, should consider establishing a separate risk committee, with an independent chair and membership linkage with the audit committee, to strengthen the governance of risk. Where an entity establishes a separate risk committee, the risk committee should be responsible for reviewing the appropriateness of the entity's system of risk oversight and management, with the audit committee's functions amended accordingly.

As we have noted above, establishing a standalone risk committee will not be justified for some entities because of their small size or limited risk profile. However, it is still important for these entities to ensure that their audit committee gives proper support to the accountable authority to manage and engage with risk. In these circumstances, audit committees should be renamed 'audit and risk committees' to reinforce their important role to support accountable authorities in managing and engaging with risk.

³⁴ See Professor Peter Shergold AC, pp. 41–42.

³⁵ Australian Prudential Regulation Authority, *Prudential Standard CPS 510 – Governance* (July 2017).

³⁶ See Professor Peter Shergold AC, p. 43.

Recommendation 14: For entities where a separate risk committee is not established, audit committees should be called 'audit and risk committees' to reinforce the important role of these committees in supporting accountable authorities to manage and engage with risk.

4. Audit committees

Background

Audit committees are integral to good corporate governance. Under the PGPA Act framework, audit committees support accountable authorities by providing independent advice and assurance. The PGPA Rule requires audit committees to review an accountable authority's financial and performance reporting, and risk and internal control systems.³⁷ Beyond these required areas, audit committees can be tasked to do other things, either through a written charter issued by the accountable authority or on an ad hoc basis.

The contribution made by the audit committee is in large part in the hands of the accountable authority, as they appoint the committee members and approve the committee's charter that establishes the functions and direction of the committee, subject to the minimum requirements in the PGPA Rule. We believe the quality of the audit committee's contribution provides insights into the overall governance of an entity.

The PGPA Rule says that the majority of members must be independent. This helps to ensure that a committee can act in an objective and impartial manner, free from conflict of interest, inherent bias or undue external influence. For any organisation in an established environment, like Commonwealth entities, pressures from established relationships may unduly influence officials from within the organisation. Independent members are expected to provide an independent view that is not unduly influenced by established relationships.

Corporate Commonwealth entities and Commonwealth companies have governing boards with independent directors. The majority of audit committee members of corporate entities and companies are appointed from among these independent directors, who are not officials. As in the corporate sector, some entities and companies may choose to appoint external expertise, but largely an audit committee is constituted of people who are both independent and know the operations of the business because of their role on the board.

The audit committees of non-corporate Commonwealth entities operate differently. Independent committee members must be appointed from outside the entity. These entities can find it harder to find people who are both truly independent and understand the business of the entity.

Commonwealth audit committees have had a traditional role in reviewing financial reporting, risk and internal control. Reflecting the guiding principle of the PGPA Act that the performance of the public sector is more than financial, the role of audit committees was expanded under the PGPA Act framework to include performance reporting. The language around what they are required to do – 'review the appropriateness of' – was also standardised.

Audit committee members are appointed by, and report to, the accountable authority. The accountable authority also determines the size and functions of the committee, subject to the minimum requirements in the PGPA Rule.

Review findings

The Auditor-General has commented that entities should consider the role and function of their audit committees in relation to performance reporting to ensure that the intent and

³⁷ The minimum functions of an audit committee of a Commonwealth entity are outlined in section 17 of the [PGPA Rule](#).

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requirements of the PGPA Act and Rule are met; and that entities can build on the core requirements to enhance the effectiveness of their audit committees.³⁸

In various recent reports, the Auditor-General found instances where an audit committee charter has not met the requirements of the PGPA Rule and unclear certification has been provided in relation to performance reporting.³⁹

The JCPAA has also commented on the work of audit committees. It has asked us to consider how their effectiveness can be enhanced.⁴⁰ In particular, it has recommended that the PGPA Act, Rule and guidance be amended to clarify that the functions and charter of audit committees are to reflect their role in providing assurance on the appropriateness of performance reporting, and that some members of audit committees must have skills in performance measurement and reporting.⁴¹

In our consultations, entities were generally positive about the role and effectiveness of their audit committees.⁴² A number of entities highlighted the value of having a majority of independent committee members.⁴³ While there were mixed views, some concerns were raised about the role and capacity of audit committees in relation to performance reporting. These included concerns about:

- audit committees being given a role to review the appropriateness of performance reporting, noting that this is a management responsibility⁴⁴
- a lack of clarity of the role of audit committees in this area⁴⁵
- the additional work this imposes on committees.⁴⁶

The ANAO report on the implementation of 2016–17 annual performance statements discussed the role of entities' audit committees. In reviewing the annual performance statements of the entities included in the audit, the ANAO commented that there was still some way to go in the maturity of audit committees' assurance and advice.⁴⁷ Three of the entities selected for inclusion in the audit agreed to reflect the requirements of the PGPA Rule in their audit committee charters.⁴⁸

The independence of audit committees from the day-to-day activities of management is critical to the contribution that they can make to good governance in an entity. The PGPA Rule requires that audit committees have a majority of independent members. In our view, the independence of audit committees should be further strengthened by requiring all audit committee members to be independent. This would strengthen the capacity of audit committees of non-corporate Commonwealth entities to provide an independent perspective

³⁸ See ANAO, *Report No.58 of 2016-17: Implementation of the Annual Performance Statements Requirements 2015-16*, p. 9; ANAO, *Report No. 33 of 2016-17: Audits of the Financial Statements of Australian Government Entities for the Period Ended 30 June 2016*, p. 34.

³⁹ ANAO, *Report No. 33 of 2016-17: Audits of the Financial Statements of Australian Government Entities for the Period Ended 30 June 2016*, p. 11.

⁴⁰ See JCPAA, *Report 463: Commonwealth Financial Statements – Inquiry based on Auditor-General's report 33 (2016-17)*, Recommendation 2.33, p. 13.

⁴¹ See JCPAA, *Report 469: Commonwealth Performance Framework – Inquiry based on Auditor-General's report 33 (2016-17)*, Recommendation 3.25, p. ix.

⁴² See *submissions* from the Australian Maritime Safety Authority (p. 2), Reserve Bank of Australia (p. 2), and Australian Bureau of Statistics (p. 3).

⁴³ See *submissions* from the Department of Agriculture and Water Resources (p. 3), Department of Human Services (p. 5), Department of the Prime Minister and Cabinet (p. 1), and Northern Land Council (p. 3).

⁴⁴ See *submissions* from the Australian Bureau of Statistics (p. 3), Australian Taxation Office (p. 6), and Reserve Bank of Australia (pp. 2–3).

⁴⁵ See *submissions* from the Attorney-General's Department (p. 4, Attachment A), Clean Energy Regulator (p. 2), Department of the Prime Minister and Cabinet (p. 1), Department of Veterans' Affairs (p. 1), and Sydney Harbour Federation Trust (p. 2).

⁴⁶ See *submissions* from the Australian Criminal Intelligence Commission (p. 10), and IP Australia (p. 1).

⁴⁷ See ANAO, *Report No. 33 of 2017-18: Implementation of the Annual Performance Statements Requirements 2016-17*, p. 75, para 3.77.

⁴⁸ *Ibid.*, p.74.

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that draws on the broader knowledge and experience of committee members. Entities will need sufficient time to meet this requirement.

Currently, an independent member can be a person that is not an official of the entity in question. An official from another Commonwealth entity can be considered ‘independent’ for the purposes of the appointing entity. We propose that for the purposes of determining a member’s independence, they must not be an official or employee of a Commonwealth entity.

Recommendation 15: The independence of audit committees should be strengthened by requiring all audit committee members to be independent, with independence defined as not being an official or employee of a Commonwealth entity.

We have been told that the effectiveness of the audit committee is maximised in situations where the accountable authority and senior managers of the entity engage with the audit committee, including being actively involved in selecting committee members and sharing their perspective on the entity’s priorities and key risks. We have also been told that in non-corporate Commonwealth entities, the level of engagement between accountable authorities, senior management and the audit committee is mixed. To ensure that audit committee members maintain an up-to-date knowledge of an entity’s operations and performance, accountable authorities and senior managers should be actively engaged in the activities of their audit committees.

Recommendation 16: The accountable authority and senior management of entities should be actively engaged with their audit committees, including attending meetings, to give their authority and imprimatur to audit committee activities in their entity. This will ensure that audit committees are fully briefed on the operations and performance of the entity and are able to question management on matters and information relevant to the role of the audit committee.

The effectiveness of an audit committee is enhanced when audit committee members between them have a broad range of skills, experience and capability. Where a number of members bring the same or similar technical skills and industry sector experience to an audit committee, this can adversely affect an audit committee’s capability to deliver on the full set of functions it is required to perform.

Canberra-based partners of accounting firms and consultancies, and former senior public servants, appear to dominate the membership of audit committees of non-corporate Commonwealth entities based in Canberra. This may limit the number of audit committee members in Canberra with deep corporate or relevant non-public sector experience. There is also a risk that people from an auditing or accounting background are over-represented.

We have been told that some audit committees meet only four times a year while others meet much more frequently. The level of secretarial support provided to an entity’s audit committee varies considerably. Audit committees have an important role in each entity’s governance arrangements, and members and the entity itself should ensure that sufficient time and resources are committed to the work of the committee. This includes a level of remuneration that recognises both the importance and breadth of the responsibilities of each audit committee member. The remuneration of the chair should reflect the chair’s extra responsibilities.

Recommendation 17: Accountable authorities should ensure:

- (a) their audit committee members, both individually and as a group, have the appropriate qualifications, knowledge, skills and experience to meet their responsibilities, as required in the PGPA Rule;**

- (b) committee members are sourced broadly, with greater representation from other industries, sectors and locations; and**
- (c) the remuneration of audit committee members is commensurate with the importance of their responsibilities and the commitment required.**

In our experience, the quality of advice from any board or committee is enhanced where there is a mix of insights and views. This includes where members with a longer tenure, who have a deep understanding of the entity and its business, are mixed with newer members who bring in fresh experiences, ideas and perspectives. Achieving this balance requires a sensible rotation of committee members.

The PGPA Rule does not have any limits or directions on the terms of audit committee members. In theory, at least, audit committee members could remain on the same committee indefinitely. Limits of nine to twelve years are common for boards in the private sector, often expressed as three or four terms of three years.⁴⁹

We do not favour the PGPA Rule mandating a maximum appointment term. Accountable authorities are best placed to make these decisions based on each entity's particular circumstances. Accountable authorities should establish a policy for appointing audit committee members to ensure the regular rotation of the committee's membership. The terms of appointment for individual audit committee members should be clearly stated, with appropriate limits on the length of appointment terms, and the number of consecutive terms to limit overall tenure.

Recommendation 18: Accountable authorities should establish an audit committee membership rotation policy, with maximum appointment terms, to ensure regular rotation of committee membership.

Accountable authorities should ensure that independent members of audit committees are fully inducted into the business of the entity. This is particularly the case for non-corporate Commonwealth entities, and should occur when people are first appointed and, thereafter, on an ongoing basis to keep audit committee members up to date on major and emerging issues. Our consultations suggest that practices in this area vary.

Recommendation 19: Accountable authorities should ensure that independent members are inducted into the business of the entity and briefed on its operations and performance on an ongoing basis.

The introductory guide to section 19 of the PGPA Rule says that the section does not prevent the same audit committee performing functions for multiple Commonwealth entities. There are very few instances where this occurs.

Smaller Commonwealth entities with limited resources and similar purposes should consider sharing audit committees. This would not only reduce costs – including costs of sourcing audit committee members, meeting costs and the remuneration of members – but could broaden the pool of potential members.

Recommendation 20: Smaller Commonwealth entities with limited resources and similar purposes should consider sharing an audit committee.

Our discussions with audit committee chairs highlighted that direct engagement between Finance, as the policy owners of the PGPA Act, and audit committee chairs is limited. There are periodic 'talking heads' forums and issues-based email exchanges, but nothing that approaches the communities of practice model used by Finance with Commonwealth entities, or the learning and discussion opportunities provided by professional associations

⁴⁹ See Australian Institute of Company Directors, *Director Tools: Board Recruitment – Board Composition*, p. 3.

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such as the Chartered Accountants Australia and New Zealand, the Australian Institute of Company Directors and the Actuaries Institute.

We believe that direct engagement between Finance and audit committee chairs could help to improve practice and clarify emerging issues, such as on performance reporting.

Recommendation 21: Finance should initiate a learning program similar to those offered by professional bodies such as the Chartered Accountants Australia and New Zealand, the Australian Institute of Company Directors and the Actuaries Institute, for audit committee chairs to facilitate sharing information about the performance of audit committee functions.

There are currently no disclosure requirements in relation to the audit committee activities of Commonwealth entities. This is out of step with the practice of listed companies. It is our consistent view that Commonwealth government reporting and accountability practice should match better practice in the corporate sector. Currently, the extent of disclosure of audit committee arrangements by Commonwealth entities is voluntary and inconsistent.

The Australian Securities Exchange (ASX) corporate governance principles and recommendations include a recommendation that listed companies disclose the charter of their audit committee, the qualifications and experience of audit committee members, the number of times the committee met through a reporting period, and individual attendances of committee members at those meetings.⁵⁰ The remuneration of audit committee members for performing their audit committee role is also disclosed in company remuneration reports. Commonwealth entities should be required to disclose similar information about their audit committees in their annual reports to improve transparency and accountability.

Recommendation 22: Audit committees should be subject to greater transparency by requiring disclosure in annual reports of their charter; membership; the qualifications, skills and experience of each committee member; details of each member's attendance at meetings; and the remuneration of each audit committee member, broadly consistent with the practice of ASX listed companies.

The Auditor-General has suggested to us there would be value in recognising in the framework the practice of ANAO officials attending audit committee meetings as observers.⁵¹

We support the established practice of ANAO officials attending audit committee meetings. Attendance by the ANAO assists the ANAO's understanding of the operations of the entity, including the risks being managed, and assists the timely discussion of any issues arising in relation to the entity's financial statements. It also provides an opportunity for the ANAO to share insights obtained as the external auditor of all Commonwealth entities. In return, audit committees can reasonably expect the ANAO to make an informed contribution to the committee's deliberations.

In our view, ANAO attendance at audit committee meetings is a matter that should be settled between the ANAO and accountable authorities. We do not see a need for this practice to be formalised in the PGPA Act framework.

⁵⁰ See ASX Corporate Governance Council, *Corporate Governance Principles and Recommendations* (3rd edn), Recommendation 4.1, p. 21.

⁵¹ See [submission](#) from the Australian National Audit Office (p. 6).

5. Clarifying reporting requirements and reducing the reporting burden

Background

The key reporting artefacts prepared by entities under the PGPA Act framework are corporate plans and annual reports. For those that receive budget appropriations (just over 80 per cent of all entities), these documents link to the portfolio budget statements that ministers provide to the Parliament to explain the proposed allocation of budget funding.

Corporate plans are intended to be the primary planning documents of Commonwealth entities. They outline how an entity intends to achieve its purposes over a four-year period (the budget cycle) by discussing the entity's environment, performance measurement and reporting arrangements, capability, and risk oversight and management.⁵²

Annual reports are the key accountability document for Commonwealth entities. They include an entity's annual performance statement and financial statements for the reporting period to support scrutiny of the performance and spending of entities by the Parliament, and to better inform interested citizens and stakeholders. For the overwhelming majority of Commonwealth entities, the reporting period is the financial year.

Under the principles-based approach of the PGPA Act and Rule, accountable authorities have significant flexibility on how they develop and lay out their corporate plans and annual reports, including developing and reporting on their performance measures. The requirements outlined in the PGPA Rule are general and go to minimum content.

Some performance information is required in each of the reporting artefacts. There is flexibility around the development of performance information, recognising that some may be established in intergovernmental agreements or by some other external obligation, although Finance has advised entities that performance information should be relevant, reliable and complete to be of good quality.⁵³ There should be a 'clear read' of performance information across corporate plans, annual reports and portfolio budget statements, so that you can see how actual results line up with planned performance targets. The key financial information in portfolio budget statements and annual reports should line up in a similar fashion. In contrast to performance information, there is less flexibility on financial reporting, which must comply with accounting standards issued by the Australian Accounting Standards Board.

The majority of reporting requirements are imposed on Commonwealth entities by the Parliament, ministers, and central and regulatory agencies. They usually apply in the same way to all entities, regardless of their size (however defined). This is also true of the PGPA Act and Rule. Less formally, the Auditor-General can add process complexity through the findings of his performance audits. When the PGPA Act was developed, the Explanatory Memorandum noted that the framework provides the foundations for a system of 'earned autonomy', where the risk profile and performance of entities would determine how much regulation and oversight they are subject to.⁵⁴ Tiered reporting arrangements have been put in place for financial reporting, based on whether entities are material or non-material, but otherwise this system has not been delivered and smaller entities are subject to the same level of regulation as larger entities.

⁵² See subsection 16E(2) of the [PGPA Rule](#).

⁵³ See [Quick Reference Guide – Resource Management Guide No. 131: *Developing Good Performance Information*](#).

⁵⁴ See [Revised Explanatory Memorandum](#) to the Public Governance, Performance and Accountability Bill 2013 (PGPA Bill), pp. 8–9, para 61.

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It is important that the Commonwealth continues to clearly define the information it requires and for it to be vigilant in reducing internal red tape. Some of the over- and inefficient regulation identified by Ms Barbara Belcher in her independent Review of Whole-of-Government Internal Regulation, released in August 2015, has still not been addressed. Examples include the Australian Public Service Commission and Finance workforce reporting; the reporting threshold in the Commonwealth Procurement Rules; and reporting on deregulation under the Regulator Performance Framework. Our concern is that if the Commonwealth is accepting of a red tape culture internally, it is likely to lack awareness of its own red tape impacts and demands on external stakeholders.

Review findings

We have heard that former CAC Act bodies generally hold positive views of the PGPA Act,⁵⁵ and do not consider that the framework has substantially affected their operations.⁵⁶ Only one former CAC Act body noted that the implementation of the PGPA Act had had a substantial cost impact on its operations.⁵⁷ There were, however, some entities that considered there remains room for improvement, consistent with the views held by other entities more broadly.⁵⁸

The cumulative impact on entities of reporting requirements, including under the PGPA Act and Rule, is significant. It was raised with us by a number of entities,⁵⁹ particularly smaller entities.⁶⁰

The most puzzling occurrence of red tape involves duplicative reporting. A common example brought to our attention is the cross-over of the PGPA Act performance framework with separate performance reporting required under the Regulator Performance Framework (developed by the Department of the Prime Minister and Cabinet), and reporting by cultural institutions required by the Department of Communications and the Arts.

The development of a system of ‘earned autonomy’ (or differential regulation), as mentioned earlier, was raised with us by a number of entities, particularly smaller ones. Some entities see ‘earned autonomy’ as a key step in reducing their reporting burden.⁶¹

In our discussions with other countries, we found differing approaches to the reporting requirements imposed on smaller government entities. Concerns about smaller bodies being disproportionately affected by red tape are common. The Government of Canada, like

⁵⁵ See [submissions](#) from Airservices Australia, Australian Institute of Aboriginal and Torres Strait Islander Studies (p. 1), Australian Maritime Safety Authority (pp. 1–2), Australian Institute of Marine Science (p. 2), Australia Post (p. 1), Australian Renewable Energy Agency (p. 1), Australian Sports Commission (p. 1), Indigenous Business Australia, (p. 1), National Transport Commission (p. 1), Northern Land Council (p. 1), Special Broadcasting Service Corporation (pp. 1–4), and Sydney Harbour Federation Trust (p. 1).

⁵⁶ See [submissions](#) from Aboriginal Hostels Limited (p. 1), Australian War Memorial (p. 2), Indigenous Business Australia (p. 1) Indigenous Land Corporation, Reserve Bank of Australia (p. 1), and Tourism Australia.

⁵⁷ See [submission](#) from the Fisheries Research and Development Corporation.

⁵⁸ See [submissions](#) from the Australian Nuclear Science and Technology Organisation (p. 3), Australia Post (pp. 2–6), Australian Reinsurance Pool Corporation, Australian Renewable Energy Agency (pp. 1–2), Australian Sports Commission, Clean Energy Finance Corporation (pp. 1–2), Commonwealth Scientific and Industrial Research Organisation (pp. 2–3), Cotton Research and Development Corporation (pp. 1–4), Grains Research and Development Corporation (pp. 1–2), National Transport Commission (p. 2), Northern Land Council, Reserve Bank of Australia (pp. 1–3), and Sydney Harbour Federation Trust (pp. 1–2).

⁵⁹ See [submissions](#) from the Australian Criminal Intelligence Commission (p. 1), Department of Human Services (pp. 1–2), and Department of the Prime Minister and Cabinet (p. 1).

⁶⁰ See [submissions](#) from Australian Commission on Safety and Quality in Health Care, Australian Fisheries Management Authority (p. 2), Australian War Memorial (p. 2), Department of the House of Representatives (p. 3), and National Transport Commission (p. 1).

⁶¹ See [submissions](#) from the Australian Institute of Marine Science (p. 4), Australian Nuclear Science and Technology Organisation (p. 3), Cotton Research and Development Corporation (p. 3), Department of Jobs and Small Business (p. 4), and IP Australia (p. 1).

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Australia, applies the same reporting requirements to all government entities, regardless of their size or risk profile. Canada told us that audits in small government entities have revealed the challenges this presents to small entities.⁶²

By way of contrast, the Government of New Zealand has tiered reporting requirements based on the size of a government entity. Large entities, in terms of funding, and those that have identified particular risks, have additional reporting requirements applied.⁶³ Smaller entities have fewer reporting requirements, but we were advised that they are still disproportionately affected by the requirements imposed on them.

We recognise that building a system of earned autonomy or differential regulation would be complex. There are divergent views about what makes an entity low, or high, risk or what characteristics of good performance are relevant. Decisions on how to differentiate regulation would require subjective judgement, based on information provided by entities. In effect, Finance would need to assume the role of a regulator. There is also a risk that the information required from entities to establish and support a system of earned autonomy would add complexity without materially reducing the reporting burden.

The issue of internal regulation is broader than Finance and involves other parties, as discussed earlier. We see little utility in Finance pursuing a system of earned autonomy for the PGPA Act framework when there are multiple sources of the reporting and compliance burden. The PGPA Act already establishes minimum regulatory requirements. In our view, Finance should instead focus on reducing the regulatory burden imposed by the PGPA Act and Rule across the board, which would bring benefits to all entities. Entities should also take advantage of the principles-based nature of the PGPA Act framework, which enables them to take a fit-for-purpose approach to their reporting obligations.

We are sympathetic to the concerns raised by smaller entities about the reporting burden imposed by the PGPA Act framework. The reporting burden on entities should be the minimum necessary to provide transparency and accountability for the expenditure of public money and achievement of purposes by entities that meets the needs of the Parliament and citizens. An overarching principle to follow is that information that duplicates other data, or that is not used, should not be collected or reported.

Beyond this, reducing the reporting burden becomes quite complex. Finding ways to reduce reporting requirements across all smaller entities, while ensuring that the legitimate information needs of the Parliament and citizens are met, is not straightforward. This is evidenced by the fact that many smaller entities commented in their submissions on the reporting burden imposed by the PGPA Act and related frameworks, but there were mixed views on the problematic sources of reporting burden, and few entities offered solutions. The Regulator Performance Framework was one source identified by entities, and is discussed below.

Striking the right balance between reducing the reporting burden on smaller entities but achieving a sufficient level of reporting for Parliamentary accountability will take time. It will only be successful through close engagement by all parties, particularly smaller entities and Finance. Smaller entities are best placed to advise on the burden imposed by the reporting requirements of the PGPA Act framework. Finance can provide context on these.

It would be helpful if smaller entities clearly articulated the most problematic sources of their reporting burden, and offered solutions for where it could be reduced. Finance could further

⁶² Consultation with the Government of Canada, 16 March 2018.

⁶³ Consultation with the Government of New Zealand, 14 December 2017.

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investigate arrangements in state and territory governments and international jurisdictions to reduce the reporting burden for smaller entities.

Recommendation 23: Finance should work with smaller entities to consider further options to address the reporting burden on smaller entities, taking into account arrangements in state and territory governments and international jurisdictions.

Parallel performance reporting frameworks that duplicate aspects of the PGPA Act performance framework are problematic. They create additional reporting burden for entities, with a greater impact on smaller entities. They also dilute the significance of portfolio budget statements, corporate plans and annual reports as the key sources of performance information for Commonwealth entities. Reporting on performance of entities across a number of reports reduces the clarity of performance information and accountability for performance to the Parliament.

Annual reports, including annual performance statements, should be the key accountability documents for all Commonwealth entities. We believe that other performance reporting frameworks, such as the Regulator Performance Framework, should be reviewed and their reporting requirements integrated into annual performance statements. In recommending this, we agree with the Business Council of Australia that key elements of the Regulator Performance Framework, such as the consultation requirements, should be retained. We encourage Finance and the Department of Jobs and Small Business, which has taken over responsibility for the Regulator Performance Framework from the Department of the Prime Minister and Cabinet, to start work on this as soon as possible.

This should not be seen as a general endorsement for loading up the content of annual performance statements with compliance-related and other inwardly facing information requirements generated by Commonwealth entities and imposed on others. The annual performance statement is not a vehicle of convenience; it is a vehicle for improving accountability to the Parliament, stakeholders and citizens. To tell a compelling story about performance, annual performance statements should remain short, sharp and focused on outcomes directly related to the purposes of an entity.

Recommendation 24: The annual performance statement should be the primary vehicle for reporting the performance of Commonwealth entities. Duplicative performance reporting requirements – for example, those under the Regulator Performance Framework – should be reviewed and integrated to reduce the reporting burden and improve clarity.

Some entities suggested a greater standardisation of reporting documents, potentially including the use of templates, to ease the reporting burden on smaller entities.⁶⁴ This has not been Finance's preferred approach – it can be seen as inconsistent with the framework's fit-for-purpose philosophy and not reflective of the diversity of government operations. We have a different view. We believe that the development of optional templates and proforma structures for corporate plans and annual reports, and their sensible use by smaller entities, would be a useful initiative. We note that a Finance-led project currently underway to trial digital annual reports involves the development of a standard digital template.

Recommendation 25: Finance should simplify the reporting burden for smaller Commonwealth entities by developing standardised corporate plan and other templates to help reduce the amount of work required.

⁶⁴ See [submissions](#) from the Clean Energy Regulator (p. 3), Department of Jobs and Small Business (p. 3), and Sydney Harbour Federation Trust (p. 2).

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Through three performance audits, the Auditor-General has reviewed a number of corporate plans produced by Commonwealth entities and found their quality to be variable. Not all entities use their corporate plans as their primary planning document. The Auditor-General has suggested that the requirements for corporate plans in the PGPA Rule be reviewed. The JCPAA has asked us to look at the existing corporate plan requirements, particularly the potential inclusion of resourcing information and key risks, and the application of the requirement relating to the four-year reporting period of the corporate plan.

The medium-term horizon requirement for corporate plans matches the four-year budget cycle and financial projections published by the Commonwealth. Entities should explain how they will achieve their purpose(s) over the same time horizon. The reporting of key entity risks is consistent with good practice in the corporate sector. We support the inclusion in corporate plans of key risks and a summary of how they are being managed by the entity. If the PGPA Rule and associated guidance need to be clearer on these points, then they should be.

We have been told that many corporate plans now discuss how entities cooperate and coordinate with others in achieving their purposes. We support the mandatory inclusion of such information in corporate plans to improve reporting in this area, and discuss other initiatives to improve cooperation in Chapter 7 of this report.

Portfolio budget statements already include information on entity resourcing. For those entities that prepare portfolio budget statements, we see little justification for introducing a mandatory requirement to duplicate the production of this information in corporate plans. Repeated development and production of information is a reporting burden on entities and the system and, as discussed above, we are not in favour of it.

However, for entities that do not have portfolio budget statements, it would be sensible for them to provide summary resource information in their corporate plans, especially where this helps to explain how the entity is achieving its purposes.

Recommendation 26: Finance should amend the PGPA Rule on corporate plans to require the plans to outline how entities will achieve their purpose(s) over a four-year reporting horizon, how they cooperate and coordinate with others, and to identify key risks and how these will be managed.

We heard a number of concerns about how performance is reported across various reporting documents. A number of entities raised concerns about the duplication of reporting requirements in general,⁶⁵ and corporate plans and portfolio budget statements in particular.⁶⁶

The performance reporting requirements for portfolio budget statements, corporate plans and annual reports are intended to give a clear read across the Commonwealth's resourcing, planning and accountability reporting cycle. The JCPAA is particularly interested in achieving this. The relationships between these documents has been explained and mapped in Finance guidance, but it is evident from the feedback we have received that a number of entities are not clear on what information is required in each document, and why it is required. They believe that they are being asked to duplicate information across the reporting artefacts without a clear benefit.

⁶⁵ See [submissions](#) from the Australian Fisheries Management Authority (p. 2), Clean Energy Regulator (pp. 2–3), Department of Immigration and Border Protection (p. 4), Department of Jobs and Small Business (p. 5), Grains Research and Development Corporation (p. 2), Indigenous Land Corporation, Sydney Harbour Federation Trust (p. 2), and Tertiary Education Quality and Standards Agency.

⁶⁶ See [submissions](#) from the Australian Fisheries Management Authority (p. 4), Department of Immigration and Border Protection (p. 4), and Department of Jobs and Small Business (p. 5).

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Each of these documents is important in its own right to the transparency and accountability of government. Entities should standardise their approach to the extent possible to avoid duplication of effort. Some work has already been done by the JCPAA and Finance to limit the amount of duplicate performance information in portfolio budget statements and corporate plans, but we believe that more can be done to clarify how and why performance information is reported across these different documents, and to explain these integrated requirements to entities.

Recommendation 27: Finance should clarify and explain the integrated performance reporting requirements and linkages in portfolio budget statements, corporate plans and annual reports to achieve transparency to the Parliament, with reference to the views of the Joint Committee of Public Accounts and Audit and in consultation with the Australian National Audit Office.

The discussion in the Commonwealth of the concept of a clear read has, to date, been focused on performance information. Financial statements are largely seen to meet an accountability requirement, and there are few linkages between the two sets of information.

Increasingly, private sector companies are integrating or linking the strategies and objectives in their strategic and business plans to the financial results that they achieve. We recognise that the interests and focus of public sector stakeholders can be different to those of company shareholders. However, we see merit in Finance leading work to see how Commonwealth entities can link their purposes and objectives, as reflected in the performance information presented in corporate plans and annual performance statements, with the financial information presented in their annual financial statements.

Recommendation 28: Finance should explore opportunities to better link performance and financial information presented in entities' corporate plans and annual reports.

6. Annual report timing and parliamentary scrutiny

Background

Annual reports are key accountability documents in both the private and public sectors. In the Commonwealth, annual reports support parliamentary scrutiny of the performance and expenditure of entities. The PGPA Act requirements see the overwhelming majority of entities providing their annual report to the responsible minister by 15 October.⁶⁷ Ministers then table annual reports in the Parliament. Senate Supplementary Budget Estimates hearings, generally held in late October or early November, rely on the timely tabling of annual reports. However, the PGPA Act does not set a tabling date to ensure timely tabling.

The reforms to the Commonwealth's resource management framework were intended to improve the 'quality of information to Parliament to support its constitutional role in relation to Commonwealth expenditure'.⁶⁸ The objects of the PGPA Act include requiring the Commonwealth and Commonwealth entities 'to provide meaningful information to the Parliament and the public'.⁶⁹

The JCPAA has asked us to consider changing the requirement on annual reports to specifying a date for tabling in the Parliament.⁷⁰ The JCPAA has indicated a preference for this date to be 15 October, in time for Senate Supplementary Budget Estimates.⁷¹

Review findings

We have been told that the preparation of annual reports involves significant resources.⁷² The Parliament requires entities to report in detail on a range of information. This list of required content has increased over time; there is little evidence of requirements being reviewed for simplification or redundancy. When we discussed the JCPAA's preference for an earlier tabling date for annual reports, entities pointed to a range of issues, including the availability of information and data (particularly where it is sourced from outside the entity);⁷³ the additional timing pressure (particularly on smaller entities);⁷⁴ the need to engage additional temporary external personnel at significant cost to meet a tighter timeframe;⁷⁵ and the availability of the ANAO's audit report on the entity's financial statements.⁷⁶

⁶⁷ Subsection 46(2)(1) of the PGPA Act requires that accountable authorities provide annual reports to the responsible minister by 'the 15th day of the fourth month after the end of the reporting period for the entity'. For entities that have a financial year reporting period, this equates to 15 October each year.

⁶⁸ See the Revised Explanatory Memorandum to the PGPA Bill, p.3, para 19.

⁶⁹ See subparagraph 5(c)(ii) of the PGPA Act.

⁷⁰ See JCPAA, *Report 463: Commonwealth Financial Statements – Inquiry Based on Auditor-General's Report 33 (2016–17)*, August 2017, p. 13, para 2.33.

⁷¹ See JCPAA, *Report 463: Commonwealth Financial Statements – Inquiry Based on Auditor-General's Report 33 (2016–17)* p. 12, para. 2.27.

⁷² See *submissions* from Australia Post (p. 6), Department of Agriculture and Water Resources (p. 2, Attachment 1), Department of Human Services (p. 5), and Special Broadcasting Service Corporation (p. 3).

⁷³ See *submissions* from the Department of Immigration and Border Protection (p. 5), Department of Health (p. 2), Australian Communications and Media Authority, Department of Defence (p. 3), Australian Bureau of Statistics (p. 3), and Australian Sports Commission.

⁷⁴ See *submissions* from the Australian Maritime Safety Authority (p. 2), Australian War Memorial (p. 3), Australian Commission for Law Enforcement Integrity (p. 2), Australian Fisheries Management Authority (p. 3), and Department of the House of Representatives (p. 2).

⁷⁵ See *submission* from the Department of Agriculture and Water Resources (p. 2).

⁷⁶ See *submissions* from the Clean Energy Regulator (p. 1), Department of Education and Training (p. 2, Attachment A), Special Broadcasting Service Corporation (p. 3), Australian Bureau of Statistics (p. 1, Attachment A), Australian Taxation Office (p. 6), and Australian Fisheries Management Authority (p. 3).

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Entities suggested that an earlier reporting date could be supported if disclosure requirements were reduced or with the introduction of digital reporting.⁷⁷

The Auditor-General supports the earlier tabling of annual reports. He notes that issuing the Financial Reporting Rule and guidance by 31 December each year would help financial statements to be prepared earlier, and that the timing for auditing entity financial statements may need to be brought forward.⁷⁸ The ANAO would also need to deliver its audit reports in a timely fashion. The Auditor-General is committed to working with entities to achieve the earlier completion of financial statement audits and does not consider the ANAO's capacity to audit financial statements as a barrier to achieving this goal.

We agree that the current tabling arrangements do not give the Parliament enough time to get across the detail in annual reports before Senate Supplementary Budget Estimates hearings. By the time reports are tabled, senators may only have a few days to consider content and information about the entities' performance. There have been occasions when annual reports are tabled only after hearings are completed. There is little point in improving the quality of the performance information in annual reports, and the quality of annual reports more generally, if the Parliament does not get the information when it needs it. Timing is critical for proper accountability.

We support legislating a tabling date for annual reports. The PGPA Act and Rule should be amended to require the responsible minister to present an entity's annual report in the Parliament by 30 September each year.

Our support for this presentation date is based on two prerequisites. Firstly, that a fully digital reporting platform is implemented (this issue is discussed further below). Secondly, that the Auditor-General is able to complete the audits of entity financial statements so that entities can meet the required timeframes. This means the auditor's reports should be provided in the first week of September at the latest. We note some of the other issues raised by entities as factors to consider if the timeframe for annual reports is brought forward, and trust that these can be overcome in the interest of better public accountability.

These revised presentation arrangements need to ensure that ministers have sufficient time to consider an entity's annual report before presenting it to the Parliament. We therefore support an additional requirement that an accountable authority provides their annual report to the responsible minister at least seven days prior to the presentation deadline.

Recommendation 29: *[Subject to implementation of Recommendation 30, below]* Annual reports should be presented to the Parliament on or before 30 September. This would ensure the Parliament has annual reports available before the Senate Supplementary Budget Estimates hearings. Annual reports should be presented to the responsible minister no later than seven days before this date.

The Parliament currently requires Commonwealth entities and companies to table hard copies of their annual reports in both Houses of Parliament. With over 180 Commonwealth entities and companies, this sees more than 25,000 annual reports being printed each year. Printing requires significant lead times. It represents a risk to meeting the earlier annual report timeframes and tabling dates that we recommend. As noted earlier, a number of entities said that the digital tabling of annual reports would help them meet any new requirements.

⁷⁷ See [submissions from the Department of the Prime Minister and Cabinet \(p. 2\)](#), and [Reserve Bank of Australia \(p. 1\)](#).

⁷⁸ See ANAO, [Report No. 33 of 2016–17: Audits of the Financial Statements of Australian Government Entities for the Period Ended 30 June 2016](#).

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There is widespread support for digital reporting. We are among these supporters. Digital reports should make information easier to find and will eliminate duplication through electronic tagging and the use of links. We commend the work of the JCPAA and Finance in piloting a sample of 2017–18 digital annual reports, and that of the Joint Committee on Publications in establishing digital reporting standards for the Parliament.⁷⁹ Digital reporting opens up opportunities to improve the amount, accessibility and timeliness of information made available to the Parliament and citizens. We strongly encourage all parties to work towards phasing out the tabling of hard copy documents by 2019–20. This will require the allocation of sufficient resources.

Recommendation 30: The Parliament and Finance should continue to implement a fully digital platform and reporting process for annual reports and other relevant reporting requirements, with a view to phasing out hard copy reporting by 2019–20. Sufficient resources and funding should be allocated to achieve this goal.

Senate legislation committees are charged with inquiring into and reporting on annual reports and entities' performance.⁸⁰

We have been told that in some cases, parliamentary scrutiny of an entity's performance is not based on the performance and other information contained in annual reports. Parliamentary scrutiny of corporate plans and annual performance statements is in its infancy. We have made clear our view that entities have a responsibility to present meaningful information in a timely fashion to the Parliament. At the same time, there is an onus on the Parliament to use this information in scrutinising the performance of the public sector. This would underline the importance that it attaches to the earlier provision of annual reports and provide a significant incentive to accountable authorities to improve the quality of performance information included in annual performance statements.

Recommendation 31: The Senate should consider amending its Standing Orders to provide that entity annual reports, including annual performance statements, are referred to Senate standing committees for examination at Senate Supplementary Budget Estimates hearings. This would provide for greater scrutiny of annual reports at Senate Estimates hearings.

⁷⁹ See Joint Committee on Publications 2017 Report: *[Inquiry into the Printing Standards for Documents Presented to Parliament](#)*, pp. 29–30, paras 4.10–4.14.

⁸⁰ See *[Senate Standing Orders](#)* 25(2)(a) and 25(20).

7. Cross-government cooperation

Background

Citizens expect high-quality, easy-to-access government services, and well-targeted and impactful government programs. The simple fact is that this requires a coordinated effort by all levels of government. With its limited constitutional power and geographical reach, the Commonwealth government needs to cooperate and collaborate with other levels of government and with the private and not-for-profit sectors to deliver on a range of its objectives.

Government should routinely tap into a diversity of views and expertise in developing strategies and policy. It is increasingly common for government to join up with others in the delivery of a range of programs and services to the community, as non-government delivery channels are utilised.

Existing Commonwealth arrangements for cooperation are multifaceted, involving a number of partners and approaches to joining up. Joined-up arrangements may be formal or informal in nature, with some ongoing, others short term or indefinite. Those with state and territory governments are often formal, such as the Intergovernmental Agreement on Federal Financial Relations. Arrangements with the private and not-for-profit sectors can be informal, involving consultation during policy development, or formal, involving contractual arrangements for the delivery of government services, leveraging expertise and delivery channels to improve the efficiency and effectiveness of service delivery. Formal arrangements also exist among Commonwealth entities, with the recent example of entities joining shared service clusters to reduce corporate overhead costs across government.

The PGPA Act introduced a positive duty on accountable authorities to think beyond the boundaries of their own entity when managing its resources and pursuing its purposes, and consider the implications of their actions on public resources generally.⁸¹ At the time the PGPA Act was introduced, this was explained as part of ‘the theme of government acting as a coherent whole’. Potential benefits were expected to include ‘more effective partnerships and sharing better ways of working with other Commonwealth entities individually and collectively’.⁸²

The PGPA Act also requires accountable authorities to encourage officials within their entity to cooperate with others to achieve common objectives, where practicable, and to consider how compliance burdens imposed on partners in relation to the use and management of public resources affect those partners.⁸³ This positive duty does not force entities to cooperate with others, but it makes it clear that where organisations are working towards a common goal, they should be working together, and should do so sensibly. Section 20A of the PGPA Act provides that the accountable authority of one entity is able to give instructions to an official of another entity on the use of the public resources for which the accountable authority is responsible. This supports arrangements where the resources of one entity is managed by another (e.g. through service hubs that manage grant programs for multiple entities).

⁸¹ See Section 15 of the [PGPA Act](#).

⁸² See [Revised Explanatory Memorandum](#) to the PGPA Bill, para 134.

⁸³ Section 17 of the [PGPA Act](#) requires that the accountable authority of a Commonwealth entity must encourage officials of the entity to cooperate with others to achieve common objectives, where practicable. Section 18 of the PGPA Act requires, when imposing requirements on others in relation to the use or management of public resources for which the accountable authority of a Commonwealth entity is responsible, that the accountable authority must take into account: (a) the risks associated with that use or management; and (b) the effects of imposing those requirements.

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The PGPA Act also facilitates the establishment of arrangements that allow state and territory governments to join up more readily with the Commonwealth. For example, the PGPA Rule can put in place arrangements on sharing information in cooperative ventures. State and territory auditors-general are also permitted to audit any Commonwealth money involved in cooperative arrangements.⁸⁴

The PGPA Act allows for a statement to be published by the Australian Government to communicate its key priorities and objectives.⁸⁵ This could include any matters deemed appropriate by the government of the day, including cross-government priorities and objectives. Once this is done, the accountable authorities of Commonwealth entities must ensure that their corporate plans set out how the activities of the entity will contribute to achieving those priorities and objectives.

Review findings

We received a number of comments on the provisions of the PGPA Act designed to encourage cooperation and collaboration. Some entities were generally positive,⁸⁶ highlighting the long history of inter-jurisdictional cooperation.⁸⁷ Others thought it necessary to look at how Commonwealth entities go about doing this,⁸⁸ or suggested there is little evidence of any improvement following the introduction of the PGPA Act.⁸⁹

We have heard about compliance burdens that government places on its service delivery partners. The Business Council of Australia considers the government needs to look at the regulatory burden it imposes on business. They suggest there is a need for stronger mechanisms to measure and report on the impact of new and existing regulations on business and on the wider community.⁹⁰ To support this, they consider that government should consult with business early in the policy or program design process and give business adequate time to provide meaningful input.⁹¹ The same observation is true for all stakeholders affected by government policy.

We are not able to conclude that cooperation with others has increased following, or because of, the introduction of the PGPA Act. However, the PGPA Act includes positive provisions to support cooperative arrangements and government working in a more joined-up fashion. It has removed many of the legal blockers to cooperation, but it has not shifted some of the underlying cultural blockers.

The responsibilities of public officials extend beyond their individual organisations to include wider government objectives. To better accommodate the concepts of collective responsibility and multiple accountabilities requires a culture of open communication, consultation and trust among Commonwealth officials. The system comes together well in a crisis. For example, in response to natural disasters such as floods, bushfires and cyclones, and in the case of the global financial crisis of 2007–2008, we have seen bold steps taken in short timeframes with significant cooperation between different jurisdictions and different sectors of the economy. It is a pity that examples of government and public officials coming together with others to work at their very best are event-centred, rather than regular. There

⁸⁴ See sections 82 and 83 of the [PGPA Act](#).

⁸⁵ *Ibid.*, section 34.

⁸⁶ See [submissions](#) from the Special Broadcasting Service Corporation (p. 2), Department of Education and Training (Attachment A, p. 1), and Department of Immigration and Border Protection (p. 2).

⁸⁷ See [submission](#) from the Department of Finance (p. 4).

⁸⁸ See [submissions](#) from the Department of Education and Training (Attachment A, p. 1), Great Barrier Reef Marine Park Authority (p. 2), Australian Renewable Energy Agency (p. 2), and Australian Bureau of Statistics (p. 2).

⁸⁹ See [submission](#) from the Australian Maritime Safety Authority (p. 2).

⁹⁰ Consultation with the Business Council of Australia, 22 March 2018.

⁹¹ Business Council of Australia letter of comment, 4 April 2018.

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are big structural challenges facing the nation in the economic and social spheres, and citizens' expectations of government here are no less than they are in a crisis.

Developing a public sector culture that promotes cooperation requires leadership from ministers, accountable authorities and senior officials. Entities need permission to innovate and engage with risk, they need incentives to succeed, and they need tools, resources and structures that help them succeed. These matters go beyond the scope of our review, but we hope that they can be examined elsewhere. However, it is not for officials alone to change attitudes and practice. In other countries, governments have taken a lead on improving cooperation, especially in key outcome areas, by setting key priorities and related targets, and placing shared responsibility on the leaders of relevant entities for the achievement of these targets. The aim of this approach is to foster greater cooperation and collaboration between leaders of relevant entities to achieve the targets.

Two examples of this approach come from New Zealand and the United States. In 2012, the Government of New Zealand created a system of interagency performance targets to drive collaboration between government entities and improve outcomes for citizens. Ministers chose 10 cross-government problems that were important to New Zealanders, covering matters such as unemployment, education, health and crime, and set a challenging five-year target for each. During the course of the five years, responsibility for achieving targets shifted from individual responsibility, with a lead chief executive assigned for each target, towards collective responsibility, where relevant executives are held collectively responsible for the achievement of outcomes. There were large improvements in all priority areas and the approach is considered a success.⁹²

In the United States, the GPRA Modernization Act of 2010⁹³ requires the Office of Management and Budget to coordinate with agencies to develop cross-agency priority goals, which are four-year outcome-oriented goals covering a number of complex or high-risk management and mission issues. The Office of Management and Budget and Performance Improvement Council have introduced a goal governance structure that includes agency leaders, and holds regular senior-level reviews on cross-agency priority goal progress. Cross-agency priority goal teams report that this approach has increased leadership attention and improved interagency collaboration on these issues.⁹⁴

The Commonwealth resourcing and accountability framework is set up around outcomes, but it appears to us that other governments do better in clarifying to their citizens their highest strategic priorities and marshalling resources towards achieving those goals. We are attracted to the approaches taken in New Zealand and the United States, which have been used in state and territory governments and other international jurisdictions, which put outcomes at the centre of government planning, and which build frameworks around delivering those outcomes.

The Government should consider identifying a select number of priority, whole-of-government initiatives that require strong cooperation between entities for successful delivery, and trialling similar approaches to those taken in New Zealand and the United States.

The PGPA Act already contains a mechanism to support trialling these approaches. Section 34 of the PGPA Act allows for the Australian Government to publish a statement outlining its

⁹² IBM Center for the Business of Government, *Interagency Performance Targets – A Case Study of New Zealand's Results Programme*, March 2017, pp. 7–8, 38.

⁹³ See *GPRA Modernization Act of 2010* (United States). GPRA refers to the Government Performance and Results Act of 1993.

⁹⁴ Consultation with the US Government (1 March 2018); and the Public Governance Committee Working Party of Senior Budget Officials, *Draft OECD Best Practices for Performance Budgeting*, OECD Conference Centre, Paris, November 2017, p. 21.

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key priorities and objectives. We consider that the Government is missing an opportunity to drive better cooperation across the Commonwealth by not publishing a statement of key priorities and objectives under section 34 of the PGPA Act. In our view, for the whole-of-government initiatives identified, the Government should consider publishing a statement of key priorities and objectives reflecting these initiatives.

Section 35 of the PGPA Act would then require all relevant entities to outline, in their corporate plans, how their activities will contribute to achieving those priorities and objectives. They would then have to report on their performance in achieving those priorities and objectives in their annual performance statements. Where multiple entities have responsibility for achieving a key priority or objective, these entities would have to outline their contribution to achieving these and how they will work with other entities.

In line with developments in other jurisdictions such as New Zealand and the United States a trial could involve:

- government identifying key priorities;
- the use of shared outcomes or a separate budget controlled by one portfolio entity to achieve targets linked to each of the identified initiatives; and
- relevant portfolio secretaries driving the implementation of each of the selected initiatives and reporting on progress, individually and as a group.

We are proposing this as a proof of concept, to test whether the scheme that is embedded in the PGPA Act and the flexibility that we understand is inherent in the appropriation framework offer a way forward to improving cooperation in the Commonwealth and, potentially, between multiple Commonwealth entities and external parties.

Recommendation 32: The Government should consider using section 34 of the PGPA Act to set priorities and objectives in key areas of activity, which will facilitate trials of alternative planning, resourcing, governance and reporting arrangements for these priorities.

The Secretaries Board is in an ideal position to leverage its leadership role and drive the implementation of the priorities identified by the Government. This should include the Board leading the development of whole-of-government performance information across key priorities and objectives. This would provide a consistent approach to measuring and reporting performance across the initiatives, and allow for meaningful whole-of-government reporting of results against the Government's key priorities and objectives.

Recommendation 33: *[Subject to the implementation of Recommendation 32, above]* The Secretaries Board should leverage its leadership role by driving the implementation of priorities and objectives identified by the Government, including the development and reporting of whole-of-government performance information.

8. Reporting of executive remuneration

Background

The Parliament and citizens have a strong interest in the proper use and management of public resources, from which Commonwealth executive remuneration is funded. There are high expectations around the timely and adequate disclosure of executive remuneration by listed companies. The remuneration reporting requirements for listed companies are established by the Corporations law. Disclosure of executive remuneration should be at least as important in the public sector, where high transparency standards are expected.

Up to 2013–14, Commonwealth entities and companies were required to report the remuneration of senior executives and other highly paid staff⁹⁵ in their annual financial statements. Remuneration was disclosed within bands of \$25,000, starting from a total remuneration value of \$200,000, with the number of staff within each band and their average remuneration reported. This changed with the introduction of the Public Governance, Performance and Accountability (Financial Reporting) Rule 2015 (FRR), which aligned executive remuneration disclosure requirements in the Commonwealth with national accounting standards.⁹⁶

Under the FRR, Commonwealth entities must disclose remuneration information relating to their 'key management personnel'⁹⁷ in the financial statements contained in their annual reports. This includes the number of key management personnel in the entity and their total remuneration, broken down by short-term employee benefits, post-employment benefits, other long-term employee benefits and termination benefits. However, this information is reported on an aggregate basis, showing the total cost to the entity in the reporting period, rather than on an individual basis.

These reporting arrangements have been criticised. There was considerable debate in early 2017 about the level of remuneration paid to the managing director of Australia Post. The JCPAA made known its view that the FRR has reduced transparency of executive remuneration arrangements.⁹⁸ Acknowledging this criticism, in February 2017, the Finance Minister wrote to all government business enterprises and the Future Fund Management Agency, asking them to disclose executive remuneration in the same way as listed companies. They complied promptly. In May 2017, the Secretary of the Department of the Prime Minister and Cabinet, Dr Martin Parkinson, wrote to portfolio secretaries, asking them and their portfolio entities to publish information on executive remuneration on their websites on a voluntary basis and in a manner consistent with practice reporting prior to the FRR. Only half of the entities covered by this request did so within the requested deadline, leading to a joint request from the secretaries of the Department of the Prime Minister and Cabinet and Finance. There are still entities that have not complied.

International jurisdictions that we spoke to all had established arrangements for setting and reporting the remuneration of senior executives within their public services. For example, the governments of Canada and Iceland both had centralised approaches to setting executive remuneration. In Iceland, salaries are decided by committees and based, in part, on the

⁹⁵ Senior executives were defined as the Senior Executive Service (SES) and/or those employees engaged under similar conditions. 'Other highly paid staff' included staff with remuneration levels equivalent to the SES.

⁹⁶ See [AASB 124 – Related Party Disclosures](#).

⁹⁷ 'Key management personnel' includes those persons having authority and responsibility for planning, directing and controlling the activities of the entity, directly or indirectly, including any director (whether executive or otherwise) of that entity.

⁹⁸ JCPAA, [Report 457: Development of the Commonwealth Performance Framework – Second Report](#), para 2.28.

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achievement of items in the ministry/agency strategic plan.⁹⁹ One key difference between Iceland and Canada is that in Iceland, the remuneration of individual executives is disclosed, whereas in Canada, remuneration is disclosed in bands and not individually by name.¹⁰⁰

Review findings

The JCPAA has made clear that disclosure of senior executive remuneration should be a formal requirement that is reflected in legislation, not optional by request. The JCPAA has also made clear that information on executive remuneration should be published in entity annual reports, rather than on entity websites.¹⁰¹

The vast majority of entities acknowledge the importance of transparency for Commonwealth executive remuneration arrangements and are comfortable with disclosing their executive remuneration arrangements. Only a small number of entities have a contrary view.

Entities told us they have been frustrated by changes to executive remuneration reporting requirements over the last few years, which have caused confusion about the level at which and where information should be reported. They have asked for a clear and consistent approach for everyone.¹⁰² Some entities have concerns about publishing information at an identifiable level,¹⁰³ citing privacy issues, but this concern is not shared widely.

There is no reason to report Commonwealth executive remuneration arrangements in multiple formats and locations. This hardly helps transparency and accountability. We believe that the remuneration of key management personnel in all Commonwealth entities and companies should be disclosed in entity annual reports to at least the same level of transparency that applies to ASX listed companies.¹⁰⁴ This would require disclosure of the remuneration, including allowances and bonuses, of accountable authorities and their key management personnel on an individual basis.

In addition, we support the reporting of the number and average remuneration (including allowances and bonuses) of all senior executives and highly paid staff, by band, in a manner consistent with the reporting arrangements that were in place up to 2013-14.

Appendix C provides an example of the reporting of executive remuneration we consider appropriate.

Recommendation 34: Accountable authorities should disclose executive remuneration in annual reports on the following basis, as shown in Appendix C to this report:

- (a) the individual remuneration, including allowances and bonuses, of the accountable authority and their key management personnel, in line with the disclosure of ASX listed companies; and**
- (b) the number and average remuneration (including allowances and bonuses) of all other senior executives and highly paid staff, by band, consistent with the reporting arrangements in place up to 2013–14.**

⁹⁹ Consultation with the Government of Iceland, 21 February 2018.

¹⁰⁰ Consultation with the Government of Canada, 16 March 2018.

¹⁰¹ See JCPAA, *Report 463: Commonwealth Financial Statements – Inquiry Based on Auditor-General's Report 33 (2016–17)*, para 2.23.

¹⁰² See *submissions* from the Australian Taxation Office (p. 7), and Department of Human Services (p. 5). Also included in submission from Defence Housing Australia.

¹⁰³ See *submissions* from the Australian War Memorial (p. 3), Special Broadcasting Service Corporation (p. 3), and Sydney Harbour Federation Trust (p. 2).

¹⁰⁴ See section 300A of the *Corporations Act 2001*.

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ASX listed companies established in Australia are also required to include in directors' reports an outline of their policies for determining key management personnel remuneration.¹⁰⁵ Commonwealth entities generally have less discretion over executive remuneration than listed companies. The remuneration of the large majority of accountable authorities is either set by the Commonwealth Remuneration Tribunal or within parameters provided by the tribunal. The remuneration of other key management personnel and senior executives is usually set by the accountable authority with expert outside remuneration advice or in accordance with Australian Public Service Commission (APSC) guidance. Often, these other salaries sit at some percentage of the amount set by the Remuneration Tribunal for the accountable authority. The remuneration of some accountable authorities lies outside the remit of the Remuneration Tribunal.

Our view is that where the remuneration of senior executives of Commonwealth entities and companies is not set by the Remuneration Tribunal, entities and companies should include an explanation of the remuneration policy and practice for their key management personnel, consistent with arrangements for ASX listed companies. This includes all entities that follow APSC guidance.

The remuneration policy and practice for other senior executives and highly paid staff should also be reported as a matter of good practice. This could include how remuneration levels are set and how the components of senior executive remuneration (such as performance pay and allowances) are determined.

Recommendation 35: Accountable authorities should provide an explanation of their entity's remuneration policy and practice, consistent with the practice of ASX listed companies, similar to the remuneration report in a company's annual report.

¹⁰⁵ Ibid.

9. Reporting of contracts and consultancies

Background

There are a number of requirements on Commonwealth entities to report their spending on contracts and consultancies.

The PGPA Rule says that annual reports of non-corporate Commonwealth entities are to disclose the number of new and ongoing consultancy contracts entered into in the reporting year, and total actual expenditure on new and ongoing consultancies over the year. This information is reported in aggregated form. In addition, the Commonwealth Procurement Rules require non-corporate entities to report all contracts, including consultancies, above \$10,000 on AusTender.¹⁰⁶ The Commonwealth Procurement Rules also apply to a prescribed number of corporate Commonwealth entities.¹⁰⁷ When details of contracts are entered into AusTender, a 'consultancy flag' is selected when the primary or main purpose of a contract is to provide consultancy services, which identifies these contracts for reporting purposes.

The Senate Order on Entity Contracts (also known as the Murray Motion) requires non-corporate entities to list on their websites all contracts valued at or above \$100,000, along with details relating to each of those contracts. Ministers are required to table a letter of advice twice a year to confirm that this has been done.

The Senate Order was amended in May 2015 to allow procurement contracts published on AusTender to be taken to meet the order's disclosure requirements.¹⁰⁸ This has reduced the compliance burden on affected entities. However, the requirements of the order were extended to corporate Commonwealth entities, most of which do not use AusTender.

Review findings

The JCPAA asked us to consider reporting on contracts and consultancies in annual reports as part of this review.¹⁰⁹ We do this in the context of public discussion about the Commonwealth's spending on contracts and consultancies, which has followed an ANAO information report on procurement contract reporting.¹¹⁰

In its report, the ANAO noted a significant increase in the reported spending on consultancies in recent years. The ANAO raised concerns about the accuracy and timeliness of information on AusTender, in particular potential inconsistencies in the use of the 'consultancy flag' to identify consultancy contracts.

In parallel to our review, the JCPAA is conducting an inquiry into the ANAO report. Key issues to emerge in that inquiry are inconsistencies between entities in the reporting of consultancies and the absence of whole-of-government reporting on spending on contracts and consultancies.

¹⁰⁶ AusTender is the Australian Government procurement information system. It provides a central web-based facility for publishing government approaches to market, annual procurement plans, multi-use lists, standing offer arrangements and contracts awarded; electronic distribution of approaches to market documentation; and lodgement of tender responses.

¹⁰⁷ For these entities, a reporting threshold of \$400,000 applies to all procurements other than procurements of construction services.

¹⁰⁸ See [Senate Order 13 – Entity Contracts](#), 14 May 2015, J.2601.

¹⁰⁹ See JCPAA, [Report 463: Commonwealth Financial Statements – Inquiry Based on Auditor-General's Report 33 \(2016–17\)](#), para 2.33.

¹¹⁰ See ANAO, [Report No. 19 of 2017–18: Australian Government Procurement Contract Reporting](#).

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In our discussions with entities, only a few raised issues about the reporting of contracts and consultancies. Their primary concern was around apparent duplication of presenting this information across annual reports, AusTender and the Senate Order on Entity Contracts, and the effort this involves.¹¹¹

The only requirement in the PGPA Rule on reporting contracts in the annual report goes to contracts valued above the AusTender reporting threshold of \$10,000 that have been exempted from publication on AusTender for prescribed legal reasons. The annual report must include a statement on why each contract was exempted, and the value of any non-exempt elements in the contract.¹¹²

Consultancies are reported in annual reports as described earlier.¹¹³ We are advised that this information is drawn from AusTender reporting. There is a risk that information that is incorrectly reported on AusTender flows through to annual reports. Mitigating this risk involves improving understanding and practice around the meaning of the term ‘consultancy’ and clarifying how the ‘consultancy flag’ should be used when entering details of contracts into AusTender.

Recommendation 36: The definition of ‘consultancy’ and the use of the ‘consultancy flag’ to identify consultancy contracts in AusTender should be clarified to ensure that spending on consultancies is reported consistently and accurately by non-corporate Commonwealth entities in their annual reports.

A guiding principle of the PGPA Act is that the framework should support the legitimate needs of the Parliament in discharging its responsibilities, including its role in ensuring the proper use of public resources. Transparency is a good thing and we see no issue with non-corporate Commonwealth entities disclosing information on contracts for services, including consultancy contracts. To maintain the right accountability settings, the Parliament needs information at a level that allows it to discharge its general oversight role. The challenge is in finding the right balance to demonstrate to the Parliament and citizens that public resources are being spent wisely.

The information currently presented in annual reports on consultancy spending is aggregated, rather than granular. There is no detail on which organisations were engaged to provide these services. There is also no detail on spending on contracts for services other than consultancy services. As mentioned earlier, while certain contract information is reported through AusTender, more detailed reporting in annual reports on actual spending on consultancy services over a year, as well as information on spending on contracts more broadly, would improve transparency of government spending in this area.

We consider that the materiality concept in accounting is a useful guide for the disclosure of information on spending on contracts and consultancies in annual reports. It provides that all material matters should be disclosed in financial statements. While ‘materiality’ is subject to judgement, the (now superseded) Australian Accounting Standard on Materiality suggested that any amount equal to less than 5 per cent of the appropriate base amount may be presumed to be immaterial, while an amount equal to 10 per cent or more of the appropriate base amount may be presumed to be material.¹¹⁴

The overall spending of non-corporate Commonwealth entities on contracts and consultancies should be disclosed in annual reports. Organisations and/or individuals that

¹¹¹ See [submissions](#) from the Australian Bureau of Statistics (p. 3), Clean Energy Regulator (p. 1), and Cotton Research and Development Corporation (p. 4).

¹¹² Subsection 17AG(9) of the [PGPA Rule](#).

¹¹³ *Ibid.*, subsection 19AG(7).

¹¹⁴ [AASB 1031 – Materiality](#). This standard has been superseded by [AASB 108 – Accounting Policies, Changes in Accounting Estimates and Errors](#), although AASB 108 does not provide guidance on a threshold of ‘materiality’.

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receive a material amount of a non-corporate Commonwealth entity's expenditure on either contracts or consultancies should also be disclosed. We consider that a threshold of 5 per cent or more of expenditure is appropriate to determine materiality. Where this method results in fewer than five organisations or individuals being disclosed, non-corporate Commonwealth entities should be required to disclose their top five contracts and consultancy service providers by value.

The current PGPA Rule requirements for non-corporate Commonwealth entities to report on contracts and consultancies in their annual reports do not apply to corporate Commonwealth entities. There are no similar requirements for corporate Commonwealth entities. They are required to provide information on the decision making process for purchases of goods or services from related Commonwealth entities above \$10,000.¹¹⁵ We do not support amending the reporting requirements for corporate Commonwealth entities to require reporting on contracts and consultancies similar to that of non-corporate entities, since this would impose unnecessary red tape on these entities.

Appendix D provides an example of what this approach to reporting expenditure on contracts and consultancies we consider would be appropriate. This approach would provide insightful information to the Parliament and would not unnecessarily impose additional reporting requirements on non-corporate Commonwealth entities.

Recommendation 37: Non-corporate Commonwealth entities should provide the following information on expenditure on contracts and consultancies in their annual reports:

- (a) total aggregate expenditure on contracts and consultancies and the number of new and ongoing contracts in the reporting period (extending the current reporting requirements for consultancies to contracts in general); and**
- (b) lists of all organisations and/or individuals that receive 5 per cent or more of the entity's total expenditure on contracts and consultancies, respectively (or, where this includes fewer than five organisations/individuals, the five organisations/individuals that receive the greatest level of expenditure).**

The 2015 amendment to the Senate Order on Entity Contracts extended the order to apply to corporate Commonwealth entities from 1 July 2017. This extension has a disproportionate impact on corporate entities, since they do not report contracts and consultancies through AusTender. Its impact on smaller corporate entities is particularly great.

Over time, the Parliament has added incrementally to the reporting burden of entities, requiring information including lists of departmental files, lists of contracts and consultancies, statements on advertising and public information projects, lists of appointments and lists of grants. Some of these requirements have not been reviewed for simplification or redundancy in a long time, if at all.

If the Parliament wishes to require additional information on contracts and consultancies, we would encourage it to consider the burden that this would impose on entities, particularly corporate Commonwealth entities and smaller entities. A key consideration would be whether any new reporting requirements duplicate or overlap with existing ones, or render existing reporting redundant.

¹¹⁵ Subsection 17BE(n) of the [PGPA Rule](#).

10. Finance support

Background

In developing the PGPA Act and Rule, Finance consulted widely with Commonwealth entities and companies, the Parliament and other interested parties. Thirteen issues papers, a discussion paper and a position paper were published,¹¹⁶ with hundreds of submissions and comments received in response. Steering committees and reference groups were established to consider the views of interested parties. The JCPAA and the ANAO also assisted in refining the core principles and detail of the resource management framework.

To support implementation of the PGPA Act and Rule, Finance developed a range of guides, services and products. An advisory services function was established within the department. A suite of guidance materials and e-learning resources were developed. Roadshows, training sessions and communities of practice forums were held across the country. 'Lessons learned' papers supported maturing performance reporting practices by highlighting examples of good practice. These activities have been calibrated to ensure currency, represent a sufficient investment of Finance resources, and have underpinned the implementation of the PGPA Act and Rule so far. While we have heard positive comments about the role Finance has played during the early implementation of the framework, more can be done.

The range of support provided by Finance is broadly representative of the variety of support tools developed and applied by other international jurisdictions in implementing public governance frameworks. For example, in the United States, the Office of Management and Budget issued guidance, tools and circulars,¹¹⁷ and the Performance Improvement Council established a number of working groups¹¹⁸ to support the implementation of the GPRA Modernization Act.

Review findings

It has been over three years since the PGPA Act and Rule commenced. The practices of Commonwealth entities and companies continue to mature. To ensure that Finance's support remains effective, it is critical that it evolves with the emerging needs and preferences of the system.

Finance's current suite of support is yielding diminishing returns. The practice of entities is gradually outgrowing the type of support provided. This is not a criticism of current support, but an encouraging reflection that the system is entering into the next stage of implementation. While established support services and products are valued and should be continued, it is also timely to look at what else can be done. Rather than engaging with entities to provide direct support, Finance could engage with entities to develop leadership and capability within the entities themselves. Encouraging and facilitating entities with similar roles to establish cross-entity networks, to discuss, cooperate and collaborate on issues as they unfold, would be helpful in achieving this. Finance's outreach could then evolve to supporting a 'self-help' environment, with a strong and easy-to-search single website hosting all relevant information. This will require a continuing investment of resources, as will the

¹¹⁶ See Finance, *Is Less More? Towards Better Commonwealth Performance* (March 2012); and Finance, *Sharpening the Focus: A Framework for Improving Commonwealth Performance* (November 2012).

¹¹⁷ See Office of Management and Budget, Memorandum: 'Delivering on the Accountable Government Initiative and Implementing the GPRA Modernization Act of 2010' (April 2011).

¹¹⁸ See United States Government Accountability Office, *Managing for Results* (June 2013), p. 9.

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implementation of the recommendations made in this report, the majority of which fall to Finance.

There are also opportunities to enhance and strengthen guidance. It should be pragmatic and practical, refocused from the *why* to the *how*. The inclusion of insightful and relatable case studies would support this. Updates to guidance should be timely to reflect changes in requirements to the framework. For some entities, particularly smaller entities, the development of templates for some matters would be appropriate.

To ensure that guidance continues to meet the current and emerging needs of entities, an advisory committee of senior officials from a range of portfolios should be established. The committee would inform Finance's development of current and new guidance, prior to broader consultation with entities.

Recommendation 38: Finance should enhance its role in providing advice and support to Commonwealth entities and companies to reflect maturing practices by:

- (a) continuing communities of practice and one-on-one interactions with entities;**
- (b) enhancing guidance material to be more pragmatic and practical in nature, with appropriate case studies, in consultation with entities and a cross-portfolio advisory committee;**
- (c) periodically reviewing guidance material to ensure it remains appropriate; and**
- (d) developing Finance's internet presence and its use of web-based materials.**

Appendix A: Technical and other matters

A number of the submissions we received identified technical, legislative and policy matters that are either standalone or minor in nature. Some usefully proposed suggestions as to how they could be resolved. Finance has also identified a number of matters through its administration of the PGPA Act and Rule that require consideration. We have looked at all of these from the perspective of streamlining the framework, removing ambiguity, and strengthening coherence, clarity and consistency.

We have grouped these matters into two broad categories – policy issues, and matters that go to the PGPA Act and Rule. Our comments and recommendations are outlined in the tables below.

Policy

Table A1: Policy matters

Policy	Matter raised	Comment
Protective Security Policy Framework (PSPF)	<p>The PGPA Act requires non-corporate Commonwealth entities to establish systems to manage risk and to act in a manner that is 'not inconsistent' with government policies (such as the PSPF). This does not expressly impose the requirements of the PSPF on managing public resources (e.g. physical assets, information) in a secure fashion. For corporate Commonwealth entities, there is no requirement to comply with general government policies (such as the PSPF) unless they are made through a government policy order issued under section 22 of the PGPA Act.</p> <p>It was proposed that the PSPF be formally incorporated into the PGPA Act framework and apply to both non-corporate Commonwealth entities and corporate Commonwealth entities as a matter of law.</p>	<p>Where appropriate, it is expected that the provisions of the PSPF are incorporated into Commonwealth entities' risk management and security frameworks as a matter of general accountability and good practice.</p> <p>We disagree with incorporating the PSPF into the PGPA Act framework, which is focused on financial management and public resource accountability. If the PSPF's provisions are to be given force of law, then it should be through standalone or security-related legislation.</p>
Fraud Rule (section 10 of PGPA Rule)	<p>There is an opportunity to further strengthen risk awareness around corruption within the PGPA framework, particularly in relation to other manifestations of corruption such as information compromise, nepotism and decision-making, though specific additions to the PGPA Act and Rule.</p>	<p>The principles-based approach of the PGPA Act already allows entities to develop strong systems to mitigate risks relating to corruption. An accountable authority is responsible for compliance, while the audit committees should assist by providing advice and assurance. We do not support amending the PGPA Act and Rule on matters of detail not directly related to financial management and public resource accountability.</p>
Commonwealth Risk Management Policy (CRMP) and Comcover Benchmarking Survey Tool (CBST)	<p>A number of entities raised the CRMP and CBST in their submissions to the review, highlighting potential tensions between the two, and suggesting areas for improvement.</p>	<p>We are advised that the CRMP and the CBST are complementary tools to support good risk management practices and risk measurement. The CBST is used by entities to assess their risk management</p>

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		<p>capability across the nine elements of the CRMP.</p> <p>Recommendation 39: Finance should review and determine whether any aspect of the Commonwealth Risk Management Policy and the Comcover Benchmarking Survey Tool require changes to be made to improve coherence and operation, and consult with relevant stakeholders in making those changes.</p>
Coordination of legal advice across the Commonwealth	<p>It was suggested that Finance play a greater role by supporting and coordinating requests for legal advice in relation to the PGPA Act and Rule on behalf of Commonwealth entities to support central visibility and allow for the coordination across the Commonwealth of the issues facing entities.</p>	<p>We are advised that, generally, under the Legal Services Directions, non-corporate Commonwealth entities that receive legal advice that is likely to be significant to other entities must take reasonable steps to make that advice available to those entities. However, this proposal offers the prospect of containing legal costs and supporting coherent practice across Commonwealth entities.</p> <p>Recommendation 40: Finance and the Attorney-General's Department should explore how legal advice on the PGPA Act and Rule can be shared across Commonwealth entities.</p>
Application of government policy to the Auditor-General	<p>The Auditor-General suggested that the requirement on accountable authorities of non-corporate Commonwealth entities to govern in a way that is not inconsistent with government policies has the potential to challenge his ability to independently carry out the audit and assurance functions under the <i>Auditor-General Act 1997</i>.</p>	<p>The Auditor-General should discuss this issue with the Joint Committee of Public Accounts and Audit.</p>
Parliamentary scrutiny of instruments made under section 105D	<p>The Auditor-General noted, in the context of discussing his role in relation to financial and performance information, that the processes established under section 105D of the PGPA Act allow the Executive to make determinations about sensitive material related to security and intelligence, without the opportunity for parliamentary scrutiny.</p>	<p>In establishing section 105D of the PGPA Act, the Parliament intended that the financial and performance information related to particular sensitive operational activities of intelligence and security agencies not be disclosed. We do not see a need to change the current requirements, which we are advised work well from a national security perspective.</p>

PGPA Act and Rule

Table A2: Matters concerning provisions of the PGPA Act and Rule

Relevant provision	Matter raised	Comments
Material personal interests	<p>There seem to be technical misalignments between the construction of the disclosure of material personal interest provisions in the PGPA Act, and the corresponding provisions in the PGPA Rule.</p> <ul style="list-style-type: none"> Section 12 of the PGPA Rule may not be effective to exempt officials from the obligation to disclose details of indemnities in their favour. Sections 13, 14 and 15 of the PGPA Rule appear to regulate all material personal interests, including those that officials are not required to disclose under section 12 of the PGPA Rule, and may thereby exceed the rule-making power in subsection 29(2) of the PGPA Act. 	<p>Recommendation 41: Finance should amend the PGPA Rule to ensure consistency with the construction of the provisions relating to the disclosure of material personal interests contained in the PGPA Act.</p>
Differing standards between the PGPA Act and the Corporations Act	<p>It was suggested that different standards of governance and accountability are applied to Commonwealth entities under the PGPA Act and Commonwealth companies, which primarily operate under the Corporations Act. For example, it was noted that there is no legislative guidance about the circumstance in which an official will satisfy the duty of care and diligence under section 25 of the PGPA Act, whereas the Business Judgement Rule is contained within the Corporations Act (under the duty of care and diligence).</p>	<p>The operating environment for corporate Commonwealth entities, and the expectations and accountabilities placed on their officials, are different to those that apply to Commonwealth-owned companies. We are not convinced that any changes are necessary, but Finance should engage with stakeholders on this matter.</p> <p>Recommendation 42: Finance should engage with relevant stakeholders to explain the reasons for the particular governance and accountability requirements applied to corporate Commonwealth entities and companies.</p>
Indemnities, guarantees or warranties by corporate Commonwealth entities	<p>The revised explanatory memorandum to the PGPA Bill contained a note indicating an intention that a rule would be made for corporate Commonwealth entities under section 61 of the PGPA Act similar to the provisions in section 27M of the former CAC Act. No such rule has been prescribed.</p>	<p>Recommendation 43: Finance should evaluate the merits of making a rule under section 61 of the PGPA Act, relating to indemnities, guarantees or warranties by corporate Commonwealth entities, in consultation with relevant stakeholders and the Finance Minister.</p>
Access to entities' books and records	<p>There is no express right for board members of corporate Commonwealth entities to access entities' books and records. Under section 27L of the former CAC Act, a director had a right to inspect and copy books for the purposes of</p>	<p>Recommendation 44: Finance should evaluate the merits of legislating a provision, equivalent to section 27L of the former</p>

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	any legal proceeding to which the entity is a party, that the director proposes in good faith to bring, or that the director has reason to believe will be brought against him or her. This right continued for seven years after the person ceased to be a director.	<i>Commonwealth Authorities and Companies Act 1997, to allow board members of corporate Commonwealth entities to inspect the books of the entity.</i>
Signing off annual performance statements	Independent statutory office holders or bodies cannot sign off on their own annual performance statements. Their performance statements must be signed off by their accountable authority. CPA Australia suggested that this requirement creates a tension with the independence of these bodies. ¹¹⁹	<p>The PGPA Act requires accountable authorities to prepare annual performance statements for entities after the end of each reporting period.</p> <p>The operation of the PGPA Act for independent statutory office holders or bodies is consistent with its intended operation and appropriate for the manner in which statutory office holders or bodies have been established in their enabling legislation (i.e. not as standalone entities).</p>
Monies owed to persons who have died	It was suggested that the PGPA Rule should be amended so that amounts that are owed to a deceased person crystallise when an appropriate trigger event occurs, not at the time of death. (An example of a trigger event is the time that a tax assessment is due, for the purposes of any debts owed by the Australian Taxation Office.)	The PGPA Act and Rule prescribe that the Finance Minister may authorise payment of amounts to persons who the Finance Minister considers should receive the payment. The PGPA Act and Rule provisions are expected to be used in limited circumstances, where there are no other legislative or administrative mechanisms available to make a payment to an appropriate recipient. Issues in relation to the tax system should be addressed in taxation legislation.
Waiver of amounts owing to the Commonwealth and act-of-grace payments	It was suggested that the current Finance Minister's delegations relating to the waiver of amounts owing to the Commonwealth and act-of-grace payments under section 63 of the PGPA Act should be devolved further to reduce red tape.	Recommendation 45: Finance, in consultation with relevant stakeholders, should review the existing Finance Minister delegation under section 63 of the PGPA Act in relation to waiver of debts to reduce red tape.
Banking	It was suggested that there is an opportunity for efficiency across the Commonwealth through the provision of greater payment flexibility under the Finance Minister's Delegation.	Recommendation 46: Finance, in consultation with relevant stakeholders, should examine introducing greater flexibility into the Finance

¹¹⁹ See [submission](#) from CPA Australia (p. 1).

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	The example was given of PayPal, which we are advised could be approved as a matter of policy under the existing Finance Minister's Delegation or the PGPA Rule.	Minister's delegation of section 53 of the PGPA Act in relation to banking by the Commonwealth.
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Appendix B: Written submissions and consultations

Written submissions

The independent reviewers, Ms Elizabeth Alexander and Mr David Thodey, sought public input to the review of the PGPA Act and Rule in the form of written submissions. The reviewers wrote to 180 accountable authorities of Commonwealth entities and companies and 25 other stakeholders, including a range of private sector organisations and companies,¹²⁰ state government departments¹²¹ and members of academe. A call for submissions was also made through an advertisement in the *Weekend Australian* on Saturday, 14 October 2017 and published on the review website, <https://www.finance.gov.au/pgpa-independent-review>.

Sixty-nine written submissions were received. Where the author's permission was provided, submissions were published on the review website. The number of submissions received, and from whom, are categorised by stakeholder type below:

- 30 non-corporate Commonwealth entity submissions (Table B1)
- 29 corporate Commonwealth entity submissions (Table B2)
- 1 Commonwealth company submission (Table B3)
- 9 other stakeholder submissions (Table B4).

Table B1: Written submissions from non-corporate Commonwealth entities (30)

Attorney-General's Department
Australian Bureau of Statistics
Australian Commission for Law Enforcement Integrity
Australian Communications and Media Authority
Australian Criminal Intelligence Commission
Australian Financial Security Authority
Australian Fisheries Management Authority
Australian National Audit Office
Australian Public Service Commission
Australian Taxation Office
Cancer Australia
Clean Energy Regulator
Department of Agriculture and Water Resources
Department of Defence
Department of Education and Training
Department of Finance
Department of Foreign Affairs and Trade

¹²⁰ Chartered Accountants Australia and New Zealand, Australian Institute of Company Directors, CPA Australia, Institute of Public Administration Australia, Serco Asia Pacific, and Wesfarmers Limited.

¹²¹ Department of Treasury and Finance (Victoria), Departments of the Premier and Cabinet (New South Wales, Queensland, Tasmania, Victoria and Western Australia respectively), Department of the Chief Minister (Northern Territory), and Department of State Development (South Australia).

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Department of Health
Department of Human Services
Department of Immigration and Border Protection
Department of Industry, Innovation and Science
Department of Jobs and Small Business (formerly Department of Employment)
Department of the Environment and Energy
Department of the House of Representatives
Department of the Prime Minister and Cabinet
Department of Veterans' Affairs
Great Barrier Reef Marine Park Authority
IP Australia
National Health and Medical Research Council
Tertiary Education Quality and Standards Agency

Table B2: Written submissions from corporate Commonwealth entities (29)

Airservices Australia
Australian Broadcasting Corporation
Australian Commission on Safety and Quality in Health Care
Australian Institute of Aboriginal and Torres Strait Islander Studies
Australian Institute of Marine Science
Australian Maritime Safety Authority
Australian Nuclear Science and Technology Organisation
Australian Postal Corporation
Australian Reinsurance Pool Corporation
Australian Renewable Energy Agency
Australian Sports Commission
Australian War Memorial
Clean Energy Finance Corporation
Commonwealth Scientific and Industrial Research Organisation
Cotton Research and Development Corporation
Defence Housing Australia
Fisheries Research and Development Corporation
Grains Research and Development Corporation
Indigenous Business Australia
Indigenous Land Corporation
Murray–Darling Basin Authority

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National Library of Australia
National Transport Commission
Northern Land Council
Reserve Bank of Australia
Royal Australian Navy Central Canteens Board
Special Broadcasting Service Corporation
Sydney Harbour Federation Trust
Tourism Australia

Table B3: Written submission from a Commonwealth company (1)

Aboriginal Hostels Limited

Table B4: Written submissions from other stakeholders (9)

Australasian Evaluation Society
Business Council of Australia
CPA Australia
Mr Dominic Wild
Mr Graham Smith
Professor John Halligan
Professor John Wanna and Professor Andrew Podger
Tax Practitioners Board
The Institute of Internal Auditors

Consultations

Over the last five months, Ms Alexander and Mr Thodey conducted 38 consultations with a broad range of Commonwealth entities (small and material) and companies, international jurisdictions, and other stakeholders to seek input to the review.

The number of consultations undertaken, and with whom, are categorised by stakeholder type below:

- 14 non-corporate Commonwealth entity consultations (Table B5)
- 6 corporate Commonwealth entity consultations (Table B6)
- 1 Commonwealth company consultation (Table B7)
- 7 international jurisdiction consultations (Table B8)
- 10 other stakeholder consultations (Table B9).

Discussions were also held with the Chair of the Joint Committee of Public Accounts and Audit, Senator Dean Smith.

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Table B5: Consultation meetings – (14) Non-corporate Commonwealth entities

Attorney-General's Department <ul style="list-style-type: none">• Mr Chris Moraitis PSM• Mr Iain Anderson
Australian Fisheries Management Authority <ul style="list-style-type: none">• Dr James Findlay• Mr Robert Gehrig• Mr Andrew Pearson
Australian National Audit Office <ul style="list-style-type: none">• Mr Grant Hehir• Dr Tom Ioannou
Australian Securities and Investments Commission <ul style="list-style-type: none">• Ms Cathie Armour• Mr Carlos Iglesias• Mr Andrew Fawcett• Ms Emily Hodgson
Department of Defence <ul style="list-style-type: none">• Mr Greg Moriarty• Ms Rebecca Skinner• Ms Angela Diamond• Mr Darren Box
Department of Finance <ul style="list-style-type: none">• Ms Rosemary Huxtable PSM• Dr Stein Helgeby• Mr Lembit Suur• Ms Annie Ryan
Department of Foreign Affairs and Trade <ul style="list-style-type: none">• Ms Frances Adamson• Mr Paul Wood• Mr Nick Purtell
Department of Health <ul style="list-style-type: none">• Ms Glenys Beauchamp PSM• Ms Lyndall Soper• Mr Daniel McCabe• Mr Charles Wann• Mr Craig Boyd
Department of Human Services <ul style="list-style-type: none">• Ms Renée Leon PSM
Department of Jobs and Small Business <ul style="list-style-type: none">• Ms Kerri Hartland• Mr Jamie Clout
Department of the Prime Minister and Cabinet <ul style="list-style-type: none">• Dr Martin Parkinson AC PSM• Ms Stephanie Foster PSM• Mr Will Story
Office of the Australian Accounting Standards Board <ul style="list-style-type: none">• Ms Kris Peach
Office of the Australian Auditing and Assurance Standards Board <ul style="list-style-type: none">• Dr Roger Simnett AO
Tertiary Education Quality and Standards Agency <ul style="list-style-type: none">• Professor Nick Saunders AM

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Table B6: Consultation meetings – (6) Corporate Commonwealth entities

Airservices Australia <ul style="list-style-type: none">• Mr Paul Logan
Australian Institute of Marine Science <ul style="list-style-type: none">• Mr Basil Ahyick• Mr Peter Coumbis
Australian Postal Corporation <ul style="list-style-type: none">• Mr John Stanhope AM
Reserve Bank of Australia <ul style="list-style-type: none">• Dr Philip Lowe• Mr Anthony Dickman• Mr Peter Jones
Royal Australian Navy Central Canteens Board <ul style="list-style-type: none">• Mr Allan Hansard• Mr Matt Dougan
Special Broadcasting Service Corporation <ul style="list-style-type: none">• Dr Bulent Hass Dellal AO• Mr Greg Shanahan• Mr James Taylor

Table B7: Consultation meeting – (1) Commonwealth company

NBN Co Limited <ul style="list-style-type: none">• Ms Karina Keisler• Mr Christopher Willcox
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Table B8: Consultation meetings – (7) International jurisdictions

Canada <ul style="list-style-type: none">• Mr Erik De Vries• Mr Chris Boughton• Mr Thomas Ryan
Iceland <ul style="list-style-type: none">• Ms Marta Birna Baldursdóttir
Italy <ul style="list-style-type: none">• Ms Aline Pennisi
New Zealand <ul style="list-style-type: none">• Mr Andrew Burns• Mr Ross Boyd• Mr Hugo Vitalis• Mr Ken Warren• Ms Chrisana Archer
Singapore <ul style="list-style-type: none">• Mr KWOK Fook Seng• Ms LIM Soo Hoon• Ms SOH Siew Luie
United Kingdom <ul style="list-style-type: none">• Mr Simon Madden• Mr Andy Heath
United States of America <ul style="list-style-type: none">• Mr Adam Lipton

Table B9: Consultation meetings – (7) Other stakeholders

Academic Roundtable <ul style="list-style-type: none">• Professor Pat Barrett• Professor John Halligan• Professor Andrew Podger• Professor John Wanna• Mr Graham Smith
Audit Committee Roundtable <ul style="list-style-type: none">• Ms Kath Anderson• Ms Jennifer Clark• Mr Ben Kelly• Mr Geoff Knuckey• Mr Will Laurie• Ms Carol Lilley• Mr Andrew Mills• Ms Jenny Morison• Mr Mark Ridley
Business Council of Australia <ul style="list-style-type: none">• Ms Jennifer Westacott• Mr Simon Pryor• Mr Stephen Green
Deloitte Australia
Dr Ian Watt AC
EY Australia
KPMG Australia
Mr Blair Comley PSM
New South Wales Treasury <ul style="list-style-type: none">• Mr Jim Dawson• Mr Andy Hobbs
PwC Australia

Appendix C: Executive remuneration

Table C1: Remuneration paid to the accountable authority and key management personnel during [*the reporting period*]

Name of individual	Role	Base salary	Other benefits and allowances	Employer-contributed superannuation	Bonus paid	Termination	Long service leave	Total remuneration package
		\$	\$	\$	\$	\$	\$	\$
A	Accountable authority	xx	xx	xx	xx	xx	xx	xx
B	Key management personnel	xx	xx	xx	xx	xx	xx	xx
C	Key management personnel	xx	xx	xx	xx	xx	xx	xx
D	Key management personnel	xx	xx	xx	xx	xx	xx	xx
E	Key management personnel	xx	xx	xx	xx	xx	xx	xx

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Table C2: Remuneration paid to senior executives and other highly paid staff during *[the reporting period]*

Total Remuneration bands	Number of executives and highly paid staff	Average base salary	Average other benefits and allowances	Average employer- contributed superannuation	Average bonus paid	Average termination	Average long service leave	Average total remuneration
		\$	\$	\$	\$	\$	\$	\$
xx and less	xx	xx	xx	xx	xx	xx	xx	xx
xx – xx	xx	xx	xx	xx	xx	xx	xx	xx
xx – xx	xx	xx	xx	xx	xx	xx	xx	xx
xx – xx	xx	xx	xx	xx	xx	xx	xx	xx
xx – xx	xx	xx	xx	xx	xx	xx	xx	xx

Appendix D: Expenditure on contracts by non-corporate Commonwealth entities

Table A: Number of, and expenditure on, contracts, [reporting period]

	Number	Expenditure [reporting period] \$ million
New contracts entered into during [reporting period]	xx	xx.x
Ongoing contracts active during [reporting period]	xx	xx.x
All contracts active during [reporting period]	xx	xx.x

Table B: Organisations receiving a material amount of contract expenditure, [reporting period]

Organisations with >5% of total contract expenditure [or, if fewer than five organisations, top five of total expenditure]	Expenditure [reporting period] \$ million
Alpha Co	xx.x
Beta Co	xx.x
Gamma Co	xx.x
Delta Co	xx.x
Epsilon Co	xx.x

Expenditure on consultancy contracts by non-corporate Commonwealth entities

Table X: Number of, and expenditure on, consultancy contracts, [reporting period]

	Number	Expenditure [reporting period] \$ million
New consultancy contracts entered into during [reporting period]	xx	xx.x
Ongoing consultancy contracts active during [reporting period]	xx	xx.x
All consultancy contracts active during [reporting period]	xx	xx.x

Table Y: Organisations receiving a material amount of consultancy contract expenditure, [reporting period]

Organisations with >5% of total consultancy contract expenditure [or, if fewer than five organisations, top five of total expenditure]	Expenditure [reporting period] \$ million
Alpha Co	xx.x
Beta Co	xx.x
Gamma Co	xx.x
Delta Co	xx.x
Epsilon Co	xx.x