

# **Independent Review into the operation of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act) and Rule Terms of Reference**

## **Context**

The *Public Governance, Performance and Accountability Act 2013* (PGPA Act), subsection 112(2), requires that an independent review (review) of the operation of the PGPA Act and 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 recommendation of the Joint Committee of Public Accounts and Audit (JCPAA)<sup>1</sup>.

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<sup>2</sup>.

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.

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<sup>1</sup> JCPAA: Report 438 – Advisory Report on the Public Governance, Performance and Accountability Bill 2013

<sup>2</sup> The fifth principle was included in response to JCPAA: Report 441 – Inquiry into *Public Governance, Performance and Accountability Act 2013* Rules Development.

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## **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.
3. To examine whether policy owners' implementation of the PGPA Act and Rule has appropriately supported their operation in Commonwealth entities.

## **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* 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

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plan, annual performance statements and annual reports;

- Support provided to Commonwealth entities including:
  - Review of the PGPA Act and Rule guidance issued by the Department of 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 Grant 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<sup>3</sup>. 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.

## **Governance**

Independent reviewers appointed by the 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 reviewer's 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.

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<sup>3</sup> The CPRs, 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 is to report by 31 May 2017. Since their introduction in mid-2009, the CGRGs have been reviewed and updated three times.

The *Commonwealth Grants Guidelines* were issued in June 2009. They were reviewed and updated in December 2012 and again August 2013. They were then replaced with the *Commonwealth Grants Rules and Guidelines* in June 2014, following a further review and update. The CGRGs are currently being updated following recent policy decisions and stakeholder consultations, including reflecting responses to recommendations in JCPAA reports 449, 452 and 454. This process is expected to be finalised in mid-2017.