Australian Government

Department of Health

Secretary

Ms E Alexander AM and Mr D Thodey AO
PGPA Act Review
PGPAActReview@finance.gov.au

Dear Ms Alexander and Mr Thodey

Thank you for the opportunity to comment on the draft report of the Independent Review of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act) and Rule.

The Department of Health supports the review and its recommendations, and believes the enhanced accountability and clarification from adoption of the recommendations will improve the implementation and operation of the PGPA Act and Rule within Commonwealth entities.

Comments on specific recommendations are attached.

If there are further questions regarding our comments, please contact [redacted]

Yours sincerely

[redacted]

Glenys Beauchamp

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Encl.

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Chapter	Recommendation	Department of Health Comment
1) Driving change through leadership	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.	Chapter 1 focuses heavily on the role of Secretaries as accountable authorities, however, consideration should also be given to outlining the role that senior responsible officers and internal governance bodies can play, including providing assurance and support to the accountable authority, as well as driving cultural change. The recommendation may potentially create conflict with entities, as portfolio Secretary's do not have authority to "direct" portfolio entities. In practice, any concerns arising from "monitoring" would need to be directed to the relevant Minister, who may then decide to "direct" the relevant entity to undertake action. This would be time consuming, and involve more red tape and diversion of departmental resources.
2) Performance Framework	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.	This recommendation will add impetus to plans to improve Health's capability in this area. Should changes to the PGPA Rule occur, clear, concise and consistent guidance must be provided by Finance to support the change, particularly the inclusion of 'complete' as a characteristic.
	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.	As per comment for Recommendation 1 above relating to the role that senior responsible officers and entity governance bodies should play.
	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.	Strongly agree. Suggest also that Finance needs to review existing guidance to ensure consistency, and improve accessibility through streamlining.

	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.	This recommendation poses significant issues. A key concern is that a mandatory standard would be at odds with the "principles based" approach of the PGPA Act which allows accountable authorities to determine best application of the Act and Rule requirements (rather than specifying in a prescriptive manner). If a new standard were not to contain prescription, then this would be a duplication of requirements, which the Review elsewhere notes is not optimal.
3) Managing and engaging with risk	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.	The Review suggests this be a member of the "senior management team" but does not offer further clarity for seniority of the role. The use of the title "Chief" suggests the role should be senior enough to be involved in key executive meetings and decision making. Further clarification would be helpful.
	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.	The Department considers our existing Audit and Risk Committee meets this requirement.
4) Audit Committees	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.	Although agreeing with the intent of the recommendation, it causes potential issues about lack of credibility of the audit committee (which the Review has attempted to address by recommending the accountable authority and Senior Executive should attend audit committee meetings, and that independent audit committee members should have an institutionalised induction regime). In addition, the lack of inclusion of any members of senior management of an agency prevents detailed understanding of an agency's operations being available to the audit committee. This recommendation appears to be attempting to copy the approach in corporate Commonwealth entities, where Board Audit Committees are common, and involve Board members also being audit committee members. The recommendation conflicts with Recommendation 4b which requires audit committee members have sufficient knowledge of the entity.

5) Clarifying reporting requirements and reducing the reporting burden	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.	Amendments should not solely focus on minimising duplication relating to entity resourcing but also performance reporting, particularly noting that the Annual Performance Statements should be the primary vehicle for performance reporting.
6) Annual reporting and parliamentary scrutiny	29) 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.	Although agreeing with the intent of this recommendation, an earlier reporting date could impact on the ability of some programs to provide performance data in relation to the most recent period, as it is often dependent on receiving data from external parties such as funded organisations. This is also highly contingent on the delivery of a fully-digital platform, and a standardised, streamlined approach. As the Review notes, there are linkages to the preparation and associated audit of the financial statements for an agency that also need to be considered. Not only will the Auditor-General need to ensure audits can be achieved in time for meeting this tabling date, they will need to recognise agencies will be required to amend financial statements approaches to achieve the date as well. This may include greater use of materiality, which auditors may have concerns about.
	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.	It is not clear why this is necessary. The only limitation on the extent of consideration currently is Senators' interests.
8) Reporting of Executive Remuneration	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.	Key Management Personnel (KMP) reporting of remuneration is currently required to be included in financial statements of an agency, and be audited by the ANAO. The recommendation appears to require this KMP remuneration information to also be included in the Annual Report, which is a duplication of effort given it is already in the audited financial statements, and therefore contrary to the purposes of the Review. It is important to note that Health complied with the request from the Secretary of PM&C to calculate and provide on the Health website Executive Remuneration calculated on a basis consistent with that used in prior years.

	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.	All agencies within the Health portfolio have published executive remuneration on their websites as requested. During that process there were some privacy concerns for smaller agencies that had to be worked through. This would also need to be a consideration in any changes to the PGPA Act requirements.
11) Technical and Other Matters	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.	These recommendations provide little detail of the underlying concern in relation to Section 63 and 53 of the PGPA Act respectively, other than noting some agencies raised concerns. It would be helpful if underlying rationale was provided.
	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.	