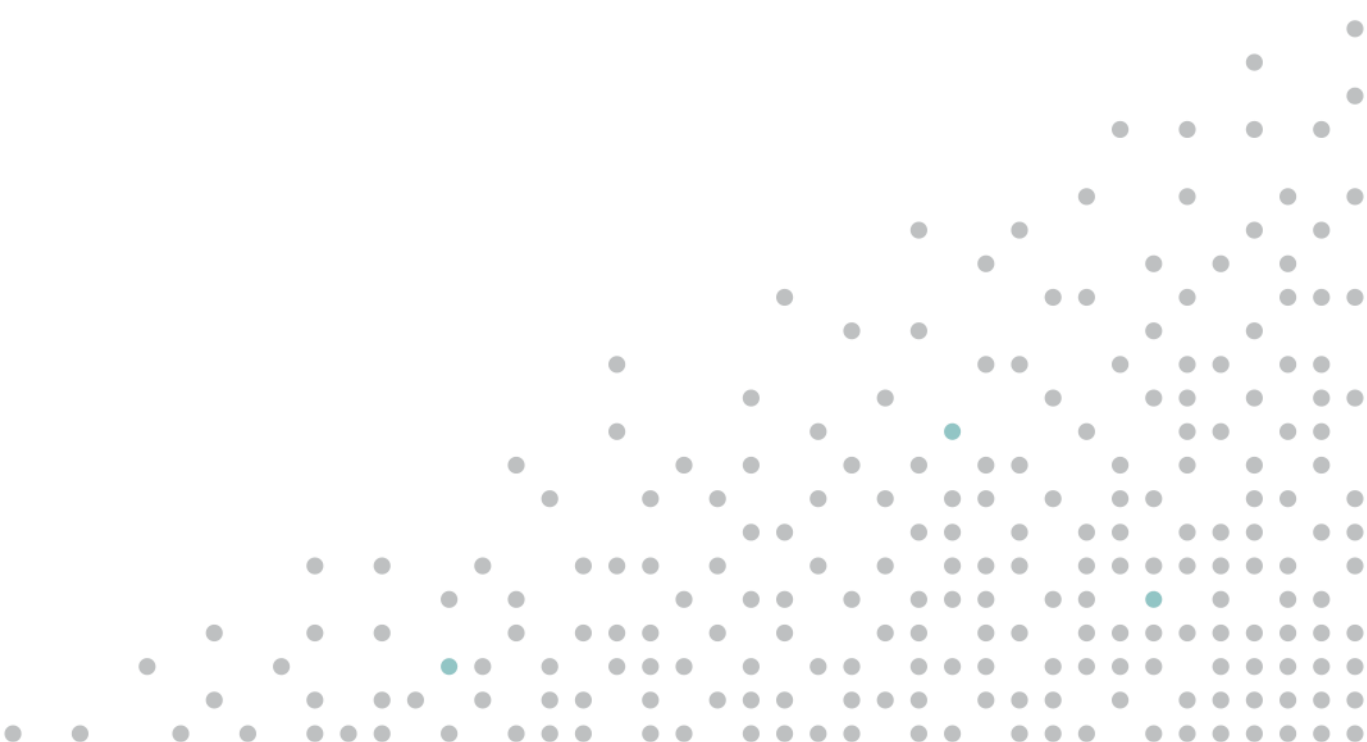




Australian Government
Department of Finance

A decorative pattern of grey dots arranged in a grid-like structure that tapers towards the top right, with a few teal dots interspersed.

Guide to the PGPA Act for Secretaries, Chief Executives and governing boards (accountable authorities)

Resource Management Guide No. 200

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The words '**must**', '**required**', '**requires**' and '**requiring**' denote mandatory compliance by accountable authorities/officials. The use of the words 'could', 'may', 'encouraged' or 'consider' convey non-mandatory guidance. The guidance to which these words relate may or may not be applied by accountable authorities/officials in their approach to resource management, depending on the operating circumstances of the entity and its appetite for risk.

Guide to the PGPA Act for accountable authorities

Contents

Guide to the PGPA Act for accountable authorities	1
Audience	4
Key points	4
1. Your general duties as an accountable authority	4
General duties as an official	4
General duties as an accountable authority	5
Frequently asked questions	5
Resources	6
2. Governing your entity	7
Legislative requirements	8
Frequently asked questions	9
Resources	13
3. Supporting Ministers	14
Legislative requirements	14
Frequently asked questions	15
Resources	17
4. Engaging with risk and establishing controls	19
Legislative requirements	19
Frequently asked questions	20
Resources	24
5. Cooperating with others	27
Legislative requirements	28
Frequently asked questions	28
Resources	31
6. Improving performance and accountability	32
Legislative requirements	32
Frequently asked questions	34
Resources	35
7. Other legal requirements	36
Employment legislation	36
Information management legislation	37
Legislation establishing rights to seek review of government decisions	37
Penalties and sanctions	37

Guide to the PGPA Act for Secretaries, Chief Executives and governing boards (accountable authorities)

Audience

1. This short guide is designed to support, the Secretaries, Chief Executives and governing boards (accountable authorities), to fulfil the important role of governing your entity and contributing to the priorities and objectives of the government.

Key points

2. The *Public Governance, Performance and Accountability Act 2013 (PGPA Act)* sets out the requirements for the governance, reporting and accountability of Commonwealth entities and Commonwealth companies. Commonwealth entities – both corporate and non-corporate – are led by an accountable authority; Commonwealth companies are not assigned an accountable authority under the PGPA Act.
3. While the PGPA Act imposes duties and other legal obligations on you as an accountable authority, it also gives you the flexibility to establish systems and processes that are appropriate for your entity, provided these systems:
 - promote the proper use and management of public resources
 - promote risk oversight and management
 - encourage cooperation with others to achieve common objectives
 - minimise red tape.
4. This guide outlines your duties and legal obligations under the PGPA Act, the actions you need to take, and the governance and accountability mechanisms you need to establish and maintain. It also notes areas in which you have flexibility to determine the processes and systems that best suit your entity, and includes links to further guidance.
5. You will have other duties and obligations as a leader in the public sector as well as those that are related to your unique role. General obligations are referred at a high level in Part 7 of this guide but are not the focus of this guide.

1. Your general duties as an accountable authority

6. As an accountable authority you are an official under the PGPA Act and subject to the general duties of officials in sections 25 to 29. Sections 15 to 19 of the PGPA Act impose additional duties on you in relation to governing your Commonwealth entity. Each of these duties is as important as the others.

General duties as an official

7. You must exercise your powers, perform your functions and discharge your duties:
 - with the degree of care and diligence that a reasonable person would exercise if the person had the same responsibilities as you (section 25)
 - honestly, in good faith and for a proper purpose (section 26).

8. You must not improperly use your position, or information you obtain in that position, to:
 - gain, or seek to gain, a benefit or an advantage for yourself or any other person ([section 27](#))
 - cause, or seek to cause, detriment to your entity, the Commonwealth or any other person ([section 28](#)).
9. Like all officials, you must disclose material personal interests that relate to the affairs of your entity ([section 29](#)) and you must meet the requirements of the [finance law](#).
10. Accountable authorities who do not comply with these general duties can be subject to sanctions, including termination of employment or appointment.
11. For more on your general duties as an official, see [RMG 203: General duties of officials](#).

General duties as an accountable authority

12. The additional duties imposed on you as an accountable authority are to:
 - properly govern your Commonwealth entity ([section 15](#))
 - establish and maintain appropriate systems relating to risk management and oversight and internal controls ([section 16](#))
 - encourage officials to cooperate with others to achieve common objectives ([section 17](#))
 - take into account the effects of imposing requirements on others ([section 18](#))
 - keep your Minister and the Finance Minister informed ([section 19](#)).
13. These duties are further explained in the other parts of this guide.

Frequently asked questions

How do I disclose a material personal interest?

14. A material personal interest is one that can give rise to a real or apparent conflict of interest that could affect your ability to discharge your duties.
15. A sole accountable authority must disclose the interest in writing to their Minister (section 13 of the PGPA Rule). For an accountable authority that comprises more than one person, a member of the accountable authority must disclose the interest to each other member of the accountable authority (section 14 of the PGPA Rule).
16. The disclosure must describe the nature and extent of the interest and how the interest relates to the affairs of your entity.
17. You must make the disclosure as soon as practicable after you become aware of the interest. If the nature or extent of the interest changes after it has been disclosed, you must disclose the change as soon as practicable after you become aware of it.
18. Members of an accountable authority must ensure that the disclosure is recorded in accordance with section 14 of the PGPA Rule. You may only be present and/or vote at a meeting that is considering a matter in which you have an interest if your Minister makes a declaration in accordance with section 15 of the PGPA Rule.

19. Under section 16C of the PGPA Rule, an accountable authority or a member of an accountable authority who is also an ex officio member of a body must declare material personal interests in accordance with the relevant section of the PGPA Rule (section 13, section 14 or section 15).

What are the consequences of failing to meet my duties or responsibilities?

20. If you fail to meet your duties or responsibilities in the PGPA Act (such as in sections 15 to 19 and 25 to 29) or other relevant legislation (such as your entity's enabling legislation, or employment legislation), you may face termination of your employment or appointment (for example, under section 30 of the PGPA Act for corporate Commonwealth entities).

Resources

Related guidance

- [Guidance for Directors of the GBEs](#)

PGPA Act 2013 – relevant sections

Section 25. Duty of care and diligence

- (1) An official of a Commonwealth entity must exercise his or her powers, perform his or her functions and discharge his or her duties with the degree of care and diligence that a reasonable person would exercise if the person:
- (a) were an official of a Commonwealth entity in the Commonwealth entity's circumstances; and
 - (b) occupied the position held by, and had the same responsibilities within the Commonwealth entity as, the official.
- (2) The rules may prescribe circumstances in which the requirements of subsection (1) are taken to be met.

Section 26. Duty to act honestly, in good faith and for a proper purpose

An official of a Commonwealth entity must exercise his or her powers, perform his or her functions and discharge his or her duties honestly, in good faith and for a proper purpose.

Section 27. Duty in relation to use of position

An official of a Commonwealth entity must not improperly use his or her position:

- (a) to gain, or seek to gain, a benefit or an advantage for himself or herself or any other person; or
- (b) to cause, or seek to cause, detriment to the entity, the Commonwealth or any other person.

Section 28. Duty in relation to use of information

A person who obtains information because they are an official of a Commonwealth entity must not improperly use the information:

- (a) to gain, or seek to gain, a benefit or an advantage for himself or herself or any other person; or
- (b) to cause, or seek to cause, detriment to the Commonwealth entity, the Commonwealth or any other person.

Section 29. Duty to disclose interests

- (1) An official of a Commonwealth entity who has a material personal interest that relates to the affairs of the entity must disclose details of the interest.
- (2) The rules may do the following:
 - (a) prescribe circumstances in which subsection (1) does not apply;
 - (b) prescribe how and when an interest must be disclosed;
 - (c) prescribe the consequences of disclosing an interest (for example, that the official must not participate at a meeting about a matter or vote on the matter).

Sections of the PGPA Rule 2014 that relate to the duty to disclose interests:

- section 12 - When duty to disclose interests does not apply
- section 13 - Officials who are the accountable authority - how and when to disclose interests
- section 14 - Officials who are members of the accountable authority - how and when to disclose interests
- section 15 - Officials who are members of the accountable authority - consequences of having interests
- section 16A - Certain officials appointed under a law to a body - how and when to disclose interests
- section 16B - Certain officials appointed under a law to a body - consequences of having interest
- section 16C - Application of sections 16A and 16B to accountable authorities or members of accountable authorities who are also ex officio members of a body
- section 16D - Effect of contravention of duty to disclose interests.

2. Governing your entity

- 21. You are responsible for leading, governing and setting the strategic direction for your entity. Governing your entity includes:
 - promoting the proper (efficient, effective, economical and ethical) use and management of the public resources for which you are responsible
 - promoting the achievement of the purposes of your entity
 - promoting the financial sustainability of your entity
 - importantly, taking account of the effect of your decisions on public resources generally

- establishing appropriate systems of risk management and internal control, including measures directed at ensuring officials comply with the finance law (such as accountable authority instructions and delegations).
22. The PGPA Act vests many of the powers and responsibilities for managing a Commonwealth entity in your hands, and sets out a series of duties that you must meet.

Legislative requirements

23. Section 15 and section 16 of the PGPA Act require you to establish governance arrangements for your entity that clearly set out the roles, responsibilities and accountabilities of officials. These systems and processes must help officials to determine how decisions about the use or management of public resources will affect public resources generally (section 15(2) of the PGPA Act).
24. An accountable authority of a non-corporate Commonwealth entity must govern their entity in a way that is not inconsistent with relevant policies of the Australian Government (section 21 of the PGPA Act). An accountable authority of a corporate Commonwealth entity must comply with policies that are specified in a government policy order made by the Finance Minister (section 22).

Proper use of public resources

25. To promote the proper use and management of public resources (section 15(1)(a) of the PGPA Act), you can, among other things, establish:
- decision-making processes for the proper use of public resources including, importantly, robust decision-making and control processes for the expenditure of relevant money (for example, decision making processes could be supported by requirements on the type of information that officials need to consider before making a spending decision)
 - appropriate oversight and reporting arrangements for activities and projects and to address the inappropriate use of resources by officials, including processes to ensure that all officials, disclose material personal interests (section 29).
26. These processes can be designed to provide an appropriate level of assurance in accordance with the duty to establish and maintain systems in relation to risk and control in section 16.

Achieving the purposes of your entity

27. To promote the achievement of the purposes of your entity (section 15(1)(b) of the PGPA Act), you must:
- set out in your entity's corporate plan the purposes of the entity and the activities the entity will engage in to achieve those purposes (section 35 of the PGPA Act)
 - establish appropriate oversight and reporting arrangements for programs and activities in your entity.

Sustainability of your entity

28. To promote the financial sustainability of your entity (section 15(1)(c) of the PGPA Act), you can establish processes or strategies to:
- conduct medium to long-term planning and budgeting

- accommodate resourcing and revenue fluctuations, including from appropriations made by the Parliament
 - manage the risks, obligations and opportunities that are associated with your entity (section 16 of the PGPA Act).
29. You are required to keep your Minister and the Finance Minister informed of any significant decisions, including in relation to expenditure or investment (section 19).

Establishing an audit committee

30. To support good governance, you must ensure that your entity has an audit committee (section 45 of the PGPA Act and section 17 of the PGPA Rule). An audit committee can provide independent advice and assurance on the appropriateness of your entity's accountability and control framework, including verifying and safeguarding the integrity of financial and performance reporting.

Frequently asked questions

What is the "proper" use of public resources?

31. The proper use of public resources is the efficient, effective, economical and ethical use of resources. When using and managing public resources all four of these elements need to be addressed.

Efficient

32. Consider whether:
- the proposed use is the most suitable way to deliver the desired result
 - whether the opportunities for abuse, mismanagement, error, fraud, omissions and other irregularities can be minimised.
33. For example, you could consider:
- whole-of-life costs (financial and non-financial)
 - other ways of achieving the desired result
 - whether there is sufficient money available to spend (i.e. is there sufficient unallocated appropriation?)
34. A cooperative approach to issues may involve a combination of resources which, overall, results in the delivery of an outcome sought by government at lower overall cost, or in a shorter period of time.

Effective

35. Consider whether the proposed use is going to produce the desired result, taking into account the purposes of your entity (set out in the corporate plan) or the program. If you or your entity does not have all the relevant knowledge, expertise or experience to most effectively deliver a specific result for the Commonwealth, consider opportunities to cooperate with others.

Economical

36. Consider whether the proposed use avoids waste and is the best-cost option to deliver the expected results. For example consider whether the proposed commitment can be met from available appropriations or resources (noting that section 19 of the PGPA Act

requires you to keep your minister and the Finance Minister informed of significant commitments).

37. This element sharpens the focus on the level of resources that the Commonwealth applies to deliver results.

Ethical

38. Consider whether the proposed use is consistent with the core beliefs and values of society – that is, would another official in a similar situation undertake a similar course of action? The ethical use of resources also involves complying with your general duties as officials in sections 25 to 29 of the PGPA Act (e.g. to manage conflicts of interests, and act in good faith and for a proper purpose).

What must I take into account when considering how a decision will affect public resources generally?

39. Section 15(2) of the PGPA Act requires you to take into account the effect of decisions on public resources generally. This requirement is tied to the principle of government acting as a coherent whole. When making a decision, you should consider the impact of that decision on the public resources managed by other Commonwealth entities or on public resources generally and if there are flow-on effects to other areas of public expenditure.
40. Some ways to meet this requirement include considering:
- the direct or indirect costs imposed on other Commonwealth entities or on their activities or programs
 - the exposures associated with issuing indemnities, guarantees or warranties
 - the extent to which a decision represents proper use from a whole-of-government perspective, rather than at an entity-specific level
 - that decisions do not merely result in cost shifting to another Commonwealth entity without any improvement in outcomes or overall budget circumstances.

What else might I need to do to promote the proper use and management of public resources?

41. Robust decision-making and control processes are required to promote the proper use and management of public resources. For an accountable authority of a non corporate Commonwealth entity, this can include establishing processes to ensure:
- officials understand and comply with the requirements of the finance law (section 16 of the PGPA Act)
 - debts owing to the Commonwealth are recovered (section 11 of the PGPA Rule)
 - your entity has a fraud control framework (section 10 of the PGPA Rule)
 - your entity is governed in a way that is not inconsistent with the policies of the Australian Government (section 21 of the PGPA Act).

How does the PGPA Act support whole of government outcomes?

42. The PGPA Act reflects Parliament's intention that Commonwealth entities work cooperatively with others, where practicable. It supports whole of government outcomes in the following ways:

- you are required to govern your entity in a way that promotes the proper use and management of public resources, taking into account not only how decisions affect the resources and financial sustainability of the entity, but public resources more generally (section 15)
 - you have a duty to cooperate with others to achieve common objectives, where practicable (section 17)
 - accountable authorities of non-corporate Commonwealth entities must promote the proper use of resources in a way that is not inconsistent with the policies of the Australian Government (section 21).
43. Each of these duties is as important as the others.
44. The PGPA Act also contains a number of legislative tools that you can use to promote a culture of cooperation and operationalise cooperation at a transactional level. For more on these legislative tools see part 5 of this Guide.

What policies of the Australian Government must I comply with?

45. For non-corporate Commonwealth entities, you must govern your entity consistent with the policies of the Australian Government. There is no exhaustive list of policies; however, relevant policies in the Finance portfolio include:
- Commonwealth Risk Management Policy
 - Commonwealth governance structures policy
 - Australian Government Charging Framework
 - procurement-connected policies
 - on-time payment policy for small business
 - whole-of-government procurement arrangements
 - whole-of-government ICT policy.
46. For corporate Commonwealth entities, any policies that apply will be listed in government policy orders made by the Finance Minister and set out on the Finance website (as at 1 November 2016 there were no government policy orders).

Are there key considerations in developing the purposes of my entity?

47. The purposes of your entity are the strategic objectives that the entity intends to pursue over the reporting period. The aim of the purposes statement is to give context to the significant activities that the entity will pursue over the period covered by the plan. When constructing purposes statements, consider all sources that contribute to defining the objectives of your entity, such as:
- key government priorities and objectives (statements made under section 34 of the PGPA Act)
 - Portfolio Budget Statements (outcomes and programs)
 - enabling legislation
 - administrative arrangement orders (AAOs)
 - other relevant legislation
 - other sources (e.g. national partnership agreements).

48. The purposes of your entity need to be set out in your entity's corporate plan (section 35 of the PGPA Act). The performance framework in the PGPA Act requires you to report to Parliament on how your entity has performed in achieving its purposes.
49. For further information on purposes, see [RMG 132 – Corporate plan for Commonwealth entities](#).

What can I do to promote the financial sustainability of my entity?

50. Financial sustainability relates to managing risks, obligations and opportunities that are associated with your entity. Essentially this means you must protect the Commonwealth's investment and equity in your entity (section 15(1)(c)).
51. To promote financial sustainability, you can:
 - establish processes to ensure the prudent and responsible use and management of public resources
 - develop financial management strategies that can accommodate resourcing and revenue fluctuations, including from appropriations made by the Parliament
 - require officials to consider issues such as whether future commitments can be met from available appropriations or whether entering into a long-term commitment might affect the entity's capacity to accommodate new policy and program priorities.
52. This duty is complemented by other elements of the PGPA Act:
 - The duty to keep your minister and the Finance Minister informed of significant expenditure or investment decisions (section 19).
 - The requirements to prepare corporate plans (section 35) and, where relevant, budget estimates (section 36), are designed to enhance the quality of financial and strategic planning activities in the Commonwealth.
 - The Finance Minister's delegations of powers in the PGPA Act to accountable authorities contain controls designed to support the financial sustainability of entities and the Commonwealth.
 - The duty to establish and maintain systems relating to risk and control (section 16).

How do I go about establishing an audit committee for my entity?

53. The independence of your audit committee from the day-to-day governing of your entity enables the committee to act objectively and impartially, free from conflicts of interest, inherent biases or undue external influences.
54. The majority of the members on the audit committee must be independent of your entity (section 17 of the PGPA Rule). A sole accountable authority or the head or chair of the accountable authority must not be a member of the audit committee. The CEO and CFO also must not be members; however, it may be appropriate for the chair of a board, CEO or CFO to attend meetings as an observer.
55. A list of professional peak bodies that can assist you to source appropriately skilled independent candidates is on the Finance website.
56. The size of an audit committee will depend on the nature and extent of its responsibilities, but they commonly have three to six members. The audit committee must have at least three members who have appropriate qualifications knowledge, skills or experience.

57. For more on establishing and supporting an audit committee, see [RMG 202 – Audit committees](#).

Resources

Related guidance

- [Guidance for Directors of the GBEs](#)

PGPA Act 2013 – relevant sections

Section 15. Duty to govern the Commonwealth entity

- (1) The accountable authority of a Commonwealth entity must govern the entity in a way that:
- (a) promotes the proper use and management of public resources for which the authority is responsible; and
 - (b) promotes the achievement of the purposes of the entity; and
 - (c) promotes the financial sustainability of the entity.

Note: Section 21 (which is about the application of government policy) affects how this duty applies to accountable authorities of non-corporate Commonwealth entities.

- (2) In making decisions for the purposes of subsection (1), the accountable authority must take into account the effect of those decisions on public resources generally.

Section 16. Duty to establish and maintain systems relating to risk and control

The accountable authority of a Commonwealth entity must establish and maintain:

- (a) an appropriate system of risk oversight and management for the entity; and
 - (b) an appropriate system of internal control for the entity;
- including by implementing measures directed at ensuring officials of the entity comply with the finance law.

Note 1: An example of a measure directed at ensuring officials of the entity comply with the finance law is a measure:

- (a) requiring, as a condition of employment of an official of the entity, that the official complies with the finance law; and
- (b) specifying sanctions (such as termination) that apply to the official for contravening that condition.

Such a measure would not be needed for officials to whom the *Public Service Act 1999* or *Parliamentary Service Act 1999* applies because, under that Act, sanctions may be imposed on those officials for contravening the finance law: see section 32 of this Act.

Note 2: This duty includes managing consultants and independent contractors who work for the entity, even if they are not officials of the entity.

Section 21. Non-corporate Commonwealth entities (application of government policy)

The accountable authority of a non-corporate Commonwealth entity must govern the entity in accordance with paragraph 15(1)(a) in a way that is not inconsistent with the policies of the Australian Government.

Note: Paragraph 15(1)(a) is about promoting the proper use and management of public resources for which the accountable authority is responsible.

Section 22. Corporate Commonwealth entities (application of government policy)

- (1) The Finance Minister may make an order (a government policy order) that specifies a policy of the Australian Government that is to apply in relation to one or more corporate Commonwealth entities.
- (2) Before making a government policy order that applies in relation to a corporate Commonwealth entity, the Finance Minister must be satisfied that the Minister responsible for the policy has consulted the entity on the application of the policy.
- (3) If a government policy order applies in relation to a corporate Commonwealth entity, the accountable authority of the entity must ensure that the order is complied with:
 - (a) in relation to the entity; and
 - (b) in relation to any subsidiary of the entity, so far as practicable.
- (4) A government policy order is a legislative instrument, but section 42 (disallowance) of the *Legislation Act 2003* does not apply to it.

3. Supporting Ministers

58. The PGPA Act is focused on entities and their accountable authorities; however, a guiding principle of the PGPA Act is that the resource management framework should support the legitimate requirements of the government and the Parliament in discharging their responsibilities.
59. It is important that you talk to your Minister to ensure you have a clear understanding of the type and level of information your Minister expects to receive, particularly about the performance of your entity. These expectations may vary over time.

Legislative requirements

60. To assist your Minister in discharging their duties of accountability to Parliament and the public, section 19 of the PGPA Act requires you to:
 - keep your Minister informed of the activities of the entity and any subsidiaries
 - provide your Minister and the Finance Minister with any reports, documents and information they require about those activities
 - notify your Minister of any significant decision you make about the entity or any of its subsidiaries

- give your Minister reasonable notice of any significant non-compliance with the finance law that may affect your entity or any of its subsidiaries, with a copy provided to the Finance Minister ([section 19\(1\)\(b\) and \(d\)](#) of the PGPA Act)
 - notify your Minister if you become aware of any significant issue that has affected the entity or any of its subsidiaries.
61. You may also need to advise your Minister of their responsibilities under the PGPA Act—for example, when your Minister:
- approves a proposed expenditure ([section 71](#))
 - is required to inform Parliament about an entity's involvement in a company ([section 72](#)). The template for ministers to inform Parliament is available on the [Finance website](#).

Frequently asked questions

What significant issues must I inform my Minister about?

62. You are required to notify your Minister as soon as practicable after you have become aware of any significant issue that may affect, or has affected, your entity or any of its subsidiaries (section 19(1)(d) and (e) of the PGPA Act).
63. What constitutes a significant issue is for you to determine based on your entity's circumstances and consultation with your Minister. Generally, whether a decision or issue is 'significant' will depend on:
- materiality—the importance of the decision or issue relative to the entity's size and functions
 - the risks involved—that is, whether the decision or issue is likely to be politically sensitive, whether there would be contingent liabilities that could affect the Commonwealth's balance sheet, and whether the decision or issue might affect the entity's financial sustainability or that of others
 - the novelty of the decision or issue for the entity—that is, whether the entity has previous experience with the decision or issue.
64. Non-compliance with the finance law can generally be a significant issue if it involves:
- failure to comply with the duties of accountable authorities (sections 15 to 19 of the PGPA Act)
 - serious breaches of the general duties of officials (sections 25 to 29 of the PGPA Act), including any fraudulent activity by officials
 - systemic issues reflecting internal control failings and other high-volume instances of non-compliance
 - matters that are likely to affect your entity's or another entity's financial sustainability.
65. Instances of significant non-compliance with the finance law, and actions to remedy the non-compliance, must be reported in your entity's annual report (section 17AG and section 17BE of the PGPA Rule).
66. For more on compliance reporting, see [RMG 214 – Notification of significant non-compliance with finance law](#).

What other matters do I need to clarify with my Minister?

67. Talk to your Minister first, to establish their expectations in relation to section 19. Your Minister needs to know what is happening in their portfolio to meet their accountability obligations to the Parliament and the public. You can discuss with your Minister:
- the frequency and nature of reports they require on the activities of your entity and any subsidiaries (section 19(4) allows your Minister to determine the timeframe for receiving reports requested under section 19(1)(b), although you can request an extension if you need more time)
 - any limitations in law that might affect or prohibit the information being provided to your Minister—for example, section 19 of the PGPA Act recognises that information does not have to be disclosed to your Minister where:
 - the enabling legislation of your entity, or a Commonwealth law in general, limits or prevents you from disclosing particular information (sections 19(4A) and 19(4B))
 - for courts and tribunals, the information is of a judicial nature (courts and tribunals are only required to provide information on administrative matters (sections 19(2)).
68. The terms ‘reports’, ‘documents’ and ‘information’ in section 19 of the PGPA Act are meant to be interpreted broadly, and are intended to encompass the underlying information, data and assumptions that your entity uses to produce final reports.

How do I assist my Minister to inform Parliament of my entity’s involvement in a company?

69. You must ensure that your Minister is provided with sufficient, relevant and timely information so that they can properly fulfil their obligation in section 72 of the PGPA Act to notify the Parliament about an entity’s involvement in a company.
70. The notice to be tabled in Parliament does not have to include any information that is confidential or commercial in confidence, but it does need to provide sufficient information about the nature of the event to ensure transparency.
71. A template can be used to provide your Minister with information in the required form to be tabled in Parliament. The template meets the requirements of section 26 of the PGPA Rule.
72. Given the Finance Minister’s responsibility for the PGPA Act, you will be expected to also email a copy of any section 72 notice that has been tabled in Parliament to Finance at pmra@finance.gov.au.

What is required for my Minister to approve an expenditure of public resources?

73. Ministers are not officials, so they are not subject to the general duties in the PGPA Act. Nor can they exercise the powers of officials under the PGPA Act, and a power in the PGPA Act cannot be delegated to a Minister. However, section 71 of the PGPA Act states that a Minister can approve a proposed expenditure of relevant money, provided:
- the Minister is satisfied, after making reasonable inquiries, that the expenditure would be a proper use of the relevant money

- there is a written record of the approval.

Resources

PGPA Act 2013 – relevant sections

Section 19. Duty to keep responsible Minister and Finance Minister informed

- (1) The accountable authority of a Commonwealth entity must do the following:
 - (a) keep the responsible Minister informed of the activities of the entity and any subsidiaries of the entity;
 - (b) give the responsible Minister or the Finance Minister any reports, documents and information in relation to those activities as that Minister requires;
 - (c) notify the responsible Minister as soon as practicable after the accountable authority makes a significant decision in relation to the entity or any of its subsidiaries;
 - (d) give the responsible Minister reasonable notice if the accountable authority becomes aware of any significant issue that may affect the entity or any of its subsidiaries;
 - (e) notify the responsible Minister as soon as practicable after the accountable authority becomes aware of any significant issue that has affected the entity or any of its subsidiaries.
- (2) However, for a Commonwealth entity that is related to a court or tribunal, subsection (1) applies only to activities, reports, documents, information or notifications about matters of an administrative nature.
- (3) Without limiting subsection (1), the rules may prescribe matters to be taken into account in deciding whether a decision or issue is significant.
- (4) The accountable authority must comply with a requirement under paragraph (1)(b) within the time limits set by the Minister concerned.

Relationship with other laws and powers

- (4A) If a Commonwealth entity has enabling legislation, then subsection (1) applies only to the extent that compliance with that subsection is not inconsistent with compliance with that legislation.
- (4B) This section is subject to any Commonwealth law that prohibits disclosure of particular information.
- (5) This section does not limit any other power that a Minister has to require information from a Commonwealth entity.

Section 71. Approval of proposed expenditure by a Minister

- (1) A Minister must not approve a proposed expenditure of relevant money unless the Minister is satisfied, after making reasonable inquiries, that the expenditure would be a proper use of relevant money.
- (2) If a Minister approves a proposed expenditure of relevant money, the Minister must:

- (a) record the terms of the approval in writing as soon as practicable after giving the approval; and
 - (b) comply with any other requirements prescribed by the rules in relation to approvals of proposed expenditure.
- (3) For a Parliamentary Department, the references in subsection (1) or (2) to a Minister are references to:
- (a) a Presiding Officer, for expenditure for which he or she alone is responsible; and
 - (b) the Presiding Officers jointly, for expenditure for which they are jointly responsible.

Section 72. Minister to inform Parliament of certain events

- (1) The Minister who has the responsibility for any of the following events must cause a notice of the event to be tabled in each House of the Parliament as soon as practicable after the event occurs:
- (a) the Commonwealth or a corporate Commonwealth entity forms, or participates in forming, a company or a relevant body (see subsection (2));
 - (b) the Commonwealth or a corporate Commonwealth entity becomes, or ceases to be, a member of a company or a relevant body;
 - (c) a variation occurs in rights of the Commonwealth or a corporate Commonwealth entity as a member of a company or a relevant body;
 - (d) the Commonwealth or a corporate Commonwealth entity acquires shares (either by purchase or subscription) or disposes of shares in a company;
 - (e) a variation occurs in the rights attaching to shares held by the Commonwealth or a corporate Commonwealth entity in a company.
- (2) Relevant body means a body of a kind prescribed by the rules.
- (3) The notice must be in the form (if any), and contain the particulars (if any), prescribed by the rules.
- (4) This section does not apply to:
- (a) an event mentioned in paragraphs (1)(a) to (e) that occurs in relation to:
 - (i) an authorised investment made under section 58; or
 - (ii) an investment authorised under section 59; or
 - (iii) an investment made under the *Future Fund Act 2006* or any other Act that is prescribed by the rules; or
 - (b) anything that results from the transfer to a Minister of any property that is to be dealt with as unclaimed property under Part 9.7 of the *Corporations Act 2001*; or
 - (c) a company or relevant body that is conducted for the purposes of an intelligence or security agency or a listed law enforcement agency.

Related templates

- [Template for Ministers to provide certain information to Parliament](#)

4. Engaging with risk and establishing controls

74. Engaging with risk is a necessary step in improving the performance of your entity. The PGPA Act provides you with flexibility to establish systems of risk oversight and management and internal control that are appropriate for your entity. This allows you to create an operating environment that supports the proper use and management of public resources, while applying the minimum controls required for you to achieve your entities outcomes and without stifling innovation.
75. Taking appropriate risks in fulfilling the purposes of your entity is consistent with careful and proper use and management of public resources.
76. The internal controls you introduce need to reflect your entity's level of tolerance for risk and assist officials to comply with the finance law.
77. You will be required to exercise your judgement in managing risks and establishing controls. Your decisions will be informed by consideration of various factors, including but not limited to, the size of your entity, the complexity of the policy environment, proportionality of risks and the capability of your officials. You will also need to review your internal controls from time to time and when circumstances change.

Legislative requirements

System of risk oversight and management

78. Section 16(a) of the PGPA Act requires you to establish and maintain an appropriate system of risk oversight and management for your entity. A summary of these risk oversight and management systems for your entity must be included in your corporate plan (section 16E of the PGPA Rule).
79. An accountable authority of a non-corporate Commonwealth entity must, in accordance with the Commonwealth Risk Management Policy:
 - endorse their entity's risk management policy
 - endorse their entity's risk management framework
 - define responsibility for managing risk in their entity, including:
 - defining who is responsible for determining the entity's appetite and tolerance for risk
 - allocating responsibility for implementing the risk management framework
 - defining roles and responsibilities in managing individual risks.
80. While the Commonwealth Risk Management Policy is not mandatory for corporate Commonwealth entities, it nevertheless provides an example of good practice.

System of internal control

81. Section 16(b) of the PGPA Act requires you to establish and maintain an appropriate system of internal control for your entity, which could include: accountable authority

instructions to direct officials on the proper use and management of public resources, including supporting the use of minimum controls required to achieve your entity's purposes:

- accountable authority instructions to direct officials on the proper use and management of public resources, including supporting the use of minimum controls required to achieve your entity's purposes
- delegating or authorising officials to exercise functions and powers
- developing a fraud control framework for your entity ([section 10](#) of the PGPA Rule)
- requiring, as a condition of employment, that officials of your entity comply with the [finance law](#)
- specifying sanctions (such as termination) that apply to officials for contravening that condition
- establishing contractual arrangements for consultants and contractors that, where relevant, reflect the requirements of the [finance law](#).

Accountable authority instructions (AAs)

82. Internal controls for officials can be established in written instructions on any matter relating to the finance law (section 20A of the PGPA Act). For example, you can issue instructions on such things as:
- approving a commitment of relevant money
 - official banking or otherwise dealing with relevant money
 - debiting or crediting an appropriation.

Delegations or authorisations

83. The accountable authority of:
- a non-corporate Commonwealth entity can delegate many of the powers, functions and duties in the PGPA Act or PGPA Rule to officials. For example, you can delegate the power to commit and spend money to appropriate levels of officials (section 110 of the PGPA Act, other than the powers and functions listed in section 110(2)).
 - A corporate Commonwealth entity can authorise officials to exercise functions and powers under its enabling legislation.

Role of your audit committee

84. Your audit committee can provide you with regular independent advice and assurance on the appropriateness of your entity's systems of risk oversight and management and internal control.

Frequently asked questions

What must my entity's risk management policy include?

85. An accountable authority of a non-corporate Commonwealth entity must, in accordance with the Commonwealth Risk Management Policy, establish and maintain an entity-specific risk management policy that:

- defines the entity's approach to the management of risk and how this approach supports its strategic plans and objectives
 - defines the entity's risk appetite and risk tolerance
 - outlines key accountabilities and responsibilities for managing and implementing the entity's risk management framework.
86. The Commonwealth Risk Management Policy does not apply to corporate Commonwealth entities; however, it is good practice to follow it.

What must my entity's risk management framework include?

87. The accountable authority of a non-corporate Commonwealth entity is required by the Commonwealth Risk Management Policy to establish a risk management framework that includes:
- the entity's risk management policy
 - an overview of the entity's approach to managing risk
 - how the entity will report risks to both internal and external stakeholders
 - the attributes of the risk management culture that the entity seeks to develop, and the mechanisms employed to encourage this
 - an overview of the entity's approach to embedding risk management in its existing business processes
 - how the entity contributes to managing any shared or cross-jurisdictional risks
 - the approach for measuring risk management performance
 - how the risk management framework and risk profile will be periodically reviewed and improved.
88. The Commonwealth Risk Management Policy does not apply to corporate Commonwealth entities; however, it is good practice to follow it.

What is the best way to consider risk issues in my entity?

89. To meet your risk management obligations under section 16(a), you need to consider:
- establishing and articulating your entity's appetite for risk, consistent with any requirements in enabling legislation or government policy
 - establishing policies and processes for identifying, measuring, managing and reporting material risks
 - establishing an audit committee charter and ensuring that the audit committee reviews the integrity of your entity's financial and non-financial statements and provides assurance on compliance
 - regularly reviewing the risk environment
 - strategically managing your entity's risks, obligations and opportunities.

How can I encourage officials to better engage with risk?

90. Your actions can have considerable bearing on how officials in your entity engage with risk. If officials are unaware of your attitude towards risk, then they are unlikely to take appropriate risks. It is therefore important that you articulate the type and amount of

risk-taking you are willing to accept in different areas and where innovation is encouraged. This is referred to as risk appetite. In addition, you can:

- recognise appropriate risk-taking by rewarding those officials who engage with risk effectively and not those who are risk-averse or reckless
- encourage an honest and open dialogue about risk and collaboration with other accountable authorities and stakeholders to identify and manage shared risk
- treat risk events as opportunities to review and improve your entity's risk management practices. If appropriate risk-taking is perceived as being punished, it is unlikely that officials will ever take risks again
- support officials to innovate using the 'fail fast, fail cheaply' model, where risks are taken in a considered way and the effects of failure are minimised.

How do I develop an appropriate system of internal control for my entity?

91. The system of internal control you establish can set the tone for your entity, influencing the actions and decisions of officials. The control environment includes the governance and management functions and the attitudes, awareness and actions of officials who carry out those functions. You are expected to create an operating environment that supports the proper use and management of public resources, without stifling innovation, in pursuit of the purposes of your entity.
92. You have discretion to determine the operating style for your entity and how it is directed and controlled. This includes avoiding unnecessary internal red tape, having proportional controls to the risks to be managed and being supportive of a risk-based approach and reviewing and periodically testing the relevance and impact of controls. The corporate governance practices and risk appetite of an entity are typically informed and tempered by:
 - legal and accountability requirements
 - stakeholder perspectives
 - lessons learned from a range of sources.
93. Effective governance involves planning and managing beyond the present and maintaining a strategic focus on medium- and long-term risks, obligations and opportunities.
94. Experience, innovation and lessons learned from the experience of others will:
 - inform the continual improvement of the corporate governance mechanisms of your entity
 - inform the calibration of the system of internal control to assist your entity to meet the underlying policy intent of the PGPA Act and other relevant legislation
 - help you to carry out your duties to a high standard.
95. Note that non-corporate Commonwealth entities may require adequate internal control processes not only for officials, but also for other persons who manage 'other CRF money' in accordance with section 29 of the PGPA Rule. For more, see [*RMG 303 – Other CRF money*](#).
96. Finance has developed model accountable authority instructions to help with reviewing systems of internal control (RMG 206), for:
 - [*corporate Commonwealth entities*](#)

- non-corporate Commonwealth entities

Besides the PGPA Act, what other legislation can inform the design of the internal controls?

97. Like organisations in other sectors of economic activity in Australia, Commonwealth entities are subject to general legislation that will inform the design of their control systems. For example, in addition to the requirements to keep records in sections 37 and 41 of the PGPA Act, entities are also required to keep records by:
- Part V of the *Archives Act 1983*
 - section 10 of the *Privacy Act 1988*.
98. Other relevant legislative obligations are covered in the last part of this guide.
99. Note that the legal and policy requirements will vary over time. It is your responsibility to remain abreast of these developments and to ensure that the system of internal control that you have established is properly calibrated to these requirements.

Who will review the system of internal control for my entity?

100. Overseeing the internal control system for your entity includes reviewing and monitoring systems of risk management and legal compliance.
101. Internally, your audit committee can provide independent advice and assurance on the appropriateness of your entity's internal controls.
102. Externally, the Auditor-General will consider the system of internal control in your entity when auditing your entity's financial statements and reports. The Auditor-General is guided by Australian Auditing Standard ASA 315 (pp. 30–1), which requires the auditor to understand your entity and its environment by looking at factors such as:
- communication and enforcement of integrity and ethical values
 - commitment to competence
 - participation by those charged with governance
 - management's philosophy and operating style
 - organisational structure
 - assignment of authority and responsibility
 - human resource policies and practices.

What powers in the PGPA Act and PGPA Rule can I delegate to officials?

103. An accountable authority of a non-corporate Commonwealth entity:
- is given powers, functions and duties by the PGPA Act and the PGPA Rule (for example, section 23 of the PGPA Act provides the power to commit relevant money and enter into arrangements on behalf of the Commonwealth)
 - has some other powers, functions and duties in the PGPA Act and the PGPA Rule delegated to them by the Finance Minister, with certain limits.
104. You may, by written instrument, delegate or sub-delegate many of these powers, functions or duties to officials (section 110 of the PGPA Act). The powers, functions or duties listed in section 110(2) cannot be delegated or sub-delegated (for example, you

cannot delegate the general duties of an accountable authority in sections 15 to 19 of the PGPA Act).

105. You may also delegate the power of delegation in section 110 to officials. For example, you could empower your CFO to determine which officials in the entity will be sub-delegated the power to commit relevant money or enter into arrangements under section 23 of the PGPA Act.
106. Limits on delegations can be effective controls, particularly when supported by well-drafted accountable authority instructions or operational guidance.

Resources

Related policy and guidance

On the general duty to establish appropriate systems of risk oversight and management and internal control:

- [Commonwealth Risk Management Policy](#) (applies to non-corporate Commonwealth entities)
- [RMG 202 – Audit committees](#)
- [RMG 211 – Implementing the Commonwealth Risk Management Policy](#)
- [Public Governance, Performance and Accountability \(Finance Minister to Accountable Authorities of Non-Corporate Commonwealth Entities\) Delegation 2014](#)

Model accountable authority instructions (for reviewing existing instructions or establishing new instructions for officials):

- [RMG 206 – Model accountable authority instructions \(AAIs\) for Commonwealth entities](#)

Other guidance to help establish systems of internal control:

- [RMG 201 – Preventing, detecting and dealing with fraud](#)
- [RMG 400 – Commitments of relevant money](#)
- [RMG 411 – Grants, procurements and other financial arrangements](#)
- [RMG 412 – Australian Government grants: briefing and reporting](#)

PGPA Act 2013 – relevant sections

Section 16. Duty to establish and maintain systems relating to risk and control

The accountable authority of a Commonwealth entity must establish and maintain:

- (a) an appropriate system of risk oversight and management for the entity; and
- (b) an appropriate system of internal control for the entity;

including by implementing measures directed at ensuring officials of the entity comply with the finance law.

Note 1: An example of a measure directed at ensuring officials of the entity comply with the finance law is a measure:

- (a) requiring, as a condition of employment of an official of the entity, that the official complies with the finance law; and
- (b) specifying sanctions (such as termination) that apply to the official for contravening that condition.

Such a measure would not be needed for officials to whom the Public Service Act 1999 or Parliamentary Service Act 1999 applies because, under that Act, sanctions may be imposed on those officials for contravening the finance law: see section 32 of this Act.

Note 2: This duty includes managing consultants and independent contractors who work for the entity, even if they are not officials of the entity.

Section 20A. Accountable authority instructions

- (1) The accountable authority of a Commonwealth entity may, by written instrument, give instructions to an official of the entity about any matter relating to the finance law.
- (2) The accountable authority of a Commonwealth entity may, by written instrument, give instructions to an official of another Commonwealth entity in relation to:
 - (a) the official approving the commitment of relevant money for which the accountable authority is responsible; and
 - (b) the official banking, or otherwise dealing with, relevant money for which the accountable authority is responsible; and
 - (c) the official debiting or crediting an appropriation for which the accountable authority is responsible; and
 - (d) any matter prescribed by the rules that relates to the official dealing with public resources for which the accountable authority is responsible.
- (3) An instruction under subsection (1) or (2) is not a legislative instrument.

Section 35. Corporate plan for Commonwealth entities

Commonwealth entities

- (1) The accountable authority of a Commonwealth entity must:
 - (a) prepare a corporate plan (however described) for the entity at least once each reporting period for the entity; and
 - (b) give the corporate plan to the responsible Minister and the Finance Minister in accordance with any requirements prescribed by the rules.
- (2) The corporate plan must comply with, and be published in accordance with, any requirements prescribed by the rules.
- (3) If:
 - (a) a statement of the Australian Government's key priorities and objectives is published under section 34; and
 - (b) the purposes of the Commonwealth entity relate to those priorities and objectives;

then the corporate plan must set out how the activities of the entity will contribute to achieving those priorities and objectives.

- (4) However, if the Commonwealth entity has enabling legislation, then subsection (3) applies only to the extent that compliance with that subsection is not inconsistent with compliance with that legislation.

Subsidiaries

- (5) If the Commonwealth entity has subsidiaries, the corporate plan must cover both the entity and its subsidiaries. In particular, for each subsidiary the corporate plan must include details of any matters prescribed by the rules, so far as they are applicable.

Variation of corporate plan

- (6) If the accountable authority varies the plan, the authority must comply with any requirements relating to variations of corporate plans that are prescribed by the rules.

Section 45. Audit committee for Commonwealth entities

- (1) The accountable authority of a Commonwealth entity must ensure that the entity has an audit committee.
- (2) The committee must be constituted, and perform functions, in accordance with any requirements prescribed by the rules.

Section 110. Accountable authority

When accountable authority may delegate

- (1) The accountable authority of a non-corporate Commonwealth entity may, by written instrument, delegate to an official of a non-corporate Commonwealth entity any powers, functions or duties under this Act or the rules, including:
- (a) this power to delegate in relation to powers, functions and duties conferred directly by this Act or the rules on the accountable authority; and
 - (b) powers, functions or duties that have been delegated by the Finance Minister to the accountable authority under subsection 107(1).
- (2) However, the accountable authority of a non-corporate Commonwealth entity may not delegate any of the accountable authority's powers, functions or duties under:
- (a) Subdivision A of Division 2 of Part 2-2 (which is about the general duties of accountable authorities); or
 - (aa) section 20A (which is about accountable authority instructions); or
 - (b) section 21 (which is about the application of government policy to non-corporate Commonwealth entities); or
 - (c) section 35 (which is about corporate plans for Commonwealth entities); or
 - (d) section 37, 38 or 39 (which has requirements relating to performance of Commonwealth entities); or
 - (e) section 41, 42 or 43 (which has requirements relating to accounts and financial statements of Commonwealth entities).

Directions given by the accountable authority about delegation

- (3) If:
- (a) the accountable authority of a non-corporate Commonwealth entity delegates a power, function or duty to a person (the delegate); and
 - (b) the power, function or duty is not one that has been delegated by the Finance Minister to the accountable authority under subsection 107(1);

then the accountable authority may give written directions to the delegate in relation to the exercise of that power, the performance of that function or the discharge of that duty.

(4) The delegate must comply with any directions given under subsection (3).

Sub delegation of Finance Minister's delegation

(5) If the accountable authority of a non-corporate Commonwealth entity delegates to a person (the second delegate) a power, function or duty that has been delegated by the Finance Minister to the accountable authority under subsection 107(1), then that power, function or duty, when exercised, performed or discharged by the second delegate, is taken for the purposes of this Act and the rules to have been exercised, performed or discharged by the Finance Minister.

(6) If the accountable authority of a non-corporate Commonwealth entity is subject to directions in relation to the exercise of a power, the performance of a function or the discharge of a duty, delegated by the Finance Minister to the accountable authority under subsection 107(1), then:

(a) the accountable authority must give corresponding written directions to the second delegate; and

(b) the accountable authority may give other written directions (not inconsistent with those corresponding directions) to the second delegate in relation to the exercise of that power, the performance of that function or the discharge of that duty.

(7) The second delegate must comply with any directions of the accountable authority.

PGPA Rule 2014 – relevant sections

- [section 17. Audit committee for Commonwealth entities](#)

Relevant legislative instruments:

- [Commonwealth Procurement Rules](#)
- [Commonwealth Grants Rules and Guidelines](#)

5. Cooperating with others

107. In an environment of increasingly complex public policy issues, ongoing fiscal constraint and changing public and government expectations, a Commonwealth public sector that works together effectively, and cooperates readily with other levels of government, and with the private and not-for-profit sectors, provides the opportunity for streamlining and minimising duplication. It offers potential economies to the wider community and improved services to citizens. Cooperation can involve anyone who has a stake in the outcomes of the government policy, or can help develop and or implement the policy in the most effective, economical and efficient manner.

108. As an accountable authority, you are required to:

- make resource management decisions in the context of government acting as a coherent whole
- cooperate with others to achieve common objectives, where practicable
- have regard to the burdens you impose on others.

109. These requirements are broader than simply making decisions in the best interests of your entity. Rather, you are required to actively engage with others where appropriate

in a manner that does not impose excessive burden or stifle the innovative capabilities of those you are cooperating with.

Legislative requirements

110. Sections 17 and 18 of the PGPA Act require you to:

- encourage officials to cooperate with others to achieve common objectives
- take a proportional, risk-based approach to imposing administrative burdens on other parties that work with government.

111. The phrase 'achieve common objectives' establishes the scope of cooperation expected. Section 17 aims to encourage cooperation, where practicable. It would be counterproductive to require cooperation between organisations that are working towards completely different goals, or, for example, if cooperation was inconsistent with the proper use and management of public resources or contrary to achieving the purposes of an entity.

112. To meet these duties, you could:

- take positive steps to build a culture that encourages officials to explore how your entity can collaborate with others in achieving common purposes
- articulate your entity's risk appetite in terms that recognise the risks that arise from collaborative activities
- consider opportunities to streamline acquittal and reporting processes, decide whether the compliance, red tape, cost and reporting burdens that you impose, or that are imposed by your entity, are directed at promoting the proper use and management of public resources.

Frequently asked questions

Why cooperate with others?

113. In a time of increasing challenges, a Commonwealth public sector that works together effectively, and works together readily with other levels of government, and with the private and not-for-profit sectors, provides the opportunity for streamlining and minimising duplication. It offers potential economies to the wider community and improved service to citizens.

114. Access to a diversity of views and perspectives during policy development and implementation allows for a broad consideration of issues. It can also help identify a wider range of potential solutions, including underutilised and untapped delivery channels beyond the capacity of a single entity to provide. Ultimately this results in a qualitatively enhanced approach which improves outcomes for government and citizens.

115. Red tape can stifle innovation and affect productivity and profitability. Therefore, you should aim to impose the minimum compliance and reporting requirements needed to support the efficient, effective and economical use and management of public resources.

116. There is no single 'correct' approach to cooperation, though the duty in section 17 is best considered in light of:

- the financial sustainability of your entity (section 15(1)(c))

- the effect on public resources generally (section 15(2))
- the likelihood and impact of burdens imposed on others (section 18), such as compliance or regulatory burdens.

What are some of the issues and risks involved in cooperating with others?

117. Cooperation is not always easy, and it can give rise to complexities and risks to your entity, such as:

- competing transparency and accountability issues across jurisdictions
- differences in prioritising objectives, costs and reporting
- restrictions by other legislation
- issues relating to commercial confidentiality and privacy considerations (for example, under the *Privacy Act 1988*)
- loss of control over the behaviour of partners, to the detriment of Commonwealth objectives
- participants working at cross-purposes
- unnecessary proliferation of red tape.

118. The PGPA Act seeks to recognise and mitigate some of these issues and risks by:

- allowing for rules to be made that enable the reports, documents and information of a prescribed Commonwealth entity to be made available to a state or territory minister (section 82)
- preventing Commonwealth entities from restricting a state or territory auditor-general from auditing programs that the Commonwealth helps fund (section 83)
- allowing state or territory auditors-general to audit participating Commonwealth entities (section 83)
- restricting some of the burdens that can be placed on suppliers and grant recipients.

How can I support officials in my entity to cooperate with others?

119. Considering and encouraging appropriate cooperation with others is an essential part of ensuring the proper use and management of public resources. It is increasingly important in an operating environment of constrained resources and increasing expectations of stakeholders on government.

120. The accountable authority instructions you issue to the officials in your entity are a powerful tool for you to build and promote a culture of collaboration. You can issue instructions to require officials to comply with particular processes, or behaviours, in their approach to cooperative activity.

121. Ways you support officials to cooperate with others include:

- ensuring your entity has a positive risk culture
- issuing instructions to officials (such as on entering into arrangements), including officials of other Commonwealth entities (section 20A of the PGPA Act)

- delegating powers, functions and duties under the PGPA Act and PGPA Rule to officials, including to officials who are not part of your entity (section 110 of the PGPA Act)
- prescribing persons who are not officials (such as contractors, consultants or grant recipients) as officials, so that they can exercise delegated powers and receive your instructions and directions (item 1A of the table in section 9(1) of the PGPA Rule)
- establishing arrangements with people outside the Commonwealth to allow them to manage money that belongs to the Commonwealth, such as other CRF money arrangements (section 29 of the PGPA Rule)
- establishing advisory boards, including persons who are not officials of your entity, to cooperate with others in joint ventures (section 24 of the PGPA Act).

122. For more on cooperating with others:

- RMG 206 – Model accountable authority instructions for Commonwealth entities (for reviewing existing instructions or establishing new instructions for officials)
- RMG 303 – Other CRF money

Why would I prescribe a contracted individual as an official?

123. When cooperating with others, it may be necessary for an individual to exercise a power or function that can only be undertaken by an official. The PGPA framework accommodates this situation. Delegations to exercise PGPA powers, duties or functions, with accompanying instructions, can be given to individuals who are not officials of a (non-corporate) Commonwealth entity.

124. You can prescribe a contractor as an official if they need to exercise powers under the PGPA Act or PGPA Rule (item 1A of the table in section 9(1) of the PGPA Rule). A benefit of prescribing someone as an official is that they will be subject to the duties and obligations in the PGPA Act and PGPA Rule.

125. For example, a prescribed contractor could undertake the following powers and functions:

- collect fees, charges and debts on behalf of the entity
- manage appropriations of an entity, including making spending and receipt decisions
- manage an entity's leases, including making payments to property owners
- undertake procurements or grants distribution on behalf of entity.

126. To prescribe someone as an official you must:

- enter into an arrangement with them that sets out their roles, powers, limitations, sanctions for misbehaviour, and other directions
- prescribe them as an official by, for example, adding their name to an internal register of prescribed officials
- delegate the relevant powers or functions in the PGPA Act or PGPA Rule to the prescribed official.

127. A contractor cannot be prescribed as an official if they are only performing processing, clerical or other administrative tasks that do not require them to exercise powers under the PGPA Act or PGPA Rule.

What factors should I consider before imposing burdens on others?

128. The PGPA Act reflects Parliament's intention that Commonwealth entities work cooperatively with others. The duty in section 17 clearly expects that you will build and promote a culture within your entity that encourages officials to identify opportunities to cooperate with others, within or external to government, to achieve common objectives, where practicable.
129. You are required to assess the risks in relation to the public resources provided, and then place proportionate obligations on recipients (section 18 of the PGPA Act). For example, a grant recipient with a proven record for delivery may not need to report as often as one with less experience. Subject to specific requirements in applicable legislation or policy, as a general approach, you are encouraged not to impose requirements on others without considering the proper use and management of public resources for which you are responsible and managing risks associated with that use or management.
130. You need to consider the effects of imposing requirements on others. Red tape or onerous controls can stifle innovation, affect the productivity and profitability of the other party and the efficient and economical use of public resources for which you are responsible.
131. The compliance and reporting requirements imposed on others should focus on areas of high risk. Merely shifting the risk burden onto others, especially external service providers, may shift responsibilities away from where the risks are most effectively assessed and managed. Leveraging successful cooperative arrangements, underpinned by trust, can assist you to meet your obligations for the proper use of public resources.
132. For a Commonwealth entity that plays a regulatory role or that is subject to specific legislative directions, this duty must be read subject to the legislation and in the context of the accountable authority's responsibility for promoting the achievement of the purposes of the entity under section 15(1)(b) of the PGPA Act.

Resources

Related guidance, tools and templates

- [*Government Collaborative Suite*](#) – tools to support the sharing of knowledge, skills and resources in the pursuit of more effective, efficient and innovative solutions
- [*National Public Private Partnerships Framework*](#) – policy and guidance for partnering with the private sector for the provision of public infrastructure and related services
- [*other guidance on cooperating with other jurisdictions*](#) (state, territory and local), including guidance for classifying payments
- [*RMG 206 – Model accountable authority instructions for Commonwealth entities*](#)
- [*RMG 303 – Other CRF money*](#) – arrangements for handling money by persons outside the Commonwealth

PGPA Act 2013 – relevant sections

- [section 17. Duty to encourage cooperation with others](#)
- [section 18. Duty in relation to requirements imposed on others](#)

6. Improving performance and accountability

133. While the PGPA Act provides you with flexibility to establish appropriate systems and processes to govern your entity to achieve its purposes, it also sets out requirements for performance monitoring and reporting to promote an appropriate level of accountability to Ministers, Parliament and the public for your entities' use of public resources.

134. For each reporting period, you must prepare and publish:

- a corporate plan that sets out the purposes of your entity
- if you receive appropriations from the Parliament, Portfolio Budget Statements, which provide budgetary information that must be related to your corporate plan and reported against in your annual performance statements
- an annual report, which must be tabled in Parliament and contain annual performance statements, that reports on the financial and non-financial performance of your entity.

Legislative requirements

Corporate planning

135. The corporate plan is intended to be the principal planning document for your entity. Section 35 of the PGPA Act and section 16E of the PGPA Rule require the corporate plan to cover at least four reporting periods and address:

- the purposes of your entity
- the environment in which your entity will operate
 - the performance of your entity
 - how your entity will achieve its purposes
- how your entity's performance will be measured and assessed
- the capability of your entity, including the key strategies and plans that your entity will implement to achieve its purposes
- the risk oversight and management systems of your entity.

136. The corporate plan not only informs readers about the significant activities your entity will undertake over the period of the plan in pursuing your purposes, but also assists officials to focus on the value they are delivering. A good corporate plan will drive the activities of the organisation and provide overall strategic context. Corporate plans will be informed by an entity's strategic, operational and even individual planning.

137. Unless otherwise provided by legislation, the corporate plan must be:

- given to your Minister and the Finance Minister as soon as practicable after it is prepared and before it is published
- published on your entity's website by the last day of the second month of the reporting period. For most entities this will be by 31 August each year.

Keeping accounts and records

138. You must ensure accounts and records are kept that:

- explain your entity's performance in achieving its purposes ([section 37](#) of the PGPA Act) and enable measurement and assessment of that performance ([section 38](#) of the PGPA Act)
- record and explain your entity's transactions and financial position ([section 41](#) of the PGPA Act).

Annual reporting

139. After the end of each reporting year, you must prepare an annual report for your entity (section 46 of the PGPA Act) that includes:

- annual performance statements ([section 39](#) of the PGPA Act)
- audited annual financial statements ([section 42](#) of the PGPA Act).

140. The annual report must meet the requirements for:

- non-corporate Commonwealth entities (sections [17AA to 17AJ](#) of the PGPA Rule) or
- corporate Commonwealth entities (sections [17BA to 17BF](#) of the PGPA Rule).

141. Unless otherwise provided by legislation, you must provide your entity's annual report to your Minister by the 15th day of the fourth month after the end of the reporting period for your entity (usually 15 October), for tabling in Parliament by your Minister.

Annual performance statements

142. The annual performance statements provide an assessment of the extent to which your entity has succeeded in achieving its purposes. The statements must provide a direct acquittal of the performance criteria in your entity's corporate plan and Portfolio Budget Statements for the reporting period (section 16F of the PGPA Rule). Its objective is to present a coherent performance story, accounting for the activities of your entity and its success in pursuing its purposes.

143. For more on preparing annual performance statements, see [RMG 134 – Annual performance statements for Commonwealth entities](#).

Audited annual financial statements

144. The PGPA Financial Reporting Rule sets out minimum requirements for all reporting entities in preparing financial statements. This rule promotes consistency between entities' financial statements and enables the preparation of the Australian Government's consolidated financial statements.

145. For more on preparing annual financial statements, see [RMG 125 – Commonwealth Entities Financial Statements Guide](#).

Frequently asked questions

When must the corporate plan for my entity be published?

146. You must publish a corporate plan for each reporting period on your entity's website by the last day of the second month of the reporting period (section 16E of the PGPA Rule). For most entities this will be by 31 August each year. The corporate plan must be given to your Minister and the Finance Minister before it is published.
147. For more on preparing corporate plans, see [*RMG 132 – Corporate plans for Commonwealth entities*](#).

What do I need to do if there is a change or variation to the plan during the year?

148. You will need to consider publishing an updated corporate plan if the change or variation is significant.
149. Significant changes that may warrant an update include:
- establishing new purposes or key priorities for your entity
 - material changes to your entity's operating environment or capability
 - significant new activities or performance measures for your entity.
150. Note you must notify your Minister of any significant decisions or issues that may affect your entity (section 19 of the PGPA Act).
151. For more on corporate plans, see [*RMG 132 – Corporate plans for Commonwealth entities*](#).

When must the annual performance statements be published?

152. The annual performance statements must be included in your entity's annual report (section 39(1) of the PGPA Act).
153. You must provide your entity's annual report to your Minister by the 15th day of the fourth month after the end of the reporting period for your entity (usually 15 October), for tabling in Parliament by your Minister (section 46 of the PGPA Act).
154. For more on annual performance statements, see [*RMG 134 – Annual performance statements for Commonwealth entities*](#).

Does my audit committee need to review the annual performance statements?

155. As an accountable authority, you are responsible for providing an opinion on whether the annual performance statements accurately present your entity's performance in the reporting period and comply with the requirements of section 39(2) of the PGPA Act (section 16F(2) of the PGPA Rule). Your entity's audit committee is required to review the appropriateness of the performance reporting for your entity (section 17(2)(b) of the PGPA Rule).
156. It is expected that you will take advice from a number of sources to form your opinion on the accuracy of the annual performance statements. The audit committee is one of those sources.

157. The role of the audit committee is to advise you on whether it is confident that the information provided is generally accurate and based on sound processes and appropriate methodologies. It can also raise concerns and suggest mechanisms for improvement. However, it does not need to certify that the annual performance statements are precise or exact.

158. For more on performance reporting:

- [RMG 134 – Annual performance statements](#)
- [RMG 135 – Annual reports for non-corporate Commonwealth entities](#)
- [RMG 136 – Annual reports for corporate Commonwealth entities](#)

Resources

Relevant guidance and sections of the PGPA Act 2013 and PGPA Rule 2014

Performance framework

- [RMG 130 – Overview of the enhanced Commonwealth performance framework](#)

Corporate plans and PB Statements

- [RMG 132 – Corporate plans for Commonwealth entities](#)
- [RMG 126 – Commonwealth Government Business Enterprises \(GBE\)](#) for corporate Commonwealth entities that are GBEs
- [Guides to preparing Portfolio Budget Statements and Portfolio Additional Estimates Statements](#)
- PGPA Act – [section 35. Corporate plan for Commonwealth entities](#)
 - PGPA Rule – [section 16E. Corporate plan for Commonwealth entities](#)

Keeping accounts and records

- [RMG 131 – Developing good performance information](#)
- [RMG 209 – Guidance for Commonwealth entities on the requirements to keep non-financial records](#)
- [RMG 125 – Commonwealth entity financial statements guide](#)
- PGPA Act – [section 38. Measuring and assessing performance of Commonwealth entities](#)
- PGPA Act – [section 41. Accounts and records for Commonwealth entities](#)

Annual reports

- [RMG 135 – Annual reports for non-corporate Commonwealth entities](#)
- [RMG 136 – Annual reports for corporate Commonwealth entities](#)
- PGPA Act – [section 46. Annual report for Commonwealth entities](#)
 - non-corporate Commonwealth entities
 - PGPA Rule – sections 17AA to 17AJ
 - corporate Commonwealth entities

- PGPA Rule – sections 17BA to 17BF
- PGPA Rule – [*section 17A. Commonwealth entities ceasing to exist or functions transferred*](#)
- [*RMG 134 – Annual performance statements*](#)
- PGPA Act – [*section 39. Annual performance statements for Commonwealth entities*](#)
 - PGPA Rule – [*section 16F. Annual performance statements for Commonwealth entities*](#)
- PGPA Act – [*section 42. Annual financial statements for Commonwealth entities*](#)

7. Other legal requirements

159. In addition to your duties and responsibilities under the PGPA Act and related legislative instruments, you also have duties and legal obligations under other Commonwealth legislation. For example, you and officials in your entity may also have other specific legislative obligations in relation to employment, information management and review of decisions.
160. The general duties in the PGPA Act do not limit the application of any other duties or liabilities in other laws relating to a person's position or employment in a Commonwealth entity (section 31 of PGPA Act). The PGPA Act is as an Australian law for the purposes of the *Public Service Act 1999* and the *Parliamentary Service Act 1999* (section 32 of the PGPA Act).

Employment legislation

161. The *Public Service Act 1999* (PS Act) establish the values and behaviours for officials in most non-corporate Commonwealth entities and some corporate Commonwealth entities in the APS Values and APS Code of Conduct.
162. Officials not engaged under the PS Act may be engaged under other Commonwealth legislation—for example:
- the [*Parliamentary Service Act 1999*](#)
 - the [*Defence Act 1903*](#) and [*Defence Force Discipline Act 1982*](#)
 - the [*Australian Federal Police Act 1979*](#), or
 - the enabling legislation of the entity (for most corporate Commonwealth entities).
163. Other legislation relevant to the engagement of officials in some or all Commonwealth entities includes:
- the [*Fair Work Act 2009*](#) and [*Fair Work Regulations 2009*](#)
 - [*superannuation policy and legislation*](#)
 - the [*Maternity Leave \(Commonwealth Employees\) Act 1973*](#)
 - the [*Work Health and Safety Act 2011*](#)
 - the [*Safety, Rehabilitation and Compensation Act 1988*](#)

- the *Disability Discrimination Act 1992*, *Racial Discrimination Act 1975*, *Sex Discrimination Act 1984* and *Workplace Gender Equality Act 2012*
- the *Public Interest Disclosure Act 2013*.

Information management legislation

- The *Archives Act 1983* requires officials to preserve the archival resources of the Commonwealth.
- The *Privacy Act 1988* regulates how entities collect, use and distribute information about individuals.
- The *Freedom of Information Act 1982* gives the public the right to request access to many official documents of ministers and Commonwealth entities.

Legislation establishing rights to seek review of government decisions

164. Individuals can:

- seek merit review by the Administrative Appeals Tribunal or another body of decisions that affect them, where the legislation authorising the payment provides for another person or body to review the decision (see the *Administrative Appeals Tribunal Act 1975*)
- ask the Federal Court for a review of the lawfulness of a government decision under the *Administrative Decisions (Judicial Review) Act 1977* or section 39B of the *Judiciary Acts 1903*.

165. Officials employed under the PS Act can seek review of employment actions (include Code of Conduct decisions) by the Merit Protection Commissioner established under the PS Act.

Penalties and sanctions

166. The PGPA Act does not contain penalties and sanctions. Penalties and sanctions for not meeting your duties are addressed in your employment arrangements or, for criminal conduct, in the *Criminal Code Act 1995* or *Crimes Act 1914*.
167. The exception is the power in section 30 of the PGPA Act to remove an accountable authority or a member of an accountable authority of a corporate Commonwealth entity for failing to comply with their duties as an official. This provision is intended for use only if the entity's enabling legislation or another legislative instrument is inadequate to address the breach.