

Mr Ray Gunning

PGPA Act and Rule Independent Review – draft report response

Thank you for the opportunity to comment on the review of the PGPA Act draft report.

My comments are general in nature and mainly focus on the risk that the act will foster a culture of conformance rather than performance.

To my mind the key issues that the review may wish to consider are:

1. What is the role of legislation.

One of the objectives of the review is to examine whether the operation of the PGPA Act and rule is achieving what it set out to do. I have a fundamental problem with the notion that a piece of legislation achieves. The PGPA Act sets up a framework, frameworks don't achieve, the people operating within the framework achieve. The act and rule may assign responsibility, authorise action, empower and guide, but if the "agents" in the framework don't (or can't perform) then nothing gets achieved. The report touches on this in various parts but I wonder if the review shouldn't be focussing on whether the public service has achieved the objectives of the Act.

2. Changing behaviour

If the outcome of this review is to recommend legislative amendments to change behaviour, then the use of sanctions and rewards needs to be considered. Legislation without consequence is powerless. These changes may prove just as ineffective as the PGPA Act in changing behaviour.

3. Standardisation and Specification

There seems to be an assumption underlying the recommendations that performance can be specified and standardised. One of the things that I thought underpinned the current Act was the empowerment of Accountable Authorities to "run their own show" – engage in risk, tailor operations to their environment etc. Specification and standardisation of "performance" and "compliance" within the report seems to work against that notion and is more likely to result in a conformance culture than a performance one. This approach may be appropriate in a global company producing mediocre fast food, but you may find that public value becomes limited to "do you want fries with that?"

A compliance approach to public governance will also tend to undermine accountability. Accountability is founded on authority. Is anyone truly accountable who merely complies with rules specified by another?

I do have some brief comments on a few of the recommendations of the recs

The Performance Framework

Performance information must be relevant, reliable and complete

Instead of complete, the review should consider the term sufficient. Performance information or, for that matter financial information, can never pass the complete test – nor is it meant to. The test is whether the information is sufficient for the purpose. Will a reasonable person be able to judge performance without being misled? As the situation changes the information changes and

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information is never complete but it can still be sufficient to allow a reasonable opinion to be formed on financial management and performance.

AASB to develop standards for performance reporting

This goes back to my comment above about specifying and standardising performance reporting. In my view you may lose flexibility and responsiveness to an agency's environment due to thoughtless adherence to a standard.

Managing and engaging with risk

Rec 10 wants to "*incentivise*". As mentioned above if there are no rewards or sanction in the Act, changing behaviour may be difficult.

Audit Committees

All audit committee members be independent

Yet we need a committee that understands the department's business, risks and environment. I'm not sure that all the consequences of this would be positive. I think you need an internal member(s) with the operational and cultural knowledge who knows whose bell to ring in the department.

In general, I think most Accountable Authorities would say they have implemented **recs 17 – 20**

Rec 22 –Disclosure in annual reports

It would be worthwhile having a think about the privacy implications.

Clarifying reporting requirements and reducing the reporting burden

I don't have any substantive comments on these recs except to note that standardisation of requirements and production of templates is likely to limit activity to a "compliance mindset" and a conformance culture.

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