



22 June 2018

PGPA Act Review
Attention - Review Secretary
Department of Finance
One Canberra Avenue
FORREST ACT 2603
By email: pgpaactreview@finance.gov.au

Dear Ms Kim-Louise Benning & Mr Mark Burton

Thank you for the opportunity to make a submission on the Consultation Draft Report of the Independent Review (the Consultation Draft Report) of the PGPA Act 2013 and Rule. The attachment to this letter sets out our submission according to the key headings of the Consultation Draft Report.

We would like to point out that while our Managing Partner, Kevin Riley is a National Councillor of the Institute of Public Administration Australia Incorporated, the views expressed here are the views of our partners and senior executive team.

We are happy for this submission to be published.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Kevin Riley', is placed on a light blue rectangular background.

Kevin Riley FCA FCPA
Chartered Public Finance Accountant
Managing Partner
GPA Partners



GPA Partners Submission on the Consultation Draft Report of the Independent Review of the PGPA Act 2013 and Rule

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Driving change through leadership

Formalising reporting of leadership activities promoted or supported by Accountable Authorities

We strongly support recommendation 1. We submit that more formalised reporting of leadership activities promoted or supported by Accountable Authorities is required.

Based on our interactions with a range of senior executive teams, we believe Accountable Authorities should be required to report on the leadership activities they have promoted or supported in their entity towards achieving higher standards of governance, performance and accountability and providing more meaningful information to the Parliament and citizens. This more formalised reporting of leadership activities could be included in, or as a supplement to, the entity's Annual Performance Report.

More formalised reporting of the leadership activities Accountable Authorities have promoted or supported would enhance the Consultation Draft Report's recommended reviews by Portfolio Secretaries and the Secretaries Board.

Integrating all of the elements of the framework

As the Consultation Draft Report notes at page 10, 'the PGPA Act established a single performance framework across the Commonwealth' with a guiding principle that the 'performance of the public sector is more than financial'. We agree.

We also submit that another 'principle' that is achieved through the PGPA Act is that Commonwealth entities are being required to integrate various elements of the overall performance framework. Just as the PGPA Act integrates financial and non-financial performance, the PGPA Act drives towards integrating planning, budgeting, governance, risk, internal control, performance and accountability.

Our observation of Commonwealth entities implementing the PGPA Act is that that they do not view it as an integrated, whole-of entity governance, performance and accountability framework.

Rather, specialist sections and teams within entities are charged with the responsibility of implementing the requirements - but from their specialist 'compartmentalised' viewpoint, typically risk, internal control, governance, financial reporting, operational reporting, strategy or planning. While we appreciate the need for technical specialisation, unless Accountable Authorities drive change through inter-disciplinary teams or communicate the requirements of the PGPA Act as a whole-of-entity governance, performance and accountability framework, the anticipated outcomes of the reform will not be achieved.

Achieving whole-of-entity governance, performance and accountability requires leadership. We see a role for senior leaders to drive change within their entities by expecting to see greater integration of the elements of the framework, so that it operates as a cohesive whole. We submit that requiring Accountable Authorities and senior executive teams to develop integrated models of governance, performance and accountability will assist in overcoming specialist 'compartmentalisation'.

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Driving change through leadership

Enhancing the role of Ministers in the framework

The Consultation Draft Report recognises that the business of government is complex. We agree. We even suggest that addressing today's public policy dilemmas under the glare of the '24/7' media cycle is extraordinarily complex, messy, uncertain and dominated by short-term focused political and media 'point-scoring'.

Driving change through leadership requires more than the efforts of public officials. Ministers, and their advisers, must also take on greater leadership responsibilities for achieving the objectives of the PGPA Act. This is especially important in establishing a positive performance culture, that appropriately engages with risk. 'Doorstop' interviews have significant influence in reinforcing behaviours within entities. These reinforced behaviours often contradict the stated objectives of the PGPA Act and the Commonwealth Risk Management Policy.

We submit that Ministers should have a greater role in determining key parameters that influence the application of the framework. From our interactions with Commonwealth entities, we believe greater use can be made within the framework of the distinction between 'departmental' and 'administered' items as a way of delineating where Ministers, and Parliamentarians in the legislative process, set expectations about performance and risk and where Accountable Authorities and officials have responsibility for setting and achieving performance standards and implementing appropriate systems of risk oversight and management. Currently, the Accountable Authority alone has this duty.

We submit that accountability for performance and efficiency of public administration would be enhanced if Ministers determined the performance expectations and risk tolerances for administered programs. This would eliminate officials 'second-guessing' these expectations or administering these programs in ways not anticipated by Ministers. We believe this would enhance the role of Accountable Authorities and officials in the provision of the 'frank and fearless advice' necessary to determine these key performance and risk parameters.

While we appreciate that the interactions of Ministers, their offices, Accountable Authorities and officials do typically identify these performance and risk concerns, the duty for achieving performance and managing risk with 'administered items' under the current framework rests solely with Accountable Authorities. For 'administered' items, this results in a mis-aligned model. Those with responsibility for governance, performance and risk management do not have the authority to determine governance, performance and risk management arrangements. This should be re-aligned, with Ministers having an enhanced role in determining performance expectations and risk tolerances for 'administered' items.

For 'departmental' items, Accountable Authorities should be fully accountable for determining the governance, performance and risk management arrangements.

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Performance and risk framework

Integrating performance and risk management

We observe many senior officials expressing significant reluctance to being responsible or accountable for achieving outcomes or objectives because, as they say to us, 'we do not control the environment'. As a result, many performance measures are selected by considering what can be controlled or counted, rather than what would indicate that the activity of government is having an impact on the circumstances of a citizen, family unit or regional community, cities, environment or business. And they are quite right. There are uncertainties in the delivery of public policy and programs. We call these uncertainties risks, and they can be both threats and opportunities.

We submit that one of the ways that both performance reporting and risk management can be improved across the Commonwealth is if these realities are viewed jointly and not independently. We believe this will support more honest conversations about performance, in particular by identifying the enterprise and strategic risks that may impede or enhance the achievement of performance.

While the PGPA Rule and guidance on Corporate Plans sets out minimum requirements and is not prescriptive about the format, we believe more explicit statements about specific risks, particularly strategic and enterprise risks is required. The statements about specific strategic and enterprise risks should be more than a list of risks. The statement should identify how these strategic and enterprise risks will shape the activities to be undertaken to fulfil the entity's purposes, and the potential impacts of these risks on performance.

We also believe that the current requirement to include a summary of the entity's risk oversight and management systems would be more effective if the requirement was to set out the entity's risk appetite and risk tolerances and the specific strategic and enterprise risks the entity was prepared to take in order to achieve its purposes.

Enhancing performance measurement and reporting skills and capabilities

We agree with recommendations to develop the performance measurement and reporting skills and capabilities of Audit Committees and their Chairs. The requirement for enhanced skills and capabilities extends beyond Audit Committees and should also include senior executives and officials across Commonwealth entities.

We submit that the approach taken by the Department of Finance (through Comcover and in conjunction with the Australian Public Service Commission) to design, develop and implement a risk management learning and capability development program is an excellent model for the Department of Finance to replicate in performance measurement and reporting.

For full disclosure purposes it should be noted that our Managing Partner, Kevin Riley has previously undertaken work on behalf of the Department of Finance in designing and facilitating elements of the risk management learning and capability development program.

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Performance and risk framework

Engaging with risk

We submit that recommendation 10 is already a requirement of the Commonwealth Risk Management Policy – Element Four – Embedding systematic risk management into business, including, but not limited to, strategic planning, establishing governance arrangements, policy development, program delivery, and decision making. The recommendation reinforcing an existing Commonwealth policy requirement is welcome.

With all due respect to the Independent Reviewers, we also believe that the recommendation to ‘incentivise officials’ is clichéd. We submit this recommendation requires further explanation, contextualised to the acknowledged complex environment, including the role of Ministers and their offices in setting expectations about risk.

Based on our interactions with a range of senior executive teams across a range of Commonwealth entities we believe engaging with risk requires a significant effort in re-shaping the culture and practices of Commonwealth entities. This cultural change requires leadership and a better alignment of responsibility and accountability for both performance and risk. Refer to page 2 of our submission – enhancing the role of Ministers in the framework.

The more regular performance discussions between managers and staff, called for by the Australian Public Service Commissioner, yet almost uniformly ignored, should feature discussions about performance and risk. Demonstrated achievement of performance and competent risk management should be embedded in role descriptions and work level standards. Recruitment, promotion and regular performance discussions, particularly at the Executive Level 2 and Senior Executive Service levels, should require more than the current ‘lip-service’ to performance and risk management.

In some cases, embedding risk management into the day-to-day and strategic processes of entities might even take the shape of ‘risk delegations’ aligned to an entity’s risk appetite and risk tolerances, in much the same way as entities currently use financial delegations to assign decision-making authority.

Engaging with stakeholders

We submit that recommendation 11 is already a requirement of the Commonwealth Risk Management Policy – Element Six – Communicating and consulting about risk. The recommendation reinforcing an existing Commonwealth policy requirement is welcome.

That of course does not mean that the level of communication and consultation is satisfactory. More needs to be done. We submit that the lack of communication and consultation about risk has more to do with limited leadership rather than lack of policy or guidance.

We agree that the Parliament should acknowledge the complex environment in which Commonwealth entities operate. Refer to page 2 of our submission – enhancing the role of Ministers in the framework.

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Audit and risk committees

Audit and risk committee responsibilities

Risk and control are inter-related. Accountable Authorities have a duty to establish and maintain appropriate systems of risk management and oversight and appropriate systems of internal control. We believe that instead of separating risk committees from audit committees, that these two assurance functions should be more clearly linked.

We submit that recommendation 13 would diminish the effectiveness of risk management arrangements by segregating risk management from internal control, rather than more clearly linking these arrangements. The recommendation may even result in conflicting advice being provided to an Accountable Authority.

We support recommendation 14 and would extended it to require all Commonwealth entities to have an 'Audit and Risk Committee'. We note many already do.

Audit and risk committee independence

The independence of audit and risk committees has been enhanced under the PGPA Act requirements.

Our experience briefing members of Commonwealth entity audit and risk committees is that they fulfill a very different role in the public sector than an audit and risk committee in the private sector. A private sector audit and risk committee, as a sub-committee of the board of directors, has a function to direct and oversee management through their interactions with the Chief Executive Officer, and therefore audit and risk committee members need to be independent of management. Public sector audit and risk committees provide an advisory and assurance role to the Accountable Authority. As such they are working with management, rather than directing management.

We submit that in order to work with the Accountable Authority in an advisory and assurance role, there needs to be appropriate independence, but that the inclusion of representatives drawn from management, or from other public sector entities enhances the capacity to advise and provide assurance.

Therefore, we do not support recommendation 15, requiring all audit and risk committee members to be independent, as defined in the recommendation.

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Cross-government cooperation

Promoting opportunities for cross-government cooperation

We agree that there is limited evidence that cooperation has been enhanced as a result of the PGPA Act. We find this disappointing, particularly as one very direct opportunity for greater cooperation is in the use of shared service opportunities for undertaking routine administrative functions.

We encourage the Independent Review to consider an additional recommendation:

That the Department of Finance undertakes a review to identify the evidence of cross-government cooperation and make recommendations to Accountable Authorities on opportunities where greater cooperation might exist and promote those opportunities across the Commonwealth.

We believe there are significant opportunities for streamlining administration through greater cooperation, in particular where Accountable Authorities might utilise section 20A(2) of the PGPA Act.

Promoting whole-of-government outcomes and performance information

We strongly support recommendations 32 and 33.

Since the introduction of the outcome and output-based accrual budgeting model in the 1999-2000 budget year there have been two recurring performance challenges for Commonwealth entities:

- At what level do we describe our outcomes and objectives?
- How do we articulate that we share a contribution to outcomes and objectives across a range of Commonwealth entities?

From our experience, those jurisdictions that commit to whole-of-government purposes, outcomes and objectives find that individual government entities are much better paced to describe and measure their contribution to those whole-of-government purposes, outcomes and objectives. This experience includes working with State government based entities through the *'Tasmania Together'* and *'NSW 2021'* initiatives.

We have also seen evidence of greater cross-government cooperation and collaboration when shared purposes, outcomes and objectives are identified. Further, the identification of shared purposes, outcomes and objectives contributes to enhanced identification and management of whole-of-government and shared risks. This is a requirement of the Commonwealth Risk Management Policy - Element Seven – Understanding and managing shared risk.

Setting whole-of-government purposes, outcomes and objectives will require significant engagement with Ministers. Refer to page 2 of our submission – enhancing the role of Ministers in the framework.

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Technical and other matters

Approving contingent liabilities

Section 60 of the PGPA Act enables the Finance Minister to, on behalf of the Commonwealth, grant an indemnity, guarantee or warranty. These include, and are often referred to as contingent liabilities.

Under the PGPA Act, the Finance Minister is able to sub-delegate this approval power. However the nature of the delegation, based on probability and materiality, is such that there are many day-to-day transactions which require officials to consider whether a 'section 60 delegate' is required to approve the contingent liability element of the transactions. This includes many common, supplier initiated contracts including make good clauses or late cancellation fees.

We submit that either section 60 of the PGPA Act or the Finance Minister's delegation is amended to exclude non-material contingent liabilities, irrespective of the probability or likelihood of the contingent event, as long as if the contingent liability were to crystallise, it could be accommodated within the delegate's uncommitted budget. We believe this would streamline administrative processes around common, every-day transactions, without diminishing the controls over the proper use and management of public resources.

Defining accountability

We note that the preceding Financial Management and Accountability Act 1997 and the PGPA Act both include 'accountability' within their title, yet neither defines 'accountability'.

We submit that achieving accountability is easier if it is either defined, or its characteristics are well understood. Right now this is lacking in the framework.

We suggest that the Independent Reviewers recommend adopting a well understood and regarded international definition of accountability. We believe such a definition of accountability already exists and is set out by the International Federation of Accountants (IFAC) Public Sector Committee in [*Governance in the Public Sector: A Governing Body Perspective*](#).

IFAC define accountability as:

'The process whereby public sector entities, and the individuals within them, are responsible for their decisions and actions, including their stewardship of public funds and all aspects of performance, and submit themselves to appropriate external scrutiny.'

We submit that a clear understanding of what is meant by accountability, that accountability extends beyond a purely financial perspective and goes to all aspects of performance, and that accountability requires answering for a responsibility conferred is crucial to supporting efforts to enhance accountability.