

10 November 2017

Elizabeth Alexander AM and David Thodey AO
PGPA Act Review
Attention: Review Secretary
Department of Finance
One Canberra Avenue
FORREST ACT 2603

CPA Australia Ltd

Level 20, 28 Freshwater Place
Southbank VIC 3006
Australia

GPO Box 2820
Melbourne VIC 3001
Australia

Phone 1300 737 373

Outside Aust +613 9606 9677

Website cpaaustralia.com.au

Via email: PGPAActReview@finance.gov.au

Dear Elizabeth and David

Independent Review of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act)

CPA Australia represents the diverse interests of more than 160,000 members in 118 countries. We make this submission on behalf of our members and in the broader public interest.

The PGPA Act and Rules underpin an extensive performance management framework that is a 'work in progress' that continues to be developed to meet the intended objectives of the legislation. The development to date of this framework has been informed by numerous consultations and reviews, including those undertaken by the Australian National Audit Office (ANAO) and the Joint Committee for Public Account and Audit (JCPAA).

The review of the PGPA Act and Rules, which already represents a high standard public sector performance management and governance framework, is timely and CPA Australia makes the following comments:

- The Australian Charities and Not-for-profits Commission (ACNC) and the Tax Practitioners Board (TPB) are intended to be independent entities that regulate charities and tax practitioners respectively. The agencies do not directly receive their funding from government, instead their staff resourcing and finances are overseen by the Australian Taxation Office (ATO). As a result of the implementation of the PGPA Act, the ATO Commissioner has become the accountable authority for the operations of the ACNC and the TPB. Whilst this may have been an unintended consequence of the PGPA Act, it creates a tension between the necessity for both agencies to act as independent entities whilst relying on another government agency for their funding. We suggest the independent review consider how such tensions between funding arrangements and the objectives and operations of independent entities can be best managed.
- In our submission in response to the inquiry into the Public Governance, Performance and Accountability Bill (2013), we supported the proposal to introduce a tiered or differential reporting regime that is appropriately calibrated. Accordingly, CPA Australia is pleased to note that the Public Governance, Performance and Accountability (Financial Reporting) Rule 2015 (FRR) has been amended to allow tiered reporting by Commonwealth Entities.

- The Australian Accounting Standards Board (AASB) is leading a project, with other stakeholders, to explore and address issues identified with the Australian financial reporting framework. We understand this project - which is currently focused on charity financial reporting - will next focus on public sector financial reporting. CPA Australia makes the following suggestions for consideration when the public sector financial reporting framework is being considered for improvement:

- Although we consider general purpose financial reporting as the appropriate mechanism for public sector entities, applying the full recognition and measurement requirements of all Australian Accounting Standards may still result in unnecessary compliance burdens for smaller Commonwealth entities. Options similar to those being considered for charity financial reporting may also be relevant to public sector financial reporting, including a potential third tier of financial reporting with reduced recognition and measurement requirements.
- Although Part 2-3 (Planning, Performance and Accountability) of the PGPA Act provides what is arguably world's best practice in the financial reporting and auditing of Commonwealth entities, CPA Australia encourages consideration of recent innovations in reporting, including integrated reporting (<IR>).

Despite the International Integrated Reporting Council (IIRC) having developed its <IR> Framework in the context of private sector organisations, its principle-based nature focusing on value creation and integrated thinking makes it readily adaptable to the public sector.

The contemporary reality for many public sector entities is that they serve and are accountable to a wide stakeholder base and are expected to deliver services in an integrated and sustainable manner. At the same time, they are required to demonstrate adoption of long-term, even intergenerational, perspectives blending both financial and non-financial considerations. The conceptual basis of the <IR> Framework serves the addressing and communication of these realities through encouraging organisations to think about the resources they use and the value they create (and indeed deplete) across an expanded notion of six interconnected 'capitals'; financial, manufactured, social & relationship, natural, intellectual and human.

CPA Australia would be pleased to facilitate further exploration of the utility of <IR> in the Australian public sector setting.

- CPA Australia believes that it may be worthwhile as part of the Review to consider possible moderate amendment to Subdivision A (General duties of officials) of Division 3 (Officials) (Part 2-2 Accountable authorities and Officials) of the PGPA Act and the accompanying guidance (Resource Management Guide No. 203). We have identified the following as possible aspects for consideration:
 - Guide No. 203 at para. 16 states that "Accountable authorities are required to adhere to the general duties of officials set out in sections 25 to 29 of the PGPA Act". As these duties are loosely modelled on the general statutory duties of officers and employees under the Corporations Act 2001 (Part 2D.1, Division 1 ss. 180 -183), it may be worth including also statutory or guidance reference to the related matters of reliance on information or advice provided by others (Corporations Act s 189) and responsibility for actions of delegate (Corporations Act s 190).
 - Section 26 of the PGPA Act and section 3 of Guide No. 203 deals with the duty to act honestly, in good faith and for a proper purpose. Consideration could be given to

statutory or guidance elaboration on who's interest is being served, and similarly, to whom the good faith notion of loyalty is owed.

- Section 28 of the PGPA Act and section 5 of Guide No. 203 deal with the duty in relation to information. These provisions may warrant rewording or clarification to reflect the dichotomy in the Corporations Act where the use of position provision (s 182) is expressed to cover current position, whereas the use of information provision (s 183) is expressed to ensure the obligation subsists or survives after leaving office; “ - - - **or have been**, a director or other officer or employee” (emphasis added).

If you require further information on our views expressed in this submission, please contact Ram Subramanian, Policy Adviser – Reporting, on [REDACTED]

Yours sincerely

Stuart Dignam

General Manager, Policy & Corporate Affairs