

Department of Industry, Innovation and Science – Submission for the Independent Review of the PGPA Act and Rule (November 2017)

Annual report

- With the exception of the report on performance, delivered through the annual performance statements, the annual report requirements prescribed by Subdivision A of Division 3A of the PGPA Rule have remained substantially unchanged for several years.
- A review of the annual report requirements would be welcomed, to consider whether the requirements are in keeping with the principles-based nature of the PGPA legislation, whether there is a continued need to report on each requirement and, where there is a continued need, whether the annual report is the most efficient and effective mechanism to deliver on the requirement.
 - A review of the annual report requirements should give particular attention to the management and accountability requirements set-out in section 17AG of the PGPA Rule, including a number of prescriptive statements that appear to no longer add any significant value to annual reports.
- Any decision to bring forward and potentially legislate an earlier annual report delivery and/or tabling date should be made in conjunction with changes to streamline the annual reporting requirements, including reporting, publication and tabling requirements.
 - Recognising that the standards for the presentation of documents to the Parliament are outside the scope of the PGPA Act and Rule, streamlining the publication and tabling requirements for annual reports, such as by enabling publishing and tabling in a purely electronic format, would be a boon for entities.

Performance

- Given the diversity of Commonwealth entities, the enhanced Commonwealth performance framework, including the Resource Management Guides should be adjusted to facilitate more flexible approaches to performance monitoring and reporting, allowing entities to develop and implement performance measurement and reporting arrangements that are more tailored to their unique institutional function, organisational settings and operational needs.
- There is some confusion in the application of RMG 131 and this is heightening risk of unnecessarily adverse audits and the diversion of resources from core delivery activity. The issue is twofold:
 - The PGPA allows for entities to take a fit for purpose approach to performance reporting and does not impose a requirement to achieve best practice. The review should take the opportunity to reinforce this message with all key stakeholders including the ANAO.
 - Related to the first point, RMG 131 applies to the full gamut of performance reporting covering internal and external reports. This is outlined in figure 3, page 13. Detail and purpose of reports at different levels will vary. Departments should not, in scrutiny of their external reporting, be held to standards that would more appropriately apply to internal reports only.

Risk Management

- The department supports a first principles review of the practical application of the Commonwealth Risk Management Policy and section 16 of the PGPA Act and would welcome the opportunity to participate in the review.
- The review should consider the suitability of the current guidance for describing risk oversight and management in corporate plans. The current guidance and recommendations from the ANAO's audit, *The Management of Risk by Public Sector Entities 2017*, go beyond the PGPA requirements. Entities should not be placed in position where there is significant ambiguity about what standards they will be held to. An example of this is the recommendation to include an entity's specific risks in corporate plans. This goes beyond summarising risk oversight and management systems and measures that will be implemented to ensure compliance with finance law.
- The department notes that Resource Management Guide 211, *Implementing the Commonwealth Risk Management Policy – Guidance*, makes extensive use of the word 'appropriate'. We recognise that this supports the adoption of fit for purpose approaches to managing an entity's operations. Reviews of an entity's operations should recognise the role of senior executive judgement when determining what systems and controls are appropriate.

Internal Controls (General)

- The department would welcome guidance and practical solutions on instances where Non Corporate Commonwealth Entities (NCEs) and Corporate Commonwealth Entities (CCEs) work together to deliver a joint objective.
- For example, CCEs operate under a more independent framework (both legally and financially) than NCEs. Where a CCE jointly works on an activity with a NCE, there is an additional administrative burden on the CCE in managing funding from the CRF. Under this arrangement, the CCE is required to operate under the same restrictions as a NCE which can result in inefficient processes for the CCE.

Resource Management Guidance and related policies

- Initially, guidance materials were not released in time to support entities transitioning from the FMA/CAC Act to the PGPA Act. In addition to this, the guidance materials provided were very high level and written in a language that was ambiguous.
- Entities were provided opportunities to raise these issues and as a positive comment, the Department of Finance (DoF) has reviewed many of its guidance materials to a format that is much clearer and easier to interpret and apply. The use of case studies, example scenarios and frequently asked questions have been very useful in assisting entities to better interpret and practically apply the intent of the PGPA framework. The DoF should continue to review guidance materials with a further emphasis on articulating what is a "must" versus a "should."