

## Key issues: post 1 July 2014

### Introduction

- 4.1 Chapter 4 focuses on post 1 July 2014 issues concerning the rules development for the *Public Governance, Performance and Accountability Act 2013* (PGPA Act). The chapter discusses the staged implementation process for the PGPA rules in the context of the broader Public Management Reform Agenda (PMRA). It then briefly considers a range of issues concerning further development of the PMRA and PGPA framework post 1 July 2014 raised in evidence to the Joint Committee of Public Accounts and Audit (JCPAA), including the need for continuing consultation regarding future draft rules. The chapter concludes with the Committee's comments and recommendations.

### Staged implementation process

- 4.2 As discussed in Chapter 1, the PMRA, with the PGPA Act as its cornerstone, is a broad integrated package of reforms to the Commonwealth's resource management framework.
- 4.3 The Department of Finance (Finance) noted that it will take 'several years to implement the PMRA reforms and integrate them fully into the practices and processes of Commonwealth entities and companies', and explained that the reform process will have three broad stages:
- Stage one (current) is about establishing the base from which other reforms can be advanced. It concentrates on the Commonwealth's business process and systems and how they can be streamlined and better focused. It builds on many of the strengths of the

current financial framework, but strips away some process and red tape requirements.

Stage two (through to 1 July 2015) is also about internal process but is more outward looking. It will focus on improving the quality of planning, performance information and evaluation within government to improve accountability to Ministers, the Parliament and the public.

Stage three (thereafter) is outward looking. It will focus on improving how the Commonwealth joins up with external parties from all sectors of the economy to deliver its public policy outcomes – through commercial partnerships, grants, joint projects. To fully embed improvements in this area, it is necessary to have in place operating practices which support government working as a whole with better transparency and accountability, and a risk based approach to governance, incorporating earned autonomy concepts.<sup>1</sup>

- 4.4 Consistent with the staged implementation of the PMRA reforms, there is a staged implementation process for the PGPA rules, with the first set of PGPA rules to be implemented by 1 July 2014.
- 4.5 A second set of PGPA rules will be implemented in stage two of this process. As Finance confirmed, '[s]ome rules are not required for 1 July 2014 and will be introduced during the course of 2014-15'.<sup>2</sup>
- 4.6 The draft PGPA rules for post 1 July 2014 implementation that will be prepared in consultation with stakeholders and the JCPAA are set out in Table 4.1.<sup>3</sup>

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1 Department of Finance (Finance), *Submission 1*, p. 12.

2 Finance, *Submission 1*, pp. 7-8.

3 In terms of the *Public Governance, Performance and Accountability* (PGPA) rule on Financial reporting (Annual financial statements) (s42), Finance confirmed that it is 'not proposed to provide this rule to the JCPAA', *Submission 1.3*, p. 36.

Table 4.1 Draft PGPA rules for post 1 July 2014 implementation being prepared in consultation with stakeholders and JCPAA

<b>Title of PGPA rule</b>	<b>Section PGPA Act</b>	<b>Finance description of current status of draft rule</b>
<b>Corporate plans</b>	s35	As a transitional arrangement, the first corporate plan to be published by entities will be for the 2015-16 financial year commencing 1 July 2015. Draft rules will be developed over the balance of 2014 in consultation with the JCPAA.
<b>Annual performance statements for Commonwealth entities</b>	s39	As annual performance statements report against the corporate plan, the first annual performance statement will be published in entity annual reports for the 2015-16 financial year. Draft rules will be developed over the balance of 2014 in consultation with the JCPAA.
<b>Annual reports and reporting requirements</b>	s46(3) & s97	Annual reports for the 2013-14 financial year will apply the current requirements. The current annual report requirements approved by the JCPAA will be retained and updated to reflect the PGPA Act. Draft rules will be developed in consultation with the JCPAA over the balance of 2014 as part of the development of the performance framework.
<b>Risk</b>	s102	A rule will not be made at this time—consideration will be given to the need for a rule once a whole of government risk management policy is in place.
<b>Arrangements for the establishment of entities with other jurisdictions</b>	s102	Arrangements for the establishment of entities with other jurisdictions is part of the longer term work program continuing past 1 July 2014. A joint ventures and establishing entities subcommittee has been established to commence work in this area. Given the breadth of this mechanism, considerable consultation will be required to finalise a coherent model which meets the requirements of all stakeholders.
<b>Establishing new corporate Commonwealth entities</b>	s87	Following consultation, further work will be undertaken to develop a streamlined and simple model for creating new Corporate Commonwealth entities in accordance with the PMRA rule design principles.

Source *Finance, Submission 1, p. 25; and Finance, Submission 1.3, pp. 35-36*

## Consultation and timing for post 1 July 2014 elements

- 4.7 The Committee has an interest in the post 1 July 2014 development of the PMRA framework and PGPA rules for a number of reasons.
- 4.8 First, given the staged implementation of the rules, a number of inquiry participants emphasised the need for continuing consultation on the future draft rules to be implemented post 1 July 2014:

... changes to the governance and accountability framework for the Commonwealth and its agencies will occur in stages under the proposed reforms, which will take a number of years to implement. The challenge for Finance will be to ensure that there is consistent and sustained engagement with stakeholders over a

relatively long period so that it continues to ensure that the rules developed under the PGPA Act do not adversely affect the operation of Commonwealth entities in an unintended manner.<sup>4</sup>

The reforms are based on the duty of the Accountable Authority to govern the entity. It will therefore be important that the development of the Rules and related material continues to be consultative. The risk of imposing Rules without consultation, or introducing inappropriate central oversight, is that it might inadvertently disempower the Accountable Authority and reduce desired accountability.<sup>5</sup>

The Department of Finance has indicated in its submissions to this inquiry that these rules [corporate plans and annual performance statements] will be introduced during the course of 2014-15, rather than on 1 July 2014, and will be prepared in consultation with stakeholders. The CPSU would welcome the opportunity to participate in this process to help ensure that employees are involved in discussions about the setting of performance measures and that the focus on performance is at the organisational level.<sup>6</sup>

4.9 Second, some inquiry participants emphasised the significance of the post 1 July set of PGPA rules in implementing critical aspects of the PGPA framework. As the Australian National Audit Office (ANAO) commented:

While recognising that the broad ranging reform agenda will take some years to implement fully, the ANAO notes that by focussing on a limited number of rules that will take effect from 1 July 2014, a number of key issues have been deferred until after 1 July 2014. This will necessarily mean that a number of the stated benefits of the reforms will not be realised for some time, assuming the effectiveness of the rules and any associated policy and guidance in achieving those benefits.

The ANAO recognises that it is relatively early days in terms of the development and implementation of the new framework and major components are still to be developed.<sup>7</sup>

4.10 The ANAO further observed that, on the basis of its work, 'key priority areas' include:

- an enhanced performance measurement and reporting regime;

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4 Indigenous Business Australia (IBA), *Submission 12*, pp. 2-3.

5 Commonwealth Scientific and Industrial Research Organisation (CSIRO), *Submission 13*, p. 4.

6 Community and Public Sector Union (CPSU), *Submission 10*, p. 2.

7 Australian National Audit Office (ANAO), *Submission 3*, p. 11.

- arrangements that better facilitate joined-up government and accommodate the concepts of collective responsibility and multiple accountabilities; and
- a differential financial reporting regime to streamline the financial reporting requirements for Commonwealth entities, which is compliant with the Australian Accounting Standards while still meeting the needs of the government and parliament.

These matters are not being addressed in the first tranche of Rules developed by the Department of Finance (Finance) but are scheduled for consideration in the development of the suite of Rules required after 1 July 2014.<sup>8</sup>

- 4.11 Finance acknowledged that the scope of implementation for 1 July 2014 had been somewhat reduced: '[t]hose things we were talking about ... around performance information evaluation and so forth we are putting off for another year'.<sup>9</sup>
- 4.12 Third, PGPA rule development relating to the performance framework is of particular interest to the JCPAA, given the long history of the poor findings of past ANAO audits and Committee inquiries on performance reporting by Commonwealth agencies. Of significance here also is the Committee's role in approving the Annual Report Guidelines for Commonwealth agencies.
- 4.13 Fourth, some inquiry participants emphasised the need to understand the complete set of PGPA rules, and for a considered approach to implementation. In particular, the ANAO noted that there were a 'range of consequences from adopting the staged approach to implementation which will need to be managed by both Finance and other public sector entities' – including:
- various elements of the reforms are being considered without the benefits of a full understanding of the composition of the revised financial framework;
  - priority areas for attention, particularly performance measurement and reporting, are not being considered in Stage 1;
  - there is uncertainty whether subsequent amendments will be required to current proposals in framing future elements of the framework; and
  - a long term investment in project and change management in progressively implementing the reforms, and undertaking

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8 ANAO, *Submission 3*, p. 3.

9 Mr David Tune, Secretary, Finance, *Committee Hansard*, Canberra, 27 March 2014, p. 13.

training of staff by all public sector entities, is required if the stated benefits are to be realised.<sup>10</sup>

- 4.14 Fifth, the Committee received evidence over the course of the inquiry on PGPA rules required for 1 July 2014 commencement, as well as those required for post 1 July. It also received evidence on stages two and three of the PMRA reforms. This was in part due to some draft rules being released for public consultation for 1 July commencement and then being deferred to post 1 July, and also due to stakeholders' views about the significance of the post 1 July set of rules and later stage PMRA reforms.
- 4.15 On this point, there was some confusion evident over the course of the inquiry about the timing of the various sets of draft PGPA rules. The JCPAA and some stakeholders lacked clarity about the precise timing of what would be dealt with when.
- 4.16 As became clear during the inquiry, initial plans for the implementation dates for some of the draft rules have changed over time. For example, a number of draft rules were included in Finance's public consultation process over December 2013-February 2014 as they were originally planned for 1 July 2014 commencement. However, these draft rules were later deferred to post 1 July implementation and subsequently not included in the draft PGPA Rule 2014 provided to the Committee. As Finance confirmed:
- In relation to the rules for corporate planning and annual performance statements, we released two draft rules through steering committees and then through the public consultation process. Those rules received a lot of comments. It is fair to say that most of the comments were focused on those two rules combined. As a result, we have decided that we will take a longer time to establish a broader framework for the performance framework for the Commonwealth, including keeping those draft rules as drafts and reviewing those throughout the balance of 2014.<sup>11</sup>
- 4.17 As the specific implementation dates for the set of draft rules required post 1 July 2014 lacked some clarity, the Committee sought further information on the timing, to ensure there would be sufficient time for public consultation and a Committee inquiry before implementation.<sup>12</sup>
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10 ANAO, *Submission 3*, pp. 4-5.

11 Ms Thea Daniel, Assistant Secretary, Governance and Public Management Reform Taskforce, Finance, *Committee Hansard*, Canberra, 27 March 2014, p. 3.

12 Finance, *Submission 1.3*, p. 36.

4.18 In terms of future consultation on the draft PGPA rules for post 1 July 2014, Finance has confirmed that it will run a similar process to that conducted previously:

The process we have run to date has been a process whereby we have made draft rules publicly available and they are open to anyone to comment on. We have been fortunate that a lot of people have chosen to comment on these things. We intend to run the same process into the future, which is to make things publicly available and to welcome comments and submissions from anyone who sees fit to do so.<sup>13</sup>

## Key issues

4.19 The Committee was interested in three major themes concerning the PGPA Act rules development and broader PMRA framework raised in evidence to the inquiry:

- Performance framework – largely stage 2
- Risk framework and earned autonomy – stages 2 and 3
- Cooperation objective, including ‘joined-up’ government and external partnering – largely stage 3

4.20 These issues are briefly discussed below.

### Performance framework

4.21 An enhanced performance measurement and reporting regime is a significant part of stage two of the PGPA framework and broader PMRA, post 1 July 2014. As Finance noted:

A key element of the second stage, immediately following the introduction of the PGPA Act from 1 July 2014, will focus on improving the quality of planning, performance information and evaluation within government to improve accountability to Ministers, the Parliament and the public through the development of a performance framework. The performance framework would be in place for early 2015 ... the proposed framework includes rules to be made under the PGPA Act, and affects key documents like Portfolio Budget Statements and Annual Reports.<sup>14</sup>

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13 Dr Stein Helgeby, Deputy Secretary, Finance, *Committee Hansard*, Canberra, 7 April 2014, p. 5.

14 Finance, *Submission 1.1*, pp. 5-6.

- 4.22 A number of inquiry participants commented on the significance of the performance framework reform under the new PGPA Act and rules:

The Rule on corporate planning and performance measurement and reporting will be important to improving the quality and transparency of decision making at a whole of Government and entity level and should provide increased confidence to the Parliament on the proper use of public resources.<sup>15</sup>

The CPSU's main concerns about the draft rules for the PGPA Act relate to corporate plans and annual performance statements.<sup>16</sup>

- 4.23 Regarding the timeframes proposed for the introduction of the new performance reporting framework – with corporate plans to commence from 2015-16 and performance statements to be required after 1 July 2016 – the ANAO noted that it would 'most likely be a number of years before there is a demonstrable improvement in the Commonwealth's performance framework as a result of the introduction of the PGPA Act'.<sup>17</sup> The ANAO therefore emphasised that:

While no structural changes to the existing performance regime can be anticipated given the timeframes involved in developing and implementing a revised framework, we consider it is important that Finance and agencies are responsive to improving the measurement and reporting on program performance, including addressing relevant recommendations made by the JCPAA and the ANAO. This could include, for example, emphasising the factors that are important to enhanced measurement and reporting including: leadership by senior management; the use of proxy measures to assess the impact of progress where direct measures are not readily available; the importance of reliable data capture methods and systems; and giving higher priority to improving performance indicators, particularly indicators that are designed to measure the impact or effectiveness of programs.<sup>18</sup>

- 4.24 As the Auditor-General further commented:

It has clearly been a priority that we have been encouraging a focus on: performance measurement and performance reporting ... I think we are all agreed that it is a priority and it is just a

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15 CSIRO, *Submission 13*, p. 3.

16 CPSU, *Submission 10*, p. 1.

17 ANAO, *Submission 3*, pp. 9-10.

18 ANAO, *Submission 3*, p. 10. See also Capital Training Pty Ltd on this point – *Submission 8*, pp. 3-4.



consequence of the phased implementation of a program that is taking so long. We have been talking for some years now about the importance of getting this better measurement around the effectiveness of government programs. It is up to Finance to organise its own priorities, but you can understand that we see this as probably No. 1, and your point is that it is being delayed some years before we see the results of that. At one level I understand that; at another level it was unfortunate that the priorities could not have been shifted to give a stronger focus on performance measurement in the public sector than we are seeing today.<sup>19</sup>

4.25 The ANAO observed that, as set out in ANAO Report No. 21, *2013-14 Pilot Project to Audit Key Performance Indicators*, while the importance of key performance indicators (KPIs) in informing the assessment of program performance is recognised, 'making a difference requires leadership, effective governance, and a desire to understand the impact of government programs and how even better outcomes may be achieved'.<sup>20</sup>

4.26 Accordingly, the ANAO noted that, to improve the standard of performance measurement and reporting in the short term, 'there is considerable scope for Finance to enhance the level of communication with entities on performance measurement as part of its strategy to implement a revised performance regime'.<sup>21</sup>

4.27 The Committee Chair also commented on the poor quality of KPIs:  
You have mentioned the portfolio budget statements, and I am very familiar with them. The quality of the KPIs is very poor. They are KPIs that are very easy to meet. Most of them are not even useful KPIs. They are really not adequate at all.<sup>22</sup>

4.28 The Secretary of Finance, Mr Tune, responded:

I agree with you, yes.<sup>23</sup>

4.29 Finance further acknowledged that:

... information about the non-financial performance of Commonwealth entities has been of a variable quality for an extended period. The JCPAA and the Australian National Audit Office ... have identified shortcomings of elements of the existing performance reporting framework such as the operation of the

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19 Mr Ian McPhee, Auditor-General, ANAO, *Committee Hansard*, Canberra, 7 April 2014, p. 13.

20 ANAO, *Submission 3*, p. 10.

21 ANAO, *Submission 3*, p. 10.

22 Dr Andrew Southcott MP, Chair, JCPAA, *Committee Hansard*, Canberra, 27 March 2014, p. 5.

23 Mr Tune, Finance, *Committee Hansard*, Canberra, 27 March 2014, p. 5.

Commonwealth's Outcomes and Programmes Framework and the development and use of programme-level Key Performance Indicators (KPIs). Current performance management arrangements are ad-hoc and fragmented in nature and lack coherence at a whole-of-system level ...

One additional challenge is to make sure that the Performance Framework contemplates, and can accommodate, cross jurisdictional activities. The PGPA Act provides for, and indeed encourages, co-operation across jurisdictions. We need to make sure that the Performance Framework is sensitive to the fact that government works in this way and should provide good quality data to support this activity.<sup>24</sup>

- 4.30 In terms of conducting further work on this area in the interim, Finance observed that:

The very fact that the act places positive obligations on the public sector to focus on performance is itself providing a stimulus to people to act in this area. We are very well aware that there are entities or organisations out there who are going to use the time between now and 2015 not simply to comment on the guidance and on the rules but to try and lift their internal processes in order to be ready to satisfy and meet the obligations when they come into effect. So support and some additional focus in a couple of key areas is what we are doing in the interim.<sup>25</sup>

- 4.31 Finance also highlighted that, while the performance framework reforms are being implemented as part of the next set of PGPA rules:

In the meantime, Finance will continue to work with agencies on all issues relating to the implementation of the current Outcomes and Programmes framework including the development of programme level KPIs. To complement the wider work that is occurring, a focus for the next few months is on (a) developing an Australian Government internet library of all finished M&E-relevant [monitoring and evaluation] products, and (b) establishing a core set of KPIs for the Commonwealth's top-20 spending programmes.<sup>26</sup>

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24 Finance, 'Brief for JCPAA on a proposed approach to the performance framework under the PGPA Act 2013', *Submission 1.1*, p. 338.

25 Dr Helgeby, Finance, *Committee Hansard*, Canberra, 27 March 2014, p. 3.

26 Finance, 'Brief for JCPAA on a proposed approach to the performance framework under the PGPA Act 2013', *Submission 1.1*, p. 341.

- 4.32 In terms of the online performance library, Finance explained that it will be the 'central repository of all information about the performance of Commonwealth entities and programs'.<sup>27</sup> On the KPIs for the top-20 spending programs, Finance observed that:
- We are focusing in particular on the top two-thirds of government spending, which is effectively captured in 20 programs, and looking at how those programs assess performance and report performance. We think by putting the emphasis in those areas, with practical steps and with support provided by the department, that will reinforce what we are trying to do in the changes to the framework.<sup>28</sup>
- 4.33 As the Secretary of Finance, Mr Tune, noted, focusing on the top-20 programs will cover 'about 67 per cent of spending across the Commonwealth', including the age pension, the disability support pension, unemployment benefit.<sup>29</sup> Finance stated that there were 'concrete timetables' for these initiatives, with the online library to be 'up and running by August this year' and the performance data for the top-20 programs to have been 'worked through systematically for inclusion in the first sets of corporate plans that are done for the 2015-16 year and will be released in June 2015'.<sup>30</sup>
- 4.34 Finance further emphasised:
- ... we are working and working in a very practical way with agencies to improve in this area. We expect that the very existence of the act and the very prospect that new rules will come into play, even if they do not formally have an impact until a later point, will provide a significant spur to activity in this area. For example, in our own agency the prospect of this spur, in a way, means that we will undertake work to be well positioned for the implementation rather than wait for the implementation before we set about our business.<sup>31</sup>
- 4.35 Against this background, it is noted that Finance provided the Committee with a 'Proposed approach to the performance framework under the

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27 Dr Helgeby, Finance, *Committee Hansard*, Canberra, 27 March 2014, p. 3.

28 Dr Helgeby, Finance, *Committee Hansard*, Canberra, 27 March 2014, p. 3.

29 Mr Tune, Finance, *Committee Hansard*, Canberra, 27 March 2014, p. 6. See also Finance, *Submission 1.3*, p. 34.

30 Mr Lembit Suur, First Assistant Secretary, Governance and Public Management, Finance, *Committee Hansard*, Canberra, 27 March 2014, p. 4.

31 Dr Helgeby, Finance, *Committee Hansard*, Canberra, 7 April 2014, p. 13.

PGPA Act 2013'.<sup>32</sup> As part of introducing and supporting this framework, Finance proposes to:

- Provide well constructed guidance and training on:
  - ⇒ key tools and approaches for collecting non-financial performance information, including on the design of key performance indicators and the use of evaluations at different parts of a programme's cycle;
  - ⇒ better practice for non-financial performance information and the assessment of Commonwealth programmes;
  - ⇒ ensuring alignment between the various sources of non-financial performance information and the input (means), process (use), output (performance) or outcome (effects) it is describing; and
  - ⇒ the options for incorporating the learning from various sources of non-financial information into decisions at various levels within an entity.
- Increase interactions with entities to support them developing useful and applicable performance measures and metrics. This extends upon Finance's engagement to date with agencies that has focused on improving their KPIs.<sup>33</sup>

4.36 Finance confirmed that, 'later this year', it will 'provide the JCPAA with a final and consolidated submission on the proposed framework':

This submission will include draft rules on corporate planning, annual performance statements and annual reports; guidance materials; and as relevant, templates to enable the implementation of each of the above new elements, including explanations about their practical operation in relation to existing financial framework tools and principles. This submission will also include the outcomes of the consultation that will be undertaken with the Australian Government and with Commonwealth entities, including PM&C and the ANAO, about the new arrangements.<sup>34</sup>

## Risk framework and earned autonomy

4.37 Implementation of the risk framework is a significant part of the PGPA Act and broader PMRA, post 1 July 2014. As Finance emphasised:

32 Finance, *Submission 1.1*, pp. 338-344.

33 Finance, 'Brief for JCPAA on a proposed approach to the performance framework under the PGPA Act 2013', *Submission 1.1*, p. 340.

34 Finance, 'Brief for JCPAA on a proposed approach to the performance framework under the PGPA Act 2013', *Submission 1.1*, p. 341.

The Act is part of an integrated package of reforms, it is the first step in encouraging cultural change in the way government does business. This is especially evident in relation to risk. Unlike the current framework, the Act places an explicit duty in respect of risk upon accountable authorities (section 16 of the Act) to recognise that a prudent appetite for risk is crucial for innovation and improved productivity and efficiency.

Moreover, appropriate risk-taking and innovation are consistent with careful and proper control of public resources. Furthermore the Act, through the rules (section 101), allows the Finance Minister a power to prescribe matters, or make different provisions in relation to particular Commonwealth entities or classes of entities. This flexible model allows a targeted and risk based approach to be taken to regulation where required.<sup>35</sup>

- 4.38 The significance of the risk framework established by the new PGPA Act was commented on by a number of inquiry participants:

While Commonwealth entities have previously applied better practice guidance on risk management, this new legislative requirement will act to ensure a more comprehensive and whole-of-entity (or enterprise) approach to addressing risk oversight and management.<sup>36</sup>

- 4.39 Also of interest, in the later stage implementation of the PMRA and PGPA framework, was the concept of earned autonomy:

For CSIRO, the implementation of the PGPA Act and Rules provides an opportunity ... in due course to demonstrate organisational compliance as a basis for future earned autonomy.<sup>37</sup>

- 4.40 Some inquiry participants encouraged Finance to accelerate progress on the risk framework:

... we note that no "risk rules" will be developed until "a whole of government risk management policy is in place" ... While we appreciate the need to stage the introduction of the PGPA rules ... we believe that there is an urgency for Commonwealth agencies to better manage risk in their collaboration and engagement with non-Commonwealth entities ... However, without the development of risk rules within the PGPA process there remains

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35 Finance, *Submission 1*, p. 16.

36 Capital Training Pty Ltd, *Submission 8*, p. 2.

37 CSIRO, *Submission 13*, p. 2.

little guidance or direction as to how Commonwealth entities and/or officials will act on their duties.<sup>38</sup>

4.41 UnitingCare Australia requested that risk rules be ‘prioritised’ within the PGPA process.

4.42 Other inquiry participants encouraged Finance to accelerate progress on broader aspects of the risk framework in PMRA, such as earned autonomy:

In keeping with the general principles of the Public Management Reform Agenda, the Statutory RDCs understood that serious consideration would be given to a more nuanced approach to risk management and, in particular, the implementation of a system of earned autonomy, the aim of which would be to improve performance through rewarding high standards of compliance. The Statutory RDCs are keen for this concept to be integrated into the new regime as soon as possible.<sup>39</sup>

4.43 Finance provided the Committee with a draft Commonwealth Risk Management Policy.<sup>40</sup> At the time this was provided to the Committee, the document was a working draft, still undergoing consultation.

4.44 A number of inquiry participants commented positively on the draft policy:

The draft Commonwealth Risk Management Policy provides valuable guidance to Commonwealth entities working to achieve the requirements of Section 16 of the PGPA Act.<sup>41</sup>

4.45 However, the need for further work on the risk framework was also noted:

... [the Policy] makes no reference to any ministerial or parliamentary oversight of an entity’s risk management policy ... We recommend strengthening this requirements, making Ministerial approval of an entity’s risk management policy a requirement of the Commonwealth Risk Management Policy. We believe an entity’s risk management policy should be subject to parliamentary review.<sup>42</sup>

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38 UnitingCare Australia, *Submission 11*, p. 2.

39 Cotton Research and Development Corporation, Fisheries Research and Development Corporation, Grains Research and Development Corporation, Grape and Wine Research and Development Corporation, and Rural Industries Research and Development Corporation (Statutory RDCs), *Submission 5*, p. 4.

40 Finance, *Submission 1.1*, pp. 338-344.

41 Capital Training Pty Ltd, *Submission 8*, p. 2.

42 Capital Training Pty Ltd, *Submission 8*, p. 2.

... a strategic vulnerability exists for the PGPA Reforms associated with the Draft Risk Management Policy Guidelines provided by the Department of Finance.<sup>43</sup>

- 4.46 The risk management policy will be in place on 1 July 2014. Finance explained its approach in implementing this policy and considering whether a PGPA rule on risk might be implemented at a later date:

Our approach, and it is an approach that we have taken in consultation with all entities, is to take a small step in the right direction first off, by putting in place a whole-of-Commonwealth policy; then seeing how that policy is implemented, what sorts of issues it throws up, what sorts of improvements need to be made; and, over time, when we get to a place where there is cohesive practice across all elements of risk engagement and management in the Commonwealth, then thinking about what a rule might look like, what elements of risk management need to be prescribed in the law and what needs to be done in guidance. In other words, we are not coming into an area where there is a lack of cohesion at the moment and immediately imposing law; we are trying to come in at a lower level and bring cohesion before we prescribe things in law.<sup>44</sup>

### Cooperation arrangements

- 4.47 Cooperation arrangements that better facilitate joined-up government and external partnering, and accommodate the concepts of collective responsibility and multiple accountabilities, are a significant part of the PGPA Act and broader PMRA framework, post 1 July 2014.

- 4.48 The significance of this reform was commented on by a number of inquiry participants:

The Rules as part of the broader Reform Agenda have potential to foster collaboration whilst reducing unnecessary red-tape and bureaucracy. Collaboration including cross-jurisdiction collaboration is essential to addressing national challenges and delivering innovative programs.<sup>45</sup>

UnitingCare Australia has taken a close interest in the development of the PGPA Act, and the preceding Commonwealth Financial Accountability Review, because we believe it is a critical piece of legislative architecture that rightly recognises the

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43 ScottCromwell, *Submission 8*, p. 8.

44 Mr Suur, Finance, *Committee Hansard*, Canberra, 27 March 2014, pp. 10-11.

45 CSIRO, *Submission 13*, pp.2-3.

importance of collaboration and partnership between Commonwealth and non-Commonwealth entities.<sup>46</sup>

- 4.49 Some inquiry participants made suggestions for how this mechanism might be implemented:

For CSIRO the benefits of scientific research come generally from the interaction of two or more 'connected' players. Connections facilitate access to knowledge, know-how, infrastructure, funding, resources and clients. However, the opportunity cost of 'connecting' is often substantial so the new Commonwealth Financial Framework and associated Rules need flexibility to support collaboration. The Framework in itself is not a barrier but CSIRO would encourage efforts within the broader reform program to explore mechanisms that enable government priorities to be funded and governed on a program or outcome basis, rather than necessarily on an entity by entity basis alone ... The possible financial management risks associated with that approach would be balanced by the opportunity to implement more integrated whole of government solutions.<sup>47</sup>

- 4.50 In terms of the focus on improved cooperation arrangements as part of the PGPA framework and PMRA, Finance commented that it had established a foundation for this work with stage one of PMRA:

We have in this part of the process already got some hooks for further reform ... We have requirements around the burdens that a Commonwealth entity imposes upon others whether they are Commonwealth or private sector or whatever. We also have the hooks in here to build a concept of joint arrangements or joint-venture type concepts between the Commonwealth level of government and other levels of government. So we have not been able, in this piece of legislation, to push that to its ultimate conclusions but it is very clearly a part of our agenda ... We have the hooks and it is clearly part of the program to work on those hooks into the future.<sup>48</sup>

### Not-for-profit sector

- 4.51 UnitingCare Australia pointed to the important role that the not-for-profit sector can play in the development of a risk framework and collaborative

46 UnitingCare Australia, *Submission 11*, pp. 1.

47 CSIRO, *Submission 13*, pp. 2-3.

48 Dr Helgeby, Finance, Committee Hansard, Canberra, 7 April 2014, p. 24.



arrangements as part of the PGPA framework and PMRA, and encouraged Finance to accelerate progress in these areas:

... we believe that there is an urgency for Commonwealth agencies to better manage risk in their collaboration and engagement with non-Commonwealth entities ... We would therefore encourage the Department of Finance to move quickly in the development of the risk rules within the PGPA process and in doing so work with non-government partners, especially the Not-for-profit (NFP) sector ...

Effective collaboration between the government and the NFP sector is critical in meeting some of the long-term social challenges facing our nation.<sup>49</sup>

- 4.52 UnitingCare Australia proposed that Finance give priority to engaging with the NFP sector to develop a risk framework and collaborative arrangements under the PGPA framework and PMRA. As Mr Joe Zabar, Director of Services Sustainability for UnitingCare Australia, explained:

We supported the [PGPA] bill because it reflected a more contemporary view of public administration, recognising the importance of collaboration and partnership between Commonwealth and non-Commonwealth entities. Effective cooperation and collaboration between the Commonwealth and the not-for-profit sector is critical to addressing some of the most complex and entrenched social challenges facing our nation ...

We believe that the government will need to work differently with the NFP sector ... While the traditional procurement contract relationship between our sectors will continue, we believe that there will be increasing need to move toward a new relational, or partnership, contract model of engagement between our sectors ... It is important that the PGPA Act and the associated rules accommodate this change. The use of the partnership model will require a more sophisticated approach to the management of risk and the associated terms and conditions attached to the NFP funding agreement. We note that the Department of Finance has now developed a draft Commonwealth risk management policy. We would encourage them to consult further with the sector about it, especially in relation to its application to community service delivery through partnership model.<sup>50</sup>

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49 UnitingCare Australia, *Submission 11*, p. 2.

50 Mr Joe Zabar, Director of Services Sustainability, UnitingCare Australia, *Committee Hansard*, Canberra, 7 April 2014, p. 27.

- 4.53 Concerning the risk framework, UnitingCare Australia further emphasised that:

Under the current arrangements, the monopsony, we have very little room to negotiate around terms and conditions. So, in essence, much of the risk that the Commonwealth agency wishes to negotiate in terms of its own arrangements can be shifted onto us, and there is not a lot we can do about it. For example, the fact that they can request people be removed creates a risk for us. The fact that supplementary conditions can be added through the process adds a risk to us.<sup>51</sup>

## Committee comments and recommendations

- 4.54 The Committee commends the consultation process undertaken by Finance for the first set of draft rules, and Finance's commitment to continue this process for the future draft rules.
- 4.55 The Committee notes that, given the staged implementation of the PGPA rules, there is a need for continuing consultation on the draft rules to be implemented post 1 July 2014.
- 4.56 As the precise timing for the various sets of draft PGPA rules and PMRA initiatives lacked clarity at times the Committee is seeking further information in this regard. This is to ensure there is sufficient time for public consultation and a Committee inquiry before tabling in Parliament and implementation. The Committee also maintains that more needs to be done to clearly communicate the content and timing of the future stages to all stakeholders.

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### Recommendation 9

- 4.57 **The Committee recommends that the Department of Finance continue its consultation process with stakeholders on the *Public Governance, Performance and Accountability Act 2013* rules development for the post July 2014 rules and the broader Public Management Reform Agenda, based on the comprehensive consultation approach taken to date.**

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51 Mr Zabar, UnitingCare Australia, *Committee Hansard*, Canberra, 7 April 2014, pp. 26-27.

## Recommendation 10

- 4.58 **The Committee recommends that the Department of Finance prepare and communicate a plan clearly outlining the anticipated dates for development and consultation of all future rules and guidance materials under the *Public Governance, Performance and Accountability Act 2013*, and the broader Public Management Reform Agenda.**
- 4.59 The Committee appreciates the issues raised by inquiry participants relating to key areas of the PGPA Act and PMRA implementation, and the calls for early action in these areas.
- 4.60 The PMRA is a major rethink about how the Commonwealth goes about its business. The PGPA Act is a crucial first step on this journey – laying the foundations for efficiencies and the framework for cultural change in Commonwealth resource management over future years. However, arguably the more significant opportunities remain to be captured as part of the next two stages of PMRA reforms.
- 4.61 Importantly, this process will involve all entities actually making the cultural changes required to maximise the value of the reforms. Indeed, this may be the most challenging but largest determinant of success. It will take time and diligence. Leadership will be crucial, showing that the reforms have been embraced at the highest level and within central agencies. This will involve Finance, executive government and the Parliament also having a more mature approach to risk, while holding entities to account for expected increases in levels of cooperation and far better performance management and reporting.

## The performance framework

- 4.62 Regarding the performance framework, the new emphasis on performance management and reporting in the finance law is indeed a welcome enhancement – and Finance should be commended for cementing its prominence at the legislative level. Once executed, this framework should facilitate better planning, implementation and assessments by entities as well as providing a clear line of sight across these elements for external stakeholders.
- 4.63 The Committee notes the ‘Proposed approach to the performance framework under the PGPA Act 2013’, document provided by Finance. However, the Committee agrees with the ANAO that more could have been done ahead of the full reforms in this area to drive improvements – as this is a longstanding issue that has been highlighted by ANAO and JCPAA reports over several years.

- 4.64 Poor performance indicators and related management practices were highlighted in 2006-07 in the ANAO's report on the *Application of the Outcomes and Outputs Framework*. The JCPAA thought this issue significant enough to recommend changes to the *Auditor-General Act 1997* in late 2010, allowing the ANAO to directly audit key performance indicators. Since then the Committee and the ANAO have continued their focus on performance indicators, and have continued to find poor results. The Committee's most recent report on the subject – Report 439 – recommended that Finance 'prioritise the review and update of the performance measurement and reporting framework ... for the 2014-15 financial year ... irrespective of the passage of the [PGPA Act]'.<sup>52</sup>
- 4.65 The Committee was therefore disappointed to see little advancement in this area under the current framework while designs of the larger reforms were being prepared. Finance could have taken the opportunity during the intervening years to emphasise more strongly to entities the importance of improving their performance management and reporting approaches in preparation for the PMRA changes. This, as the ANAO suggests, could have included communications on the importance of a performance management culture and strong leadership by senior management; the use of proxy indicators; the importance of reliable data capture methods and systems; and giving higher priority to assessing the impacts or effectiveness of programs.
- 4.66 However, the Committee was pleased to see some work commencing to develop an Australian Government online performance library and establishing a core set of KPIs for the Commonwealth's top-20 spending programs. This is a welcome initiative and, if done well, should provide useful information to the public and a comprehensive knowledge base from which to roll out improved performance initiatives to all entities and programs.

## The risk framework

- 4.67 The Committee notes the high level of stakeholder interest in the development of the risk framework under the PGPA Act and PMRA, and Finance's work on a draft Commonwealth Risk Management Policy. As it will be important to get the balance right in moving to a more mature approach to risk engagement, the Committee encourages Finance to work with all interested stakeholders to monitor the application and effectiveness of the Commonwealth Risk Management Policy over the coming years. This will help inform whether a risk rule should be
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52 JCPAA, *Report 439: Review of Auditor-General's Reports Nos 11 to 31 (2012-13)*, 27 June 2013, p. 11.

developed and also facilitate assessment of this issue as part of the independent review of the PGPA Act.

## Cooperation arrangements

- 4.68 The Committee also notes the high level of stakeholder interest in cooperation arrangements under the PMRA reforms. Spanning from facilitating joined-up government through to partnering with other jurisdictions and external parties, the ability to better incorporate the concepts of collective responsibility and multiple accountabilities will be a significant evolution in public sector reform.
- 4.69 The Committee emphasises that focus should be retained on improving joined-up approaches between Commonwealth entities, including appropriation, leadership and accountability arrangements. These issues have been identified through multiple ANAO and JCPAA inquiries to be a hindrance to effective whole-of-government program implementation. With the increased need for several entities to work together to deliver complex Commonwealth programs further drive is required in this area.
- 4.70 Concepts of collective responsibility and sharing of risk will also need to be applied to external partnering approaches – in particular, with the NFP sector. The Committee is sympathetic to concerns that, despite central rhetoric advocating partnership and risk sharing, specific entity level arrangements and contract clauses seem at a disjunct with these principles at times. The Committee encourages Finance to work actively with all stakeholders, including the NFP sector, in further developing the risk framework and collaborative arrangements under the PGPA Act and broader PMRA framework. This may extend to Finance, the government and the Parliament working to change cultures within Commonwealth entities to better embrace the new reforms.

## Next steps

- 4.71 Regarding the development of future rules under the PGPA Act and other elements under the broader PMRA framework, the Committee intends to conduct inquiries into both stages two and three of the proposed reforms. To remove doubt, the Committee is interested in all elements of the reform agenda, not just the PGPA rules development.
- 4.72 These inquiries will continue the Committee's previous engagement on these critical reforms of the finance law, commencing with the earlier inquiry into the PGPA Bill.
- 4.73 The Committee's next inquiry in this area is likely to include, but may not be limited to, investigation of:

- the effectiveness and comprehensiveness of Finance's ongoing consultation
- the performance framework, including draft rules for corporate plans, annual performance statements and annual reporting requirements
- the risk framework, including implementation of the Commonwealth Risk Management Policy
- progress towards implementing other reforms and initiatives, such as:
  - ⇒ priorities and objective setting by the government
  - ⇒ budget reforms to improve clear line of sight
  - ⇒ better facilitation of 'joined-up' government, including appropriation aspects
  - ⇒ cooperation and partnership with other jurisdictions and external parties
  - ⇒ implementation of earned autonomy concepts

Dr Andrew Southcott MP  
Chair  
May 2014