



Australian Government

**Department of Health
and Aged Care**

Inquiry into probity and ethics in the Australian public sector

Supplementary submission from the Department of Health and Aged Care
to the Joint Committee of Public Accounts and Audit

18th January 2024



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Introduction

On 8 December 2023 the Joint Committee of Public Accounts and Audit (JCPAA) invited the Department of Health and Aged Care (the department) to provide a supplementary submission to the *Inquiry into probity and ethics in the Australian public sector* in response to additional evidence considered as part of the public hearing on 20 November 2023. The department welcomes this opportunity to make a submission.

The principles of probity and ethical conduct are essential to building trust with both Government and the Australian people and are central to the core values of the Australian Public Service. Auditor-General Report No 31 of 2022-23 *Administration of the Community Health and Hospitals* (CHHP) found that the department's administration of the program was ineffective and fell short of ethical standards. At the 8 September 2023 Inquiry public hearing, the department stated that it accepted these findings and was aware of the seriousness of their nature. The department's response to these findings has been a comprehensive and ongoing review of controls, governance, and assurance as well as deliberate, targeted actions to embed integrity as central to our culture and an essential context for decision making in program delivery.

Supporting a culture of integrity

The department is committed to ensuring all staff are supported in managing public resources in a transparent and ethical manner by fostering a culture of integrity through:

1. Ensuring staff have current working knowledge of relevant legislative obligations and business processes and are supported through appropriate and clear guidance materials, templates, and training.
2. Holding staff to account for compliance with legislation and internal assurance frameworks.
3. Bringing ethics and integrity to the forefront of departmental operations.

Ensuring current working knowledge

- Development and delivery of the Financial Literacy Program with 770 staff registered for self-guided sessions as at January 2024. See also supplementary submission 7.3 (IQ23-000111)
- Revised grant guidance and Ministerial templates supported by a comprehensive internal grants assurance process. Four quarterly reports have been presented to the Audit and Risk Committee and Executive Committee. See also supplementary submission 7.3 (IQ23- 000112)
- Consolidation of guidance and review of processes for all stages of the Budget. Comprehensive budget training delivered over nine separate sessions to 2957 participants.



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Accountability for compliance

- Accountable authority assurance is provided through detailed frameworks developed for grants, finance, performance measurement and reporting, project management and integrity. These are supported by testing activities and four independent audits of framework compliance following the release of the audit report. See also supplementary submission 7.3 (IQ23-000105 and IQ23-00016).
- Under the department's SES Performance Framework all SES employees are assessed equally against the outcomes they achieved and the behaviours they demonstrated in doing so. The second component includes their performance as a leader and their demonstration of the Secretaries' Charter of Leadership behaviours (DRIVE). A specific requirement to actively drive a culture of compliance with finance law was introduced as part of the department's response to the audit. Performance is reviewed at least twice each year for all SES employees. See also supplementary submission 7.3 (IQ23-000108).
- The department has clear processes and guidance in place to support the reporting and assessment of instances of non-compliance or matters of misconduct, including actions that will be taken in these circumstances. Actions related to the audit report findings referred to at the 20 November 2023 public hearing have been referred to the Australian Public Service Commissioner under his statutory powers. See also supplementary submission 7.3 (IQ23-000108).

Bringing ethics and integrity to the forefront

- The department has established a new integrity function responsible for the Integrity Strategy, Framework, and associated policies. The function will implement initiatives to uplift the department's focus on integrity. The work will be overseen by the Security and Workforce Integrity Advisory Committee (SWIAC) which reports to the Executive Committee and the Audit and Risk Committee.

Australian Government Solicitor (AGS) risk ratings and policy proposal processes

The Budget Process Operational Rules require all policy proposals that involve expenditure to include a constitutional risk rating and the proposed legislative authority as assessed by the AGS.

Specific grant proposals under CHHP were not put forward as New Policy Proposals and were not formally considered by Cabinet. They were endorsed via correspondence from the Prime Minister to the Minister for Health and were announced as part of the 2019-20 Budget.



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The department then developed grant guidelines and sought advice from the AGS on the constitutional and legislative risks associated with expenditure on the already announced projects.

The audit report references several examples where the department recommended funding of grants prior to receiving the AGS advice or despite being aware that there was high risk associated with the constitutional or legislative basis for the expenditure.

The decision to proceed at the time was based on proposed mitigations at the time including that increased scrutiny during the grant administration process would be sufficient considering the context of public announcements having already been made, stakeholder expectations and the potential impact of delayed delivery on services.

The department agrees that the proposed mitigation was insufficient and supports the findings of the audit report. The department accepts that decision making in consideration of AGS risk assessments was not appropriate and that the lack of sufficient mitigation of the risks resulted in the department being unable to demonstrate compliance with the Budget Process Operational Rules.

Improvements to the process

- Centralised governance of 171 ANAO identified CHHP projects including a program methodology and revision of governance structures to create centres of excellence for both National Partnership Agreements and infrastructure grants.
- Introduction of comprehensive budget training including guidance for policy proposals (including treatment of AGS risk assessment advice, checklists, fact sheets and FAQ) as outlined under *Supporting a culture of integrity* in this document.
- Consolidation of Budget Strategy Branch as the coordination point for all AGS advice, risk assessments and guidance on the end-to-end policy proposal process.
- See also original submission (7).

Balance between delivery of outcomes and ethical behaviour

During the public hearing on 20 November 2023, and in follow up correspondence to the department, the JCPAA expressed particular interest in how we balance the delivery of government programs with ethical behaviour. The department is fully committed to ensuring that outcomes are achieved in a manner that is ethical, accountable and in line with APS values.

The SES Performance Leadership Framework, as part of the APS reform agenda, features the principle that behaviours are as important as outcomes and both must be assessed as part of an SES leader's performance. The framework reinforces the standards of behaviour expected of APS leaders, as expressed through the APS Values and the Secretaries' Charter



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of Leadership behaviours. As noted above, the department's SES Performance Framework already reflects these elements of the new APS Framework.

In addition, in line with the APS framework, the department is currently introducing more opportunities to include feedback from an SES employee's direct reports in performance reviews and development discussions.

Ethical behaviour and engagement with risk under the Commonwealth Grants Rules and Guidelines (CGRGs)

The CGRGs specify that officials must "be conscious of the risks of a grant opportunity, make informed decisions in managing these risks and identify and harness potential benefits". It is vital that value for money and other ethical considerations are also considered when implementing a grant as a decision of government, as reflected in the CGRGs. In meeting this obligation, the department carefully engages with risk and seeks legal advice where appropriate, and these are implicit considerations when making important grant management decisions.

To support consistent practice, a specific ministerial briefing template has been developed. The template ensures the Minister is provided with all information required by the CGRGs before agreeing to a grant process. The template includes a section on constitutional risk and the legislative basis for the grant program. It requires potential mitigations to reduce risk to be included and includes a section which details any other sensitivities.

Conclusion

The department is committed to strengthening integrity across all aspects of the department's processes, systems, and culture. By setting a strong tone at the top, the department is ensuring integrity and ethical behaviour are embedded in our organisation.

The department can provide the Committee with more information on any of the policies or frameworks referred to in this submission on request.