

Responsibilities of Secretaries compared with PGPA Bill provisions—general duties of an accountable authority

<u>Role of Secretaries (from 1 July 2013)</u>	PGPA Bill – General duties of accountable authorities
<p>s.57(1) The roles of the Secretary of a Department include, but are not limited to, the following:</p> <p>a) Principal official policy adviser to the Agency Minister</p>	<p><i>No equivalent provision</i></p>
<p>b) Manager, ensuring delivery of government programs and collaboration to achieve outcomes within the Agency Minister’s portfolio and, with other Secretaries, across the whole of Government</p>	<p>Clause 17 Duty to encourage cooperation with others The accountable authority of a Commonwealth entity must encourage officials of the entity to cooperate with others to achieve common objectives, where practicable.</p>
<p>c) Leader, providing stewardship within the Department and, in partnership with the Secretaries Board, across the APS</p>	<p>Clause 15(1) The accountable authority of a Commonwealth entity must govern the entity in a way that:</p> <p>(b) promotes the achievement of the purposes of the entity; and (c) promotes the financial sustainability of the entity.</p> <p>2) In making decisions for the purposes of subsection (1), the accountable authority must take into account the effect of those decisions on public resources generally.</p>
<u>Responsibilities of Secretaries (from 1 July 2013)</u>	PGPA Bill – General duties of accountable authorities
<p>s.57(2) The responsibilities of the Secretary of a Department are as follows:</p> <p>(a) to manage the affairs of the Department efficiently, effectively, economically and ethically;</p>	<p>Clause 15 Duty to govern the Commonwealth entity (1) The accountable authority of a Commonwealth entity must govern the entity in a way that:</p> <p>(a) promotes the proper use and management of public resources for which the authority is responsible; and (b) promotes the achievement of the purposes of the entity; and (c) promotes the financial sustainability of the entity.</p> <p>Note: Section 21 (which is about the application of government policy) affects how this duty applies to accountable authorities of non-corporate Commonwealth entities.</p>

	<p>(2) In making decisions for the purposes of subsection (1), the accountable authority must take into account the effect of those decisions on public resources generally.</p>
<p>s.57(2) The responsibilities of the Secretary of a Department are as follows:</p> <p>(b) to advise the Agency Minister about matters relating to the Department;</p>	<p>Clause 19 Duty to keep responsible Minister and Finance Minister informed</p> <p>(1) The accountable authority of a Commonwealth entity must do the following:</p> <ul style="list-style-type: none"> (a) keep the responsible Minister informed of the activities of the entity and any subsidiaries of the entity; (b) give the responsible Minister or the Finance Minister any reports, documents and information in relation to those activities as that Minister requires; (c) notify the responsible Minister as soon as practicable after the accountable authority makes a significant decision in relation to the entity or any of its subsidiaries; (d) give the responsible Minister reasonable notice if the accountable authority becomes aware of any significant issue that may affect the entity or any of its subsidiaries; (e) notify the responsible Minister as soon as practicable after the accountable authority becomes aware of any significant issue that has affected the entity or any of its subsidiaries. <p>(2) However, for a Commonwealth entity that is a court or tribunal, subsection (1) applies only to activities, reports, documents, information or notifications about matters of an administrative nature.</p> <p>(3) Without limiting subsection (1), the rules may prescribe matters to be taken into account in deciding whether a decision or issue is significant.</p> <p>(4) The accountable authority must comply with a requirement under paragraph (1)(b) within the time limits set by the Minister concerned.</p> <p>(5) This section does not limit any other power that a Minister has to require information from a Commonwealth entity.</p>

<p>s.57(2) The responsibilities of the Secretary of a Department are as follows:</p> <p>(c) to implement measures directed at ensuring that the Department complies with the law;</p>	<p>Clause 16 Duty to establish and maintain systems relating to risk and control</p> <p>The accountable authority of a Commonwealth entity must establish and maintain:</p> <ul style="list-style-type: none"> (a) an appropriate system of risk and oversight and management for the entity; and (b) an appropriate system of internal control for the entity; <p>including by implementing measures directed at ensuring officials of the entity comply with the finance law.</p> <p>Note 1: An example of a measure directed at ensuring officials of the entity comply with the finance law is a measure:</p> <ul style="list-style-type: none"> (a) requiring, as a condition of employment of an official of the entity, that the official complies with the finance law; and (b) specifying sanctions (such as termination) that apply to the official for contravening that condition. <p>Such a measure would not be needed for officials to whom the <i>Public Service Act 1999</i> applies because, under that Act, sanctions may be imposed on those officials for contravening the finance law: see section 32 of this Act.</p> <p>Note 2: This duty includes managing consultants and independent contractors who work for the entity, even if they are not officials of the entity.</p>
<p>s.57(2) The responsibilities of the Secretary of a Department are as follows:</p> <p>(d) to provide leadership, strategic direction and a focus on results for the Department;</p>	<p>Clause 15 Duty to govern the Commonwealth entity</p> <p>(1) The accountable authority of a Commonwealth entity must govern the entity in a way that:</p> <ul style="list-style-type: none"> (b) promotes the achievement of the purposes of the entity
<p>s.57(2) The responsibilities of the Secretary of a Department are as follows:</p> <p>(e) to maintain clear lines of communication within the Agency Minister's portfolio, as negotiated between the Secretary and the other Agency Heads in the portfolio;</p> <p>(f) to engage with stakeholders, particularly in relation to the core activities of the Department;</p>	<p>Clause 17 Duty to encourage cooperation with others</p> <p>The accountable authority of a Commonwealth entity must encourage officials of the entity to cooperate with others to achieve common objectives, where practicable.</p>

<p>s.57(2) The responsibilities of the Secretary of a Department are as follows:</p> <p>(g) to manage the affairs of the Department in a way that is not inconsistent with the policies of the Commonwealth and the interests of the APS as a whole;</p>	<p>Clause 15(1) The accountable authority of a Commonwealth entity must govern the entity in a way that:</p> <p>(b) promotes the achievement of the purposes of the entity; and (c) promotes the financial sustainability of the entity.</p> <p>2) In making decisions for the purposes of subsection (1), the accountable authority must take into account the effect of those decisions on public resources generally.</p>
<p>s.57(2) The responsibilities of the Secretary of a Department are as follows:</p> <p>(h) to ensure that the Agency Minister's portfolio has a strong strategic policy capability that can consider complex, whole-of-government issues;</p>	<p><i>No equivalent provision</i></p>
<p>s.57(2) The responsibilities of the Secretary of a Department are as follows:</p> <p>(i) to assist the Agency Minister to fulfil the Agency Minister's accountability obligations to the Parliament to provide factual information, as required by the Parliament, in relation to the operation and administration of the Department;</p>	<p><i>No equivalent provision</i></p>
<p>(3) Subsection (2) does not affect a Secretary's responsibilities under any other law.</p> <p>Note: See, for example, the <i>Financial Management and Accountability Act 1997</i>.</p>	
<p><i>No equivalent provision</i></p>	<p>Clause 18 Duty in relation to requirements imposed on others</p> <p>When imposing requirements on others in relation to the use or management of public resources for which the accountable authority of a Commonwealth entity is responsible, the accountable authority must take into account:</p> <p>(a) the risks associated with that use or management; and (b) the effects of imposing those requirements.</p>

APS Code of Conduct compared with PGPA Bill provisions—General duties of officials

APS Code of Conduct (from 1 July 2013)	PGPA Bill
s.13(1) An APS employee must behave honestly and with integrity in connection with APS employment.	
s.13(2) An APS employee must act with care and diligence in connection with APS employment.	<p>s. 25 (1) An official of a Commonwealth entity must exercise his or her powers, perform his or her functions and discharge his or her duties with the degree of care and diligence that a reasonable person would exercise if the person:</p> <ul style="list-style-type: none"> (a) were an official of a Commonwealth entity in the Commonwealth entity's circumstances; and (b) occupied the position held by, and had the same responsibilities within the Commonwealth entity as, the official. <p>(2) The rules may prescribe circumstances in which the requirements of subsection (1) are taken to be met.</p>
s.13(3) An APS employee, when acting in connection with APS employment, must treat everyone with respect and courtesy, and without harassment	
<p>s.13(4) An APS employee, when acting in connection with APS employment, must comply with all applicable Australian laws. For this purpose, Australian law means:</p> <ul style="list-style-type: none"> (a) any Act (including this Act), or any instrument made under an Act; or (b) any law of a State or Territory, including any instrument made under such a law. 	
s.13(5) An APS employee must comply with any lawful and reasonable direction given by someone in the employee's Agency who has authority to give the direction.	
s.13(6) An APS employee must maintain appropriate confidentiality about dealings that the employee has with any Minister or Minister's member of staff.	

APS Code of Conduct (from 1 July 2013)	PGPA Bill
s.13(7) An APS employee must disclose, and take reasonable steps to avoid, any conflict of interest (real or apparent) in connection with APS employment.	s.29 (1) An official of a Commonwealth entity who has a material personal interest that relates to the affairs of the entity must disclose details of the interest. (2) The rules may do the following: (a) prescribe circumstances in which subsection (1) does not apply; (b) prescribe how and when an interest must be disclosed; (c) prescribe the consequences of disclosing an interest (for example, that the official must not participate at a meeting about a matter or vote on the matter).
s.13(8) An APS employee must use Commonwealth resources in a proper manner.	
s.13(9) An APS employee must not provide false or misleading information in response to a request for information that is made for official purposes in connection with the employee's APS employment.	
s.13(10) An APS employee must not make improper use of: (a) inside information; or (b) the employee's duties, status, power or authority; in order to gain, or seek to gain, a benefit or advantage for the employee or for any other person.	s.27 An official of a Commonwealth entity must not improperly use his or her position to: (a) gain an advantage for himself or herself or any other person; or (b) cause detriment to the entity, the Commonwealth or any other person. s.28 A person who obtains information because they are an official of a Commonwealth entity must not improperly use the information to: (a) gain an advantage for himself or herself or any other person; or (b) cause detriment to the Commonwealth entity, the Commonwealth or any other person.
s.13(11) An APS employee must at all times behave in a way that upholds: (a) the APS Values and APS Employment Principles; and (b) the integrity and good reputation of the employee's agency and the APS.	
s.13(12) An APS employee on duty overseas must at all times behave in a way that upholds the good reputation of Australia.	

APS Code of Conduct (from 1 July 2013)	PGPA Bill
<p>s.13(13) An APS employee must comply with any other conduct requirement that is prescribed by the regulations.</p> <p>Note: Public Service Regulation 2.1 imposes a duty on an APS employee not to disclose certain information without authority (i.e. information communicated in confidence or where disclosure could be prejudicial to the effective working of government).</p>	
	<p>s.26 An official of a Commonwealth entity must exercise his or her powers, perform his or her functions and discharge his or her duties in good faith and for a proper purpose.</p>

Note: Behaviour which breaches the general duties provisions of the PGA Bill would in all likelihood breach the APS Code of Conduct even if not specifically provided for (i.e. clause 25 behaviour would likely provisions of the Code but would need to be described differently).