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Public Governance, Performance and Accountability Reforms

Introduction

Thank you for the invitation to deliver this lecture today.

I would like to start by acknowledging traditional owners on whose lands we meet, and pay my respects to elders past and present.

“Reform” is a word that is over-used, even abused.

Some, when they hear the word, get suspicious of over-promise and under-delivery.

And I can understand that.

I have a simple rule – if you want to know what something means, go to the dictionary.

It helps to calm things down.

“Reform”, my old Oxford Dictionary says, is making something better by removal of imperfections, faults or errors.

People can reform, as can institutions and procedures.

Who we are, the way we govern, how we do things – these can all be improved; but when they are reformed, the reach is deeper and the impact longer lasting.

When you reform something, you do away with previous constraints and often build something new in its stead.

Some reforms are risky, because they take away or disrupt something that particular people or interests hold true, and replace it with something they don’t like.

Sometimes reforms do not deliver on their promise.

So how you reform is important.

In his *Costa Del Nightmares* program last year, Gordon Ramsay went into one family-run restaurant in Spain¹ where he made massive change in a very short space of time. He sacked the chef, cleaned out the kitchen, re-did the menu, and transformed the look and feel of the whole business in his usual understated way.

It seemed effective at first; new customers queued up around the block and the restaurant's takings rose dramatically.

Then the camera crew left.

Within a month, the British press was reporting that things at the restaurant had gone back to where they were before the Ramsay whirlwind went through.

The restaurant's owners had reintroduced their own recipes and gone back to their old ways.

Ramsay may have "reformed" in a narrow dictionary definition sense, but the changes did not produce a lasting effect. Ramsay may have improved things, but he moved on.

There was no buy-in from the owners, let alone the sacked chef; no follow-up and no embedding of the changes Ramsay made.

The lesson from this is that for reform to be successful, you need to take people with you and ensure that change is truly embedded in structures and systems.

Otherwise, good ideas will inevitably be lost through poor implementation.

Contrast Gordon Ramsay with Peter the Great, three hundred years before.

He also wanted to reform a family-run business, but in this case his own: the governing of Imperial Russia.

Now this is an historical example that occurred in an overall environment of oppression, imperial excess, and ruthless military expansion that is totally unpalatable by modern standards.

Like Gordon Ramsay, Peter the Great was given to the odd grand gesture: he imposed a tax on the long beards of the nobility, for example, because they symbolised the backwardness of a Russia that was resisting his Europeanisation of the country.

I don't want to give my colleagues in Treasury any ideas, but in building a new fiscal base for government, Peter the Great also taxed other cultural customs like bathing and beekeeping.

Peter introduced, systematically and over two decades, sweeping administrative and economic reforms, many of which lasted for almost 200 years, until the Russian revolution.

¹ The restaurant was called *Mayfair* on the Costa del Sol.

Peter persevered with his reforms, unfolding them over a period of more than 20 years; embedding them through new laws, structures and people.

He brought in a new generation of technocrats with professional skills who were committed to the new way of doing things.

Being royal, he also used patronage to secure loyalty to his new order in a way that is unacceptable in a modern accountable system of democratic government.

Fortunately ethics and accountability in public administration have moved along.

Like Gordon Ramsay, Peter the Great knew what needed to be done, but in contrast to the culinary superstar, he was pursuing lasting change, not fifty minutes of modest entertainment.

Reform agenda for the Commonwealth public sector

Let me now draw the link between all of this and the public governance, performance and accountability reforms that my department has led over the last few years, and which I am here to talk about today.

Reform, to be successful, needs to work at many levels.

It needs to work with people and culture, to ensure that hearts and minds are behind the changes proposed.

It can only work if the right technology and enabling platforms are in place to support the implementation of change.

And it can only succeed if resources are properly focused and performance expectations clearly articulated in terms of the outcomes and impacts sought.

Lasting reform depends on people and resources being lined up behind good ideas, and proper accountability structures being put in place for the long haul.

Reforms last when they are based on good ideas and there is a clear value proposition about the case for change.

A clear value proposition that is championed by people of influence – from the top if you like – is one that is most likely to drive along lasting reform.

The Finance Minister, Mathias Cormann, has expressed this government's aspiration for a more efficient public sector that is performance-driven and can provide faster services to support Australia's prosperity into the future.

The Prime Minister and Communications Minister have both championed improving how Australians interact with government over the internet, which has led to the recent establishment of a Digital Transformation Office.

And in various parliamentary committees, especially the Joint Committee on Public Accounts and Audit, there have been bipartisan discussions about improving accountability for how public resources are used and the achievement of public policy goals.

So there is a convergence of political interest that provides a value proposition for the reforms that my department has been working on – an agile, modern, connected and responsive public sector that is accountable for what it does and how it does it.

Happily, my dictionary gives simple meanings to each of these key words – they actually mean what you think they mean on face value.

And when you think about the growing interconnectivity of the big issues that challenge us as a community and the approaches that go to managing them; when you think about the increasing scarcity of, and certainly contestability for public resources, then you can see that unless the public sector adapts quickly, it will be left behind from where its key stakeholders want it to be.

Reforming the Commonwealth public sector to achieve this change is a big job.

Partly this is because the Commonwealth itself is big and diverse.

This year, it will spend around \$430 billion.

It consists of more than 190 separate entities and companies, hundreds of boards and committees, and a large number of subsidiaries and other arrangements.

Reforming the Commonwealth is also a big job because it involves cultural change, technology transformation and rethinking the design of many existing programmes and services.

Reform on the scale that we are talking about has many different elements and many parties working on related initiatives.

But my focus today is on what the Department of Finance is doing, and how we are going about it, and what we hope to achieve as a result.

Financial framework reforms

The operations of the Commonwealth have been governed by three financial governance frameworks over 115 years.

The first one lasted for a particularly long time – 96 years².

The current financial governance framework is contained in the *Public Governance, Performance and Accountability Act*, which was enacted by the Parliament in June 2013.

I will refer to this from now on as the PGPA Act.

It replaced two pieces of legislation called the *Financial Management and Accountability Act* (or FMA Act) and the *Commonwealth Authorities and Companies Act* (or CAC Act), which between them constituted the Commonwealth's second financial framework and divided government into two camps.

FMA and CAC Acts

Now, I don't wish to be reductionist in the characterisation that follows, because the range of governance arrangements, operational requirements – including commercial ones – statutory obligations and accountabilities for performance in the Commonwealth are varied, nuanced and complex.

Having said that, talking in broad terms about the two camps under the previous financial framework helps to explain why particular changes were made under the PGPA Act.

One camp, the FMA Act camp, consisted largely of departments and agencies that were directly accountable to Ministers, were usually headed by a single person, were largely budget funded and legally constituted the Commonwealth of Australia.

Many of these features naturally constrain what these organisations can do, even under the new PGPA Act.

They cannot, for example enter contracts in their own name, or bank in their own name, and they are subject to government policies in a range of areas.

However, in addition to these natural constraints, the former framework imposed even more process controls over organisations in the first camp.

There was an appropriate and strong emphasis on ensuring the proper use of the public property that was in their hands.

However this was achieved through detailed process controls around money appropriated by the Parliament and how it was drawn down, managed and spent.

The old framework said very little about the governance requirements on these organisations, and said nothing about risk management and their performance obligations.

² The *Audit Act 1901*, was replaced by the *Financial Management and Accountability Act 1997*, the *Commonwealth Authorities and Companies Act 1997* and the *Audit Act 1997*. The *Audit Act 1997* remains in place, although it was amended to allow for the introduction of the new financial framework.

Life was quite different in the second camp, or the CAC Act camp.

This is where organisations that were corporate in nature, including Commonwealth companies, were placed.

They have governing boards, their own legal personality and usually a high degree of operational independence under their enabling legislation.

The CAC Act framework did set down some core governance and reporting standards, including the duties of directors and the senior executive, but set no standards for the proper use of the public property.

There were very few controls around how organisations in the second camp managed and spent the money they held, even if it was appropriated by the parliament.

And there was little to remind these bodies that, independent though they are in many respects, they owe accountability to the parliament and the people about how they run their affairs.

Life in the second camp was largely governed by principles.

As a result, organisations were more likely to be innovative, with stronger risk management and strategic planning practices.

Life in first camp was constrained by detailed rules – not just from the Finance department, but from departments and agencies across the system.

Here you were less likely to find innovation, strong risk management and strategic planning practices.

And to make it more complicated, you had some highly independent, statutory bodies placed in the first camp, and some mainstream core government activities in the second.

So you had camp crossing behaviour.

People in the first camp were desperate to pitch their tent in the second camp, because they saw fewer rules and controls from the centre.

And there was a prejudice for creating new bodies under the CAC Act for this very reason, even where, for reasons of the type of role the organisation played, or for governance or accountability reasons, it was more appropriate to have a mainstream government function under the FMA Act.

Finance played the role of boundary rider, caught up in debates that focussed on the impact of prescriptive rules, reporting requirements and red tape on their business than on the right structure for a public entity playing a particular role. It is not surprising that these debates were conducted with passion.

The Finance people involved in reviewing the previous financial framework still recall their discomfort when some Commonwealth regulatory bodies that moved from the CAC Act regime to the FMA Act space ran them through the costly changes the transition forced them to make to their internal business and reporting systems with no benefit to quality of their operations.

You wonder why we did it to ourselves.

PGPA Act - overview

So in a context where government is interested in improved cohesion, more agility, more innovation, and stronger governance, performance and accountability standards, we had, at the whole of system level, a Commonwealth public sector that, over time, had grown apart in ways that made a coherent reform journey difficult.

One of the core aims of the reform process launched in 2010, which led to the PGPA Act, was to bring cohesion and a single set of principles into play for all Commonwealth entities, whether they were non-corporate or corporate entities, whether they were statutory bodies or government business enterprises.

It took over two years to get to the point where we could even consider drafting legislation.

The policy development process included 13 issues papers, a discussion paper and separate position paper, meetings with every Commonwealth entity, with private sector companies, third sector and professional peak bodies, state governments, academics and former public sector leaders.

Ministers and parliamentary committees endorsed the final reform package before it was debated in parliament.

It was a Peter the Great approach rather than 50 minutes of high-octane television, although there were pressure points in the process that saw colourful Ramsayesque moments.

The PGPA Act approach is principles-based, which is pretty innovative in terms of international practice.

Five principles underpin the Act and the reforms that accompany it:

1. Government should operate as a coherent whole.
2. A uniform set of duties should apply to all resources handled by Commonwealth entities.
3. The performance of the public sector is more than financial.
4. Engaging with risk is a necessary step in improving performance.
5. That the financial framework should support the legitimate requirements of the government and the parliament in discharging their respective duties.

Let me deal with the first two and explain how they come together.

That Government should act as a coherent whole is in my view a no-brainer, but sometimes this is surprisingly difficult to achieve.

To the extent that the previous framework made this difficult, we have made some significant changes in the PGPA Act that should make it easy.

And we have done this by taking good ideas from both the former FMA Act and the CAC Act, applying them broadly, and then supplementing them with new provisions.

PGPA Act – proper use of public resources

The core philosophy in the PGPA Act is that public resources are public resources, no matter whose hands they are in.

Believe it or not, this is a new concept in a Commonwealth government context.

Under the PGPA Act, all Commonwealth entities are accountable for the proper use of the resources that they hold, no matter how it came to be in their hands – whether through appropriations, commercial activities, levies, charges, taxes, cost recovery or some donation.

There is a common definition for “public resources”.

Public resources consist of appropriations, which are defined in the Constitution, and relevant money and relevant property, which are defined in the PGPA Act.

All public resources are to be used and managed properly.

Again proper use and management of public resources is defined in the PGPA Act.

It means efficient, effective, economical and ethical, and for non–corporate entities that constitute part of the Australian Government; it also means used and managed in a way that is not inconsistent with the policies of the Government.

This standard for proper use is drawn from the previous FMA Act that applied to the first camp, but it is now applied to all officials.

Each Commonwealth entity has officials, who are, broadly speaking, the persons who are, or form part of an entity.

PGPA Act - duties

Officials handle public resources.

The PGPA Act lays out in sections 25 to 29 the general duties that officials must observe when they do this, including care and diligence, acting honestly in good faith and for a proper purpose.

The general duties are drawn from the previous CAC Act that applied to more senior people in the second camp, but it is now applied to everybody.

For those familiar with the duties in Corporations Law, the duties in the PGPA Act are very similar.

In addition to the general duties that apply to all officials, there are additional duties on accountable authorities.

An accountable authority, broadly speaking, is the person who heads a non-corporate Commonwealth entity – a Secretary of a department for example, like myself – or the Board that governs a corporate Commonwealth entity, like the Board of the CSIRO or Australia Post.

So as Secretary of Finance, I am subject to both the general duties on officials in the PGPA Act, and the duties of an accountable authority that are spelled out in sections 15 to 19 of the Act.

These duties include promoting the proper use and management of public resources for which I am responsible, including through establishing and maintaining appropriate systems of risk oversight and internal controls within my department.

I can also issue, under section 20A of the PGPA Act, written instructions about how the officials in my department handle relevant money or public resources in general.

All accountable authorities are responsible for promoting the achievement of the purposes of their entity and its financial sustainability, and to give information to their minister and the Finance Minister on particular things.

You might say this is somewhat unremarkable.

Of more interest are the following two provisions.

PGPA Act – acting coherently as a public sector

Under section 15(2) of the PGPA Act, an accountable authority has to take account of the effect of decisions that it makes on public resources generally.

This means that the accountable authority has to consider how the actions and policies they pursue will affect other entities individually and collectively, and public resources generally.

This works both ways, both in the positive and the negative.

It opens us up to sharing better ways of working together between Commonwealth entities, because accountable authorities have to think beyond the boundaries of their own organisation in assessing the value proposition of some decision they are making.

It covers decision-making that might have particular benefits to the entity in question, but has broader negative implications for other entities or public resources generally.

An example would be an entity that pursues its own policy or operational interests, for example by imposing unnecessary red tape costs on others, or by imposing charges that cross-subsidise its own operations.

A related concept can be found in section 57 of the Public Service Act, which talks about the role of departmental secretaries in providing stewardship across the Australian Public Service.

PGPA Act – joining up with others

The next interesting concepts are in sections 17 and 18 of the PGPA Act.

These sections came about because those who worked with the Commonwealth – commercial partners, the community sector and the states and territories – told us that partnering with the Commonwealth could be a really bad experience.

Broadly speaking, they said that we have the money to get things done, but that we are risk averse and afraid to innovate.

Our thinking is dominated by fear of failure, rather than the prospect of breakthrough success; we push risk onto other parties and micromanage how they fill their side of the bargain.

Given that innovation in public policy involves engaging with risk, finding new ways of doing things, backing good ideas and putting faith in others, this was criticism that went to the core of our aspiration to move down the road of an agile, modern, connected and responsive Commonwealth public sector.

Section 17 places a positive duty on an accountable authority to cooperate with others to achieve common objectives, where practicable.

This duty recognises that Commonwealth entities do not operate in isolation.

Effective collaboration between Commonwealth entities, with other levels of government, and with the private and not-for-profit sectors is critical to the achievement of many of the government's priorities and national goals.

The Commonwealth needs to partner with others.

This section says, in effect, we expect you to do it if it is the right thing to do.

Long-term disadvantage, chronic health issues, improved education outcomes, domestic security – are all issues where the COAG has committed to doing more, and where joined-up government and a joined-up community are part of the solution.

From exploring more innovative funding models to trying new governance and accountability models – we have a lot of work to do on this front

While the PGPA Act unblocks some of the legal and technical issues in this space, I acknowledge that some of the key challenges may go the sorts of issues that are being explored in the Federation White Paper.

Risk

This brings me to the subject of risk.

The next section of the PGPA Act, Section 18, says, when you do join-up, think carefully about the requirements you place on others in relation to the management and use of public resources.

I explained earlier that one of the underlying principles of the PGPA Act is that engaging with risk is a necessary step in improving performance.

All major public policy involves risk.

But risk can be identified and strategies can be developed in consultation with ministers and other stakeholders to handle it.

We cannot afford another catastrophic failure like the Home Insulation Programme, where negligible effort was put into understanding the operating environment for the roll-out.

But neither can we afford government programmes that don't innovate or sensibly push boundaries at all because they are designed to exclude even the most immaterial risks.

The PGPA Act says: think about the risks involved and how you are managing those risks in the arrangements you negotiate with others, but don't load your partner with red tape just because you want cover your bases if something goes wrong.

Section 18 of the PGPA Act puts the onus on accountable authorities to assess the risks in relation to the public resources involved in a joined-up enterprise, and then place proportionate obligations on those they are joining up with.

For example, an established community sector grant recipient with proven credentials and a strong track record of delivery in an established area of operations could have a different level of reporting obligations placed up them that a new organisation venturing into a new and unknown area.

But equally, accountable authorities should engage with risk sensibly and not avoid traversing into a new area just because it involves risk.

The proposition is that it should be done, but done sensibly; or in PGPA Act language “an accountable authority should establish and maintain an appropriate system of risk oversight and management ... to promote the achievement of the purposes of the entity”³.

To support better risk practice in the Commonwealth, we have issued the first ever Commonwealth risk management policy, which sets the principles to underpin better risk management in the day-to-day operations and decision-making processes of Commonwealth entities.

More sophisticated and nuanced risk management on the part of Commonwealth entities might help to get us down the path of more innovative and agile delivery and less red tape.

My department will work closely over the next few years with both the Australian Public Service and all Commonwealth entities to promote better risk planning and more positive risk engagement in the activities of national government.

Other provisions in the PGPA Act

The PGPA Act contains many other provisions.

Like other financial management legislation, it lays out the basis on which appropriations are released; it talks about who has banking and investment powers, the scope of those powers and how they can be exercised.

It sets the framework for the granting of indemnities, warranties and guarantees, the gifting relevant property, and the custody of money.

It establishes a legal basis for non-corporate Commonwealth entities to enter into arrangements and commitments, and how Ministers approve expenditure.

Importantly, it also provides the framework for rules around the management of procurement, grants, fraud and financial reporting.

A particular area that my department is working on now is in the area of improving public accountability by having better performance reporting to both the parliament and the public, through the introduction of corporate plans and enhancements to annual reports.

For the first time, all Commonwealth entities are required to produce and publish a corporate plan.

This is to be done by the 31st of this month.

³ This language is a combination of sections 16(a) and 15(1)(b) of the PGPA Act.

Corporate plans are to outline the purposes of each entity, what it will do to achieve those purposes, what environmental, risk and resource issues it will have to deal with, and how it will measure and report on its success.

These corporate plans will have a four-year time horizon, and be updated every year.

At the conclusion of each operating year, each entity will issue in a statement in their annual report to explain how they performed against their corporate plan.

In promoting this reform, we have talked about corporate plans and annual reports as the bookends of the performance story.

I said earlier that two of the principles of the PGPA Act are that the performance of the public sector is more than financial, that the financial framework should support the government and the parliament in discharging their respective duties.

It will take time to improve performance reporting, but I am pleased to say that the Commonwealth public sector is determined to make a go of this.

Community of practice meetings and seminars have been organised in Canberra and other cities to allow entities to learn from each other and from international practice.

We are also running pilot projects to test particular approaches to improving performance information.

All governments seem to struggle on this front – it would be very satisfying for me if can improve the quality of the performance information that we publish in a way that helps others do the same.

APS transformation agenda

In the little time I have remaining, I would like to return to what I described as the clear value proposition for the reforms that my department has been working on – an agile, modern, connected and responsive public sector.

The government has asked us to work on redoing the menu, cleaning out the kitchen and transforming the look and feel of the business of government, with no entertainment value, but with the intent for systemic reform.

During the 2015 budget, the government announced an agenda to transform the public sector, with contestability reviews, shared services and a smaller government initiative all playing a role.

Contestability programme

Looking at government activities and services through a contestability lens encourages Commonwealth entities to adopt a more commercial mindset and seek ways of improving the performance of existing or proposed government functions.

The contestability programme, led by my Department, is using the prospect of competition to encourage public servants to ask three key questions: Do we need to do this? How well do we do this? Are we best placed to deliver this?

In the pilot phase of this programme, savings of over \$200 million were identified in the Functional and Efficiency Reviews of the Department of Health and the Department of Education and Training.

Encouraged by these results, the Government has commissioned a further eight Functional and Efficiency Reviews.⁴

These reviews will look systematically at existing functions to assess their alignment with government priorities, and to see if an activity or service could be delivered by someone else to a higher quality standard at a lower cost.

We need to ask ourselves if performance can be improved through alternative structures, processes or provider arrangements.

Smaller government initiative

The smaller government initiative is about clarifying lines of accountability and cutting waste and duplication, while improving the efficiency and focus of the public service.

Since the announcement of the Smaller Government Agenda, an estimated \$1.4 billion of savings have been made available to fund other policy priorities.

The number of government bodies will reduce by 286 by consolidation, abolition, replacement and in the case of *Medibank Private*, successful privatisation led by my department.

While the changes announced to date amount to a significant reduction in the number of government bodies, there is not an equivalent contraction in government functions.

This is because a number of the reforms involve consolidating functions into departments or larger entities, as well as the merger of smaller bodies to link together related functions.

Sharing common services

Embedding best practice across the Commonwealth is likely to be expedited by sharing common services.

⁴ These will cover the Departments of Agriculture, Environment, Foreign Affairs and Trade, Treasury, Attorney-General's and Social Services, as well as the Australian Taxation Office and the Australian Bureau of Statistics.

We are standardising processes and infrastructure where possible and sharing transactional functions to leverage scale and scope for increases in efficiency.

An example of this type of work is the shared and common services programme that consolidates common functions into centres of excellence.

Through this process a few entities will provide services for many.

A good example of this arrangement is the Shared Services Centre, a partnership between the Departments of Education and Training, and Employment.

The Shared Services Centre leverages economies of scale to provide competitively priced core human resources and finance systems and other more specialised services to other organisations.

Digital reforms

We are also looking at the consolidation of standardised systems to the cloud and consolidation of common, non-transactional processes; and supporting a larger range of common services (such as Enterprise Resource Planning Systems) with minimal customisation.

A key factor driving more efficient government operations is the rise of new technology options.

For the majority of people and businesses, the internet is their preferred method for interacting with government.

Despite being an early pioneer of the internet, the Commonwealth public sector is now playing 'catch up' to the best in the private sector.

The community now wants government services and programmes that are available anytime and anywhere on any device; personalised to reflect their particular requirements; and delivered faster at a lower cost.

The government is aiming to meet these expectations through the Digital Transformation Agenda, with a goal that, by 2017, the major transactions between citizens and government are digital, from end to end.

That is a lot of catching up to do for the Commonwealth public sector.

Government information is now published across more than 1200 disparate gov.au websites, plus a range of social media accounts, apps and other digital formats.

The evolution of distribution of this information reflects the silos in which government operates, the very silos the PGPA Act has sought to break down.

The fact is that people largely don't care how the government organises itself – they just want government to work.

The Digital Transformation Office (or DTO) has been created—to lead the government in transforming our services to improve the experience of Australians dealing with government.

The DTO is working closely with individuals, businesses and industries to identify opportunities for improvements and re-design government services from a user perspective.

The DTO is also working with Government entities to help them to plan their transformation to provide users with a better experience when dealing with government and deliver public services across all channels.

The Department of Communications has estimated productivity gains of up to \$600 million could be achieved through improved digital capability for public servants and services to citizens and business.

Research by the UK Cabinet Office showed that, in general, a digital transaction is 20 times cheaper than one by phone, 30 times cheaper than one by post and 50 times cheaper than a face-to-face transaction.

Digital transactions are also simpler, in that people don't have wait in a call centre queue, or travel to a shopfront or government office to transaction their business.

I accept that, for a range of reasons, not all transactions with government lend themselves to web-based solutions, but there is significant scope on this front.

Conclusion

So, will all of these things combine to reach deep enough and deliver changes that will be sufficiently long-lasting to constitute reform?

Are we really doing away with previous constraints and building something new in their stead?

I believe we are.

It will take time to transform how the Commonwealth public sector works, but we have, shifted the frameworks and clarified the concepts that underpin Commonwealth operations under the PGPA Act.

We have created an environment where asking questions about what we are doing and how we are doing it, and whether we can do it with others or let others do it for us, are proper questions to ask.

This is no 50 minute TV show; although I would like to finish by quoting Gordon Ramsay from the Costa del Nightmares episode I mentioned at the commencement of this speech.

Berating kitchen management practices of the Mayfair restaurant on the Costa del Sol, he said, “You can’t just buy fresh produce and stick it on top of the old stuff”.

The same goes for lasting reform.