



Public Governance, Performance and Accountability Act 2013

Transition from the Financial Management and Accountability Act 1997

June 2014

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Content

- ☐ What is PGPA
- ☐ Why do I care about it
- ☐ General rules/policy update
- ☐ Fraud control

It's more than just finance

- ❑ A new Act (PGPA) to manage Commonwealth governance, performance and accountability:
 - A common framework that avoids unnecessary regulations
 - A uniform set of duties should apply to all resources handled by Commonwealth entities
 - Engaging with risk is a necessary step in improving performance
 - Performance of the public sector is more than financial
 - Government should operate as a coherent whole

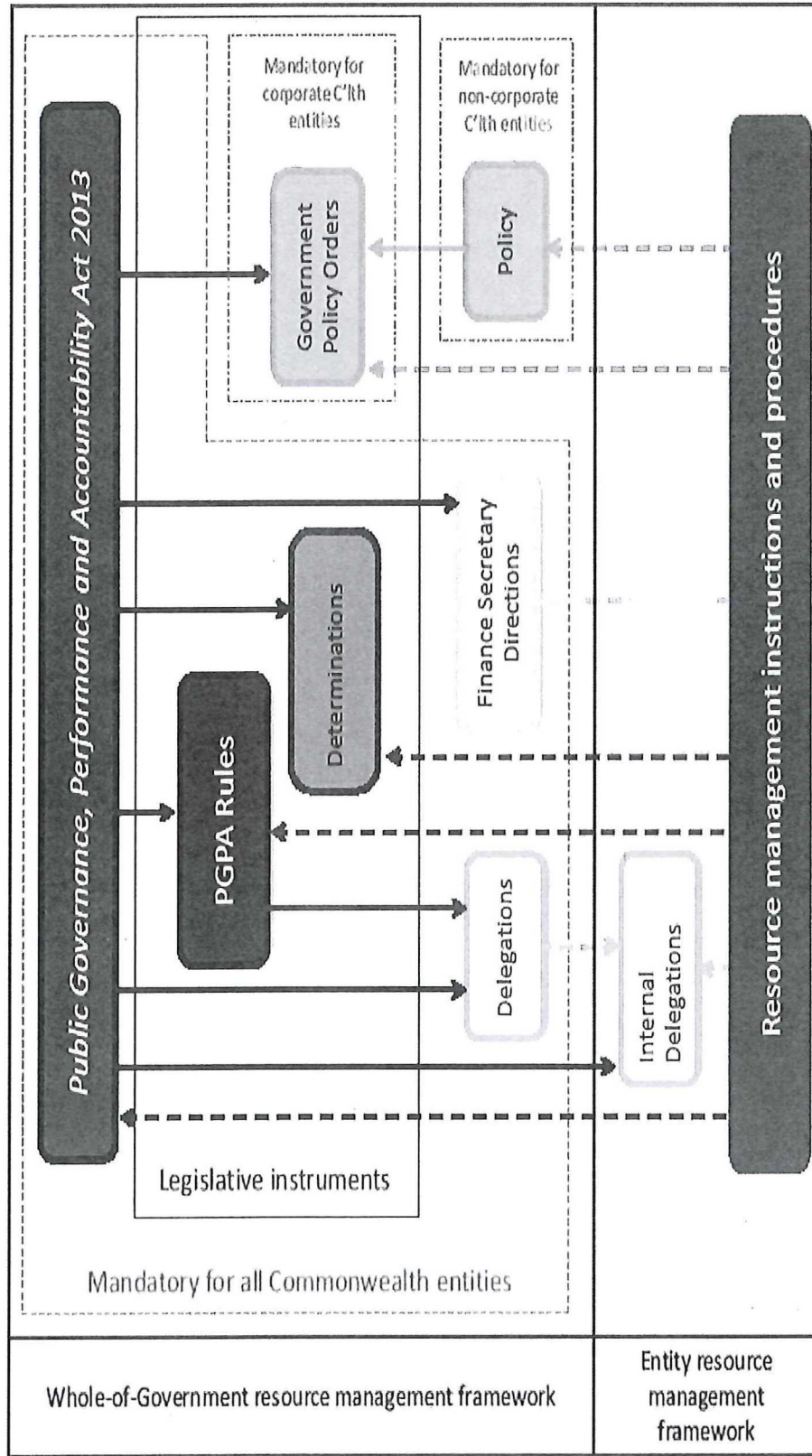
Key changes from FMA

- Terminology changed
- Duties of accountable authorities and staff clarified
- Fewer rules - red tape removed:
 - FMA Regulations 8 to 12 replaced by internal controls
 - drawing right requirements
- Key resource management requirements unchanged:
 - procurement
 - property/assets management

I'm not dead

- ❑ FMA Act itself will survive the implementation of PGPA
- ❑ Most of the remaining provision won't affect non-financial staff
 - S31 – other revenue
 - S32B – power to enter into arrangements

PGPA Framework



Terminology

FMA Act	PGPA Act
agency or FMA Act agency	non-corporate Commonwealth entity
prescribed agency	listed entity
chief executive	accountable authority
chief executive instructions	accountable authority instructions
public money	relevant money
non-bankable (money)	unbankable (money)
public property	relevant property
officer/staff/employee	official
FMA Regulations	PGPA rule
Finance Minister's Orders	PGPA rule for financial reporting

Does it apply to us?

☐ Absolutely!!

- OCO is a Non-corporate commonwealth entity
- The Ombudsman is the accountable authority
- You are all Officials (s 13)
- PGPA applies to all public resources including relevant property, money and appropriations

How does it apply?

☐ We all have a new set of duties

Accountable Authority

- Governance
- Risk (s16)
- Partnering (s17/18)
- Deregulation

Officials

- care and diligence of a reasonable person (s25) *
- act in good faith and for proper purpose (s26)
- don't misuse position or information (ss27 & 28) *
- disclose material personal interests (s29) *

Penalties:

no criminal or civil penalties
employment sanctions for staff
(s8)

* Explained further in next slides



What does that mean for me?

□ Duty of care and diligence

- Same degree of care and diligence as a 'reasonable person' in that position
- Standard will vary depending on the role, responsibilities and circumstances of position
- Example of not acting with care and diligence:
 - Not informing yourself
 - Knowingly breaking the law
 - Undertaking a familiar task without check relevant guidance materials

More for me..

- ❑ Use of position and information
 - Officials must not improperly use their position or information to:
 - Gain an advantage for yourself or another
 - Cause detriment to the Commonwealth or any person

And more..

- ❑ Disclosure of interests
 - Duty to disclose material personal interests
 - Draft Rules provide this to be in accordance with the AAls
 - Draft Resource Management Guide 203 provides more detail
- ❑ Not really any different to the PS Act requirements to 'disclose and take reasonable steps to avoid..'
- ❑ If in doubt - disclose

What does it mean for our procurement processes?

- ❑ Controls around use of public resources
 - Fundamental requirement for all Commonwealth entities is the **proper use and management** of public resources (s15 PGPA Act)
 - efficient, effective, economical and ethical use or management
 - for non corporate entities: not inconsistent with Australian Government policies
- ❑ CPRs remain the same

Where's Reg 9?

- ❑ Section 23(1) confers (delegable) power to enter into arrangements
- ❑ Section 23(3) proposed to provide express (delegable) power to approve commitments of relevant money
- ❑ Rule 18 has the 'proper use' requirement
- ❑ AAls will assist

Recap of Reg 9/S23 rules

- ☐ Fundamental principle is that you require authority to enter into commitments
- ☐ Conflict of interest applies
- ☐ Principles to Reg 9/S23
 - vendor
 - timeframe
 - amounts
 - Purpose
- ☐ S44/Rule 18 applied
 - Not inconsistent with government policy
 - Proper use (efficient, effective, ethical and economical)
- ☐ CPRs principle
 - value for money

Where's Reg 10

- ☐ AWOL??
- ☐ Duty of accountable Authority to have regard to financial sustainability (s15)

Waiver, act of grace, debt recovery

- ☐ Powers under FMA are conferred on Finance Minister (s63-65), can be delegated
- ☐ Debt recovery rules essentially the same (Rule 11)

More rules

- ☐ Corporate plans
- ☐ Annual performance
- ☐ Risk

- ☐ Earned autonomy

Next Steps

- ☐ Be alert but not alarmed
- ☐ Review AAIS and delegations before committing funds
- ☐ Review your obligations as an official
- ☐ If in doubt ASK
- ☐ Any questions or concerns please call Finance

Questions?



Fraud Awareness

June 2014



Content

- ☐ Metrics from Australian Institute of Criminology
- ☐ Raise awareness of framework and policies
- ☐ Roles and responsibilities
- ☐ Reporting obligations

What is fraud

- For the purposes of the Commonwealth Fraud Control Guidelines (2011), fraud against the Commonwealth is defined as:

“dishonestly obtaining a benefit by deception or other means”.

- Theft or unlawful removal of Commonwealth property & information
- Evasion, by deceit, of payments owed to the Commonwealth
- Forgery
- Bribery, blackmail, secret commissions and extortion involving a Commonwealth officer
- Misuse of Commonwealth facilities
- Obtaining property or gaining a financial advantage by deception

Fraud Trends

- ❑ Globally decline in significant fraud incidents (68% from 1998 2010 based on EY Global Fraud Survey)
- ❑ AFP report an 11% drop from ~600 incidents per 100,000 people to ~400 (1997 – 2012)
- ❑ AIC estimate that annual Australian cost is about \$6 billion

Internal fraud

- ❑ KPMG (2012) – 75% of major fraud is committed by insiders
- ❑ PwC (2012) – 54% of economic crime is committed by employees
- ❑ Kroll (2011) – 60% of offenders worked for the victim organisation
- ❑ Cth Fraud Survey (2011) – 31% of agencies experienced internal fraud

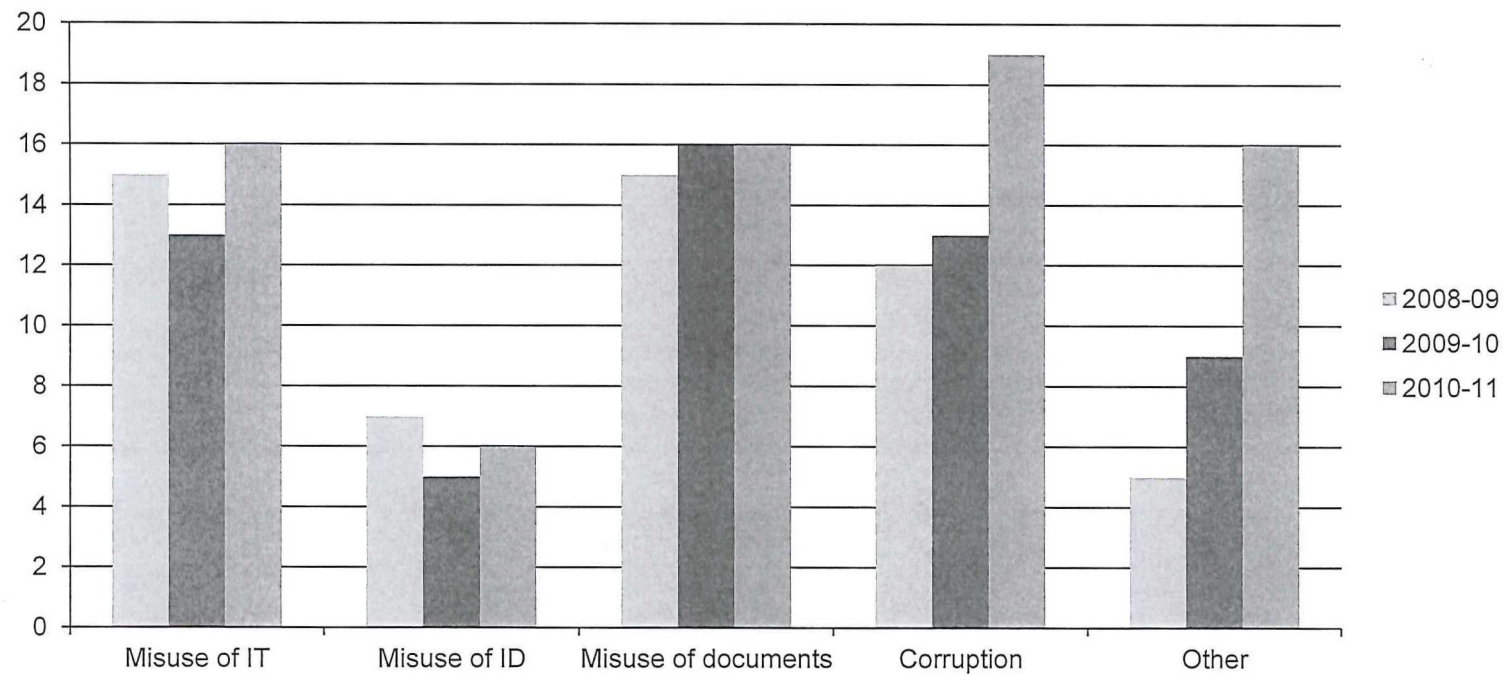
Australian internal fraud profiles

- ❑ Male, 36-45 yrs, employed >10 years, management position (AIC-PwC)
- ❑ 29% of fraud perpetrated in collaboration with others (KPMG 2012)
- ❑ Most costly internal fraud incident (*Cth Fraud Survey 2010-11*)
 - 42% males; 69% aged 25-44; 43% resided in ACT
 - 38% at APS 5-6 level, 58% for > 4 years;
 - 67% educated to tertiary level
 - 54% had a security clearance;
 - 40% admitted fraud in full
 - Primary motivation – personal and family financial problems (40%)

Volume of C'wealth incidents

- ❑ No of internal fraud incidents 2010-11
 - C'wealth 3,828
 - Equipment
 - Entitlements
 - Information
 - Financial benefits
 - Other
 - OCO 0

How is fraud committed?

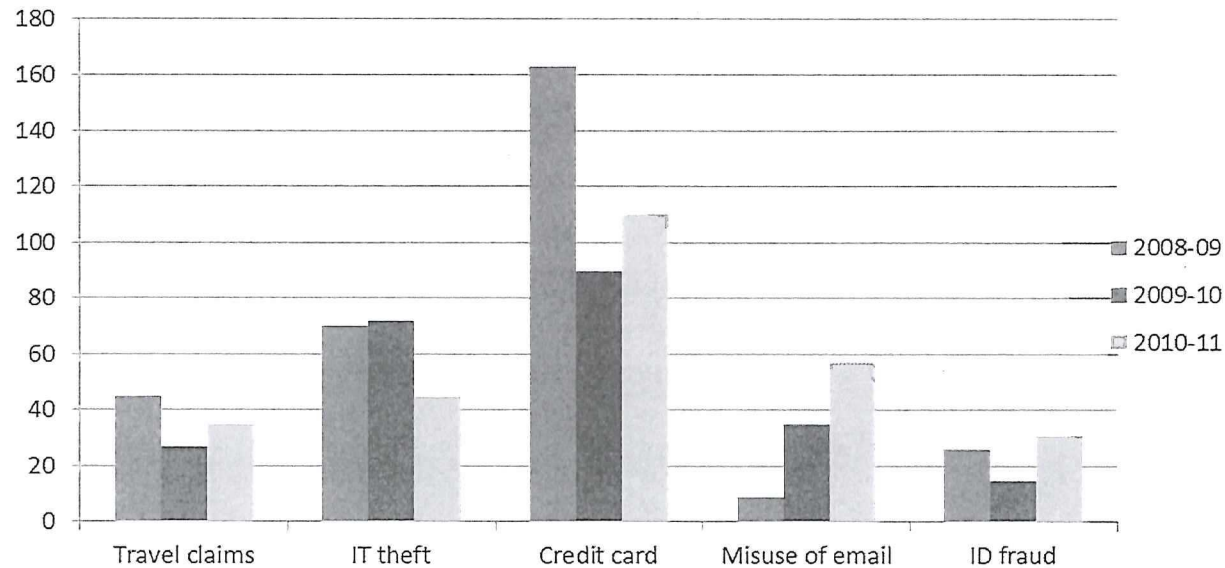


% of agencies



Disclosed under FOI

Number of incidents (C'wealth)



Guidance

- ❑ Financial Management and Accountability Act, Regulations and Finance Orders 1999
- ❑ *Public Service Act 1999*, APS Values and Code of Conduct
- ❑ Commonwealth Fraud Control Guidelines (2011)
- ❑ Chief Executive's Instructions and Procedural Rules (2012)
- ❑ OCO Fraud Control Policy and Plan

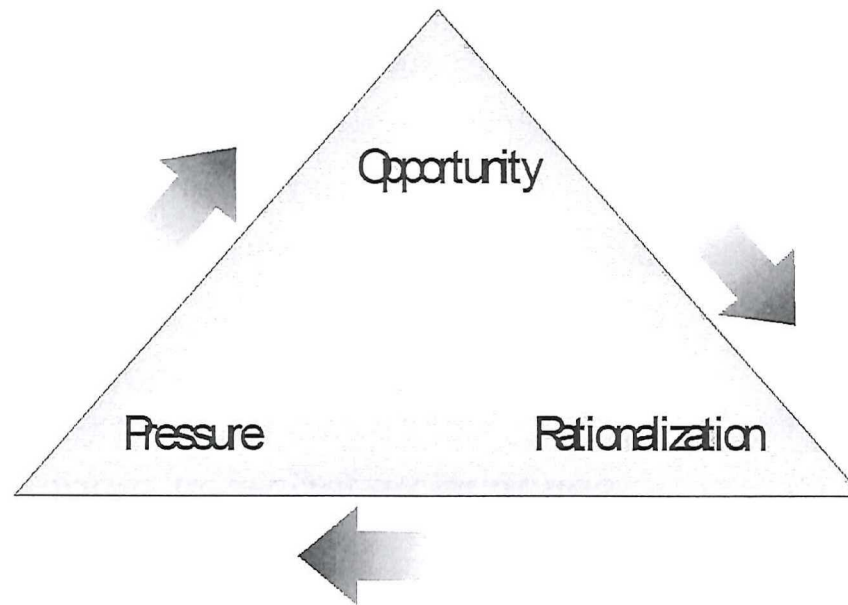
Fraud Control Framework

- ☐ Leadership and culture
- ☐ Legislation, policy and guidance
- ☐ Fraud Control strategies:
 - Prevention
 - Detection
 - Response
 - Monitoring and evaluation

Source of fraud

- Misuse of credit cards
- Fraudulent payments through FMIS
- Lack of probity in purchasing, contracting and leasing
- Misuse/theft of assets
- Ineffective records management/security (theft/disclosure)
- Recruitment (nepotism/patronage etc)
- Poor management of information

Fraud Risks – human element



Fraud Risks

☐ The Human factor:

- ☐ Inadequate segregation of duties
- ☐ Significant or prolonged understaffing (eg: accounting/audit areas)
- ☐ Low morale
- ☐ Lifestyle at odds with known income sources
- ☐ Lack of managerial advice
- ☐ Excessive hours of work or lack of delegation of duties
- ☐ Management dominated by one person
- ☐ Pressure to meet budgets
- ☐ Lack of supervision or too much supervision
- ☐ 'Do as I say not as I do' management ideology

Fraud Risks

- ☐ Process issues
 - ☐ Lack of appropriate recruiting checks
 - ☐ Internal controls given a low priority
 - ☐ Accounts/books not kept accurate and 'up to date'
 - ☐ No checks on suppliers/contractors
 - ☐ Lack of enforcement of leave/flex or allowance procedures
 - ☐ Counterparty credit risks left unattended
 - ☐ Failure to correct identified control weaknesses
 - ☐ Lack of training in fraud prevention and control
 - ☐ Poor supervision of employees

- ☐ Mitigated by actions such as returning your credit card statements/cab charges/acquit your travel

Fraud Control

- ☐ Office policy is **ZERO TOLERANCE** towards fraudulent activity/behaviour
- ☐ Fraud reduction strategies involve elements of:
 - ✓ Prevention
 - ✓ Detection
 - ✓ Monitoring
 - ✓ Education
- ☐ General Control Environment
 - ✓ Ombudsman Act
 - ✓ APS Code of Conduct and APS values
 - ✓ PGPA duties of Officials
 - ✓ Management and the ethical environment
 - ✓ The Crimes Act

Roles and responsibilities

☐ Ombudsman

- ensure FCP and Policy are implemented
- ensure communication to staff
- receive fraud disclosures (note PID implication)

☐ CFO

- support Ombudsman
- provide awareness training
- receive fraud disclosures

☐ Everyone

- Report all cases of suspected or committed fraud
- Abide by the rules
- Implement fraud risk management strategies

What do you do if you suspect fraud

- ☐ Must report it to CFO.
- ☐ A suitably qualified investigator will be engaged to investigate (internal audit/Ernst and Young)
- ☐ Where the matter is serious or overly complex the matter will be referred to the AFP
- ☐ the role Commonwealth Director of Public Prosecutions is responsible for prosecuting offences against the Commonwealth Law
- ☐ the remedies that are available include criminal prosecution, civil recovery and action pursuant to the Code of Conduct

Questions?

Disclosed under FOI