Financial Accountability Handbook

Volume 1 – Introduction

March 2024

QUEENSLAND **TREASURY**

Queensland Government

The Financial Accountability Handbook is designed to assist agencies in developing a framework for the financial management of their agency.

Volume 1 discusses the principles underlying the *Financial Accountability Act 2009* and its subordinate legislation, its general purpose and scope, the framework within which it has been developed, and its application to the various forms of Government entities.

The *Financial and Performance Management Standard 2019* requires agencies to have regard to the Handbook when establishing their internal control systems and processes. Agencies must comply with the contents of the Handbook when they apply to agency circumstances. Agencies will therefore need to be mindful of this requirement when establishing and implementing internal financial controls and operational processes.

This Volume consists of the following Information Sheets:

Reference	Information Sheet Title	Date Issued
1.1	Purpose, Compliance and Exemptions	March 2024
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Further information

If you have any questions concerning the Financial Accountability Handbook, please contact your Treasury Analyst. Alternatively, email the Financial Management Helpdesk (fmhelpdesk@treasury.qld.gov.au) with details of your query and a response will be provided.

Information Sheet 1.1 Purpose, Compliance and Exemptions

Introduction

All Queensland departments and statutory bodies must comply with the *Financial Accountability Act 2009* (the FA Act), the *Financial and Performance Management Standard 2019* (the FPMS) and the *Financial Accountability Regulation 2019* (the Regulation).

The legislation has been prepared using a principles-based approach, which is discussed in further detail in *Information Sheet 1.3 – Principles-based Legislation*. Legislative and regulatory prescription is minimal, with outcomes, rather than processes, mandated.

Key themes throughout the FA Act and its subordinate legislation are accountability, governance and internal controls.

Purpose of Handbook

It is the responsibility of each accountable officer and statutory body to ensure compliance with the legislation. The purpose of the Financial Accountability Handbook (the Handbook) is to assist accountable officers and statutory bodies to discharge their responsibilities under the FA Act, the FPMS and the Regulation. Various approaches can be adopted to ensure compliance, and these are outlined in Information Sheets contained in the Handbook.

Compliance with Handbook

Section 7(4) of the FPMS requires agencies (defined in *Information Sheet 1.4 – Entity types*) to have regard to the Handbook when establishing and maintaining their internal control systems and processes. This means that agencies must comply with the contents of the Handbook when they apply to agency circumstances. Agencies will therefore need to be mindful of this requirement when establishing and implementing financial internal controls and operational processes.

While the Handbook is targeted towards departments and statutory bodies, other Queensland public sector entities may find the Handbook a useful guide.

Exemptions

Section 59 of the FA Act enables the Treasurer to exempt an agency from complying with the FPMS, in whole or in part. This may include an exemption from either a specific requirement in the FPMS, or from a document that the legislation normally requires an agency to comply with or have regard to.

It is expected that requests for exemptions will be minimal and will only be approved in exceptional circumstances. In applying for an exemption, the agency must:

- clearly state which sections of the FPMS they are seeking exemption from

- why the exemption is considered necessary
- if appropriate, the financial effect of not complying with a prescribed requirement, and
- propose an alternative action/approach to provide assurance.

Prior to granting any exemption, the Treasurer must consult with the Auditor-General.

If an exemption relates to the planning or performance management provisions of the FPMS, the Treasurer must also consult with the Premier before granting the exemption, given the Premier has responsibility for these provisions. Prior to an agency writing to the Treasurer to request an extension or exemption from the planning or performance management requirements under the FPMS, agencies should initially consult with the Performance Unit, Department of the Premier and Cabinet (by email pm@premiers.qld.gov.au or by telephone (07) 3003 9192).

The Treasurer will assign an end date or review date when approving an exemption. This ensures that a regular assessment of the ongoing need for the exemption is made. The agency could consider suggesting an appropriate end or review date when applying for the exemption.

The Treasurer may attach conditions to an exemption. For example, a statutory body formed on 1 April may obtain an exemption from strategic planning prior to the commencement of the next financial year (that is, 1 July), on the condition that a plan is prepared by 31 December of the same year.

The agency must maintain a register of all approvals granted by the Treasurer to exempt the agency from applying the FPMS, in whole or in part, as well as any conditions attaching to those exemptions.

Please note: the QGEA has its own exemption process that is managed by the Queensland Government Chief Information Office.

Information Sheet 1.2 Framework for Financial Management Legislation

Introduction

The *Financial Accountability Act 2009* (the FA Act) was enacted to govern public sector financial administration in Queensland. The FA Act is supported by the *Financial and Performance Management Standard 2019* (the FPMS) and the *Financial Accountability Regulation 2019* (the Regulation).

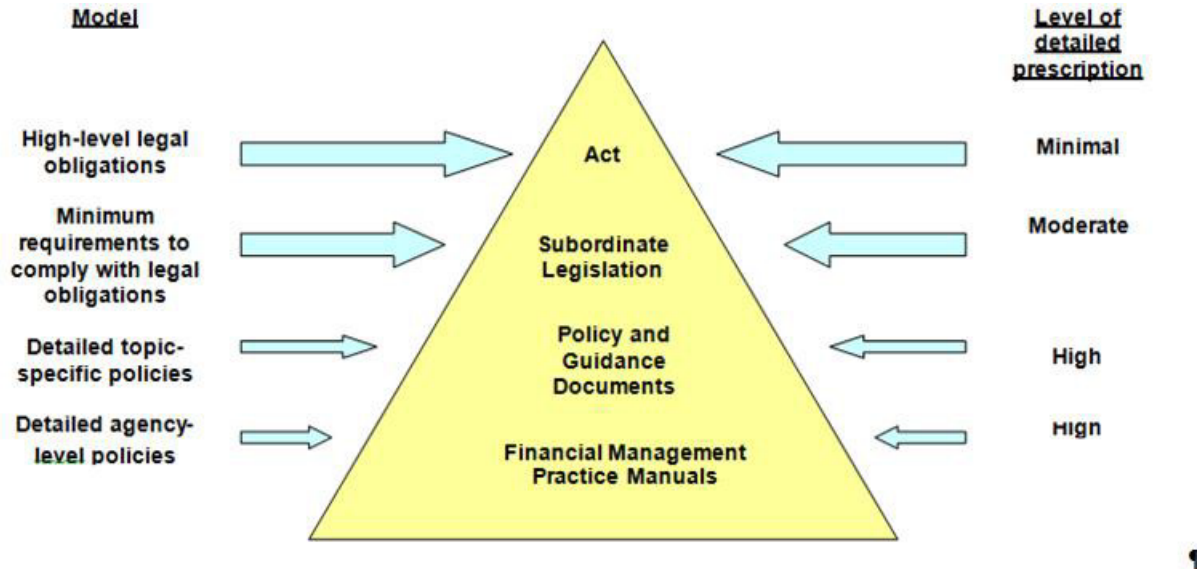
The FA Act and subordinate legislation have been prepared using a principles-based approach, as discussed in *Information Sheet 1.3 - Principles-based Legislation.*

The framework is designed to support a consistent approach to the adoption of the FA Act, FPMS and Regulation.

This Information Sheet is intended to assist agencies in understanding the principles underlying the legislative framework.

Queensland's Financial Legislative Framework

The financial legislative framework comprises a four tier system that is illustrated below:



- FA Act – the *Financial Accountability Act 2009* sets out strategic legal obligations with which agencies must comply. The FA Act is principles-based with minimal prescription.
- Subordinate legislation – this consists of the *Financial and Performance Management Standard 2019* and *Financial Accountability Regulation 2019* and provides a moderate level of prescription, with the aim of establishing broad requirements within which agencies must operate to meet their legal obligations under the FA Act.

- Policy and guidance documents are referred to in the FA Act and subordinate legislation. These documents provide guidance to agencies to assist them in meeting their financial, operational and regulatory obligations. The policy documents include the Financial Accountability Handbook (released by Queensland Treasury), the Queensland Procurement Policy 2023, the Queensland Government Performance Management Framework Policy (released by the Department of the Premier and Cabinet), and the Queensland Government Enterprise Architecture (administered by the Queensland Government Chief Information Office).
- Financial Management Practice Manuals (FMPMs) are agency documents that must comply with the FA Act, subordinate legislation and, where applicable, subsidiary policy documents. FMPMs are discussed in further detail in *Information Sheet 3.14 – Financial Management Practice Manuals*.

Legislative foundation principles

While the following principles are not stated in the FA Act, they underpin the operation of the FA Act, FPMS and the Regulation.

1. **The legislation requires the accountable officer or statutory body to administer the agency in the most efficient, effective and economical manner within the requirements of the legislation.**

   The legislation must be robust in the face of the changing environment within which the public sector operates.

   In recognition of the wide and complex services provided by the Queensland public sector, the legislation permits the accountable officer or statutory body to take a risk-based approach to the management of the agency within the broader legislative requirements.

   The flexibility in applying the legislation needs to be balanced with the cost effectiveness and defensibility of actions, given public expectation.

2. **A high level of accountability to Parliament is maintained within a framework of balanced administrative compliance.**

   Parliament is accountable to the public for the effective financial administration and management of public sector agencies. To facilitate this, there must be a cycle of reporting to Parliament on agency performance, finances and operations. This is achieved through agency publications and reporting to the responsible Minister.

   The system supporting accountability must be balanced by the need for agencies to provide services to the community in an efficient, effective and economical manner. Prior to new compliance activities being introduced, the cost of the requirements should be measured against the benefit of the proposed practices.

3. **Innovative management practices are fostered and encouraged within the overall financial management framework of Government, without compromising accountability.**

   As part of the continuous improvement of the service delivery and performance of agencies, accountable officers and statutory bodies are encouraged to be innovative by identifying and implementing better practices within their agencies. These can relate to a broad spectrum of functions, such as developing

alternatives for obtaining better value for money, more efficient and effective delivery of agency services, and improving partnerships with the wider community.

4. **The governance framework must be sound and clearly articulated.**

   There are a number of key contributors to good governance. These include, but are not limited to, the executive management committee, the audit committee, the internal audit function and the risk management function. These contributors are recognised within the legislation to ensure a minimum standard of governance is applied within each agency.

   The legislation should also clearly define responsibilities for agency resource and performance management, and the nature of those responsibilities, and articulate the establishment of an effective internal control structure. These factors, in conjunction with strong leadership and competent stewardship, provide the foundation for promoting the efficient, effective and economical use of agency resources.

Information Sheet 1.3 Principles-based Legislation

Introduction

The *Financial Accountability Act 2009* (the FA Act) and its subordinate legislation have been prepared using a principles-based approach.

This Information Sheet is designed to assist agencies to understand the differences between principles-based and rules-based legislative formats, and the advantages that principles-based legislation brings to agency operations.

What does 'principles-based legislation' mean?

Generally, there are two types of legislation: principles-based legislation and rules-based legislation.

Principles-based legislation focuses on accountability and outcomes (for example, service delivery and the preparation of financial statements and annual reports). This approach provides senior management with greater flexibility to determine the processes and functions to be used in the delivery of an agency's objectives and services.

Rules-based legislation contains detailed legislative requirements demanding agency compliance and tends to be detailed in content, complex in interpretation, and prescriptive in application. It attempts to address the current social, economic and legal environment in which the legislation has been framed, and results in the legislation requiring constant revision as these factors change.

The advantages of principle-based legislation

The advantages of principles-based legislation can be grouped into the following broad areas:

- Flexibility
- Scalability, and
- Robustness.

Flexibility

Principles-based legislation provides high-level general requirements under which agencies operate. Legislating for outcomes rather than prescribing specific requirements provides agencies with the flexibility to adopt the most appropriate systems and processes to achieve its objectives and deliver its services.

Under a rules-based approach, the focus is on procedures which comply with prescriptive legislative and regulatory requirements.

Scalability

A principles-based approach focuses on establishing broad principles that can be adapted to differing agency requirements and formats. This form of legislation allows the legislative and regulatory requirements to be applied by a wide range of agencies, irrespective of their size or functions.

Rules-based legislation reflects the social, economic and legal environment at the time the legislation was framed, and may not have flexibility in its application across the range of agencies which exist. This can result in additional legislative complexity as exemptions may be required for some small agencies when complete compliance is impractical or uneconomical.

Robustness

Principles-based legislation, drafted in terms of well-expressed principles or outcomes, is less likely to become outdated or need frequent amendments as the principles of accountability and outcomes rarely change.

Rules-based legislation may require frequent amendments due to changing economic, social and financial practices and policies.

Does principle-based legislation mean there is no prescription?

No. Certain accountability measures are contained in principles-based legislation and require specific agency compliance. For example, the requirements to undertake planning, prepare financial statements and annual reports, and seek approvals for certain actions (for example, prior to entering into derivative transactions) are prescribed in the legislation and require agency compliance.

Various prescriptive requirements may also be contained in external documents referenced in the legislation as documents agencies 'must comply with' or 'have regard to'. These documents complement the legislative provisions.

Does principle-based legislation reduce accountability?

No. The legislation delegates accountability to appropriate officers within an agency, providing them with the flexibility to implement appropriate processes and functions to deal with their agency's particular issues. Senior agency personnel are expected to use their judgement in interpreting the principles outlined in the legislation, and develop agency-specific processes to achieve the agency's strategic and operational objectives in the most efficient, effective and economical manner. Documents supporting reasons for decisions should be prepared and maintained as evidence for the particular decision taken and for transparency purposes.

Related Resources

- Principles not Rules: A Question of Judgement, Institute of Chartered Accountants of Scotland, 2006

Information Sheet 1.4 Entity Types

Introduction

The Queensland Government provides its services and functions through a variety of entity types. Entities that fall under the financial management and reporting provisions of the *Financial Accountability Act 2009* (FA Act) are departments, public service entities, statutory bodies, statutory authorities and corporations sole. For the purposes of the Financial Accountability Handbook (the Handbook), the term 'agency' is used generically to refer to these entity types.

Other types of entities within the Queensland public sector include joint ventures, Government owned corporations, proprietary limited companies (special purpose vehicles), and controlled entities of other entities. Financial management and reporting requirements for these entities are dealt with under other specific legislative requirements, such as the *Corporations Act 2001*. However, when developing and implementing systems of internal controls and processes, such entities may benefit from reference to applicable Information Sheets in the Handbook.

This Information Sheet is designed to assist agencies in understanding the types of legal entities captured by the FA Act.

Department

A department is an administrative arrangement,[1] where the entity has been declared, via a gazette notice, to be a department by the Governor in Council. The gazette notices are collated into a single document titled 'Administrative Arrangements Order', which is administered by the Department of the Premier and Cabinet.[2]

A department may also be a body for which an accountable officer has been appointed. These are generally public service entities, which are discussed below.

In Queensland, only departments can be funded from direct appropriations. Under the *Constitution of Queensland 2001*, payments from the Consolidated Fund can only be authorised under an Act (the Annual Appropriation Acts). Section 6 of the FA Act specifies that an Annual Appropriation Act only relates to departments and states:

An annual appropriation Act is an Act that:

- *authorises the Treasurer to pay from the consolidated fund an amount for the departments for the financial year, and*
- *appropriates for the financial year an amount to be applied to the departmental services, administered items and equity adjustment of each department.*

[1] The result of a Machinery of Government (MoG) decision.

[2] The latest Administrative Arrangements Order is available at <https://www.qld.gov.au/about/how-government-works/government-responsibilities>.

Public Service Entity

A public service entity is a department, or an entity mentioned in Schedule 1 of the *Public Sector Act 2022* (PSA 2022), which commenced on 1 March 2023.

This definition is similar in operation to that of 'public service office' in the repealed *Public Service Act 2008*.

For the purposes of the FA Act, officers may need to consider whether a public service entity is to operate and report as a department or a statutory body. In some instances, legislation creating the public service entity will specify whether it is to operate and report as a department (or part of a department) or statutory body. Where this is not the case, the provisions of the PSA 2022 and the FA Act must be applied to determine these matters.

Under section 274(1) of the PSA 2022, a public service entity listed in Schedule 1 of the PSA 2022 is required to comply with all Acts, not only the PSA 2022, as if it were a department and as if the head of the office were the department's chief executive. However, section 274(3) of the PSA 2022 provides that this does not affect the provisions of the FA Act relating to accountable officers (section 65) or the meaning of a department (section 8).

In practical terms, a public service entity listed in Schedule 1 of the PSA 2022 must still meet the criteria to be a department under the FA Act. That is, the entity must comply with the FA Act as if it were a department if it meets the definition of a department under section 8 (FA Act). For example, if the Treasurer has appointed an accountable officer under section 65(2) (FA Act).

If the public service entity does not meet these criteria, it must comply with the FA Act as if it were a statutory body.

Statutory Body

As defined in section 9 of the FA Act, a statutory body:

- is established under an Act (that is, its enabling legislation)
- has control of funds (that is, it can make decisions about how funds are expended), and
- includes, or its governing body includes, at least one member who is appointed under an Act by the Governor in Council or a Minister, or whose appointment is approved by the Governor in Council or a Minister.

The existence of statutory bodies reflects decisions where it has been deemed desirable for particular activities to operate outside a traditional departmental structure. Statutory bodies generally have a primary role that they are established to carry out, subject to varying degrees of Ministerial control specified in the enabling legislation. Statutory bodies are usually established for the following reasons:

- a need for some operational independence from the State Government
- independent funding arrangements not reliant on annual appropriations processes, or
- a need to establish a separate legal entity.

As well as the FA Act, statutory bodies must comply with the requirements of their own enabling legislation. Statutory bodies cannot receive appropriation funding. If funding from the government is required, it will be in the form of grants via a department.

Statutory Authority

There is a common perception that the terms 'statutory body' and 'statutory authority' are interchangeable. This is not the case, as a statutory authority generally only satisfies the first and third criteria of a statutory body, that is, it does not have control over its own funds.

There are currently several statutory authorities in the public sector, for example the Queensland Civil and Administrative Tribunal (QCAT).

Statutory authorities are usually established where the Government wishes to engage a board or committee (generally with industry representatives) or officer with statutory obligations or responsibilities (thus providing legislative functional independence), but without any financial control. Any costs in relation to a statutory authority are incurred by an 'administering' agency on their behalf. Generally, the administering agency will be a department, though in some instances, the administering agency may be a statutory body.

A statutory authority will be accounted for as part of the administering agency (that is, as an operational unit of that agency) and will need to comply with appropriate departmental or statutory body requirements, such as applying the administering agency's financial management practice manual.

For the purposes of the FA Act, separate financial statements and annual reports are not required for a statutory authority, though its enabling legislation may require the production of an 'annual report' which outlines the achievements of the authority for the year. This annual report does not need to comply with the Annual Report Requirements for Queensland Government Agencies.

Corporation Sole

A corporation sole is a corporation which is established under its own legislation (not the *Corporations Act 2001*) and where the authority is vested in one nominated office holder, as opposed to typical company structures in which authority is vested in a board of directors.

A small number of corporations sole exist in the Queensland public sector (for example, Queensland Treasury Corporation, and the Public Trustee of Queensland). For governance and reporting purposes, the enabling legislation of the entity should specify whether it is a statutory body or a department.

The enabling legislation for the corporations sole also provide that the entities are excluded from the *Corporations Act 2001*.

Establishment of New Entities

Prior to establishing a new non-departmental public sector entity, officers must refer to the Public Interest Map (PIM) policy. The PIM policy contains three fundamental questions which must be answered to demonstrate that the proposed body is both relevant and efficient:

- Why have a non-departmental government body?
- If justified, what form should it take?
- How should it govern and be governed?

To establish any new government body outside a department, a Minister and/or department must prove there is a public interest case for its establishment. Ministers must then seek the Premier's approval of the public interest case prior to proceeding with the new body's establishment.

Refer to the PIM policy for information about preparing a public interest case.

Related Resources

- Public Interest Map policy, Department of the Premier and Cabinet
- Welcome Aboard: A Guide for Members of Queensland Government Boards, Committees, and Statutory Authorities, Department of the Premier and Cabinet

Information Sheet 1.5 Efficient, Effective, Economical and Value for Money

Introduction

The financial management legislation is underpinned by the concepts of 'efficient', 'effective', 'economical' and 'value for money'. For example:

- section 61 of the *Financial Accountability Act 2009* (the FA Act) requires the accountable officer or statutory body to achieve reasonable value for money by ensuring the operations of the department or statutory body are carried out efficiently, effectively and economically, and
- section 11 of the *Financial and Performance Management Standard 2019* (the FPMS) requires agencies to establish and maintain management systems for efficiently, effectively and economically managing their financial resources.

The terms efficient, effective, economical and value for money are not defined in the legislation. This Information Sheet discusses the meaning of the terms as they relate to the financial accountability of an agency.

Efficient

Efficient management of financial resources may be defined as ensuring resources are achieving maximum performance with as little waste as possible.

The accountable officer or statutory body should ensure the agency is achieving maximum performance with minimum input, or consider the ratio between input and output. For example, systems and/or equipment may be obsolete, and therefore processes may take longer to accomplish or be wasteful. Consideration should be given to upgrading the relevant system and/or equipment to result in increased efficiencies.

An example of efficiency for the chief finance officer (CFO), in taking a risk-based approach to internal controls, could be ensuring there are no unnecessary controls or processes in place. Assessment of the efficiency of the operations of the agency may include considerations of whether the processes currently in place can be streamlined or improved. For example, the agency may have multiple controls over checking input of expenditure vouchers when one control would be sufficient.

Effective

The effectiveness of the operations of an agency may be defined as being able to deliver a successful service that meets agency objectives as completely as possible; that is, it is producing the desired result.

For example, the accountable officer or statutory body should ensure staff are correctly trained and maintain current skills to perform the duties required of them. Ensuring staff engaged by the agency possess a high level of knowledge and/or skills relevant to agency business will assist with the effectiveness of meeting agency objectives.

The CFO should consider whether controls and processes in place are achieving the desired results. For example, is the agency continuing to produce reports merely as a compliance exercise to satisfy the financial accountability requirements, or has it reassessed the adequacy of reports to ensure management receives timely and targeted information to assist it to better manage and monitor its performance?

Economical

For an agency to operate economically, the accountable officer or statutory body is required to act prudently, by minimising costs at all opportunities without compromising results. While the economy of an agency's operations is underpinned by cost, the efficiency and effectiveness of operations also contribute to achieving overall economy.

For example, the accountable officer or statutory body may conclude that the most economical (that is, least expensive) approach to debt collection is to outsource the function. This decision should consider whether the outsourcing of debt collection will contribute to achieving efficiency (for example, access to streamlined, up to date debt collection systems and methods for the same input/dollars) and effectiveness (for example, access to specialist staff). This would free up agency staff to concentrate on other functions that are vital to the agency delivering its services.

It is acknowledged that the public sector environment has compliance requirements, particularly reporting requirements, over and above those mandated for the private sector. While these requirements aim to ensure a higher level of accountability and transparency to the public, they may make achieving 'economical' operations more challenging. However, the accountable officer or statutory body must meet their obligations under the regulatory requirements in the most economical manner possible.

Value for Money

In comparison to the previous three concepts, value for money is a more comprehensive and all-encompassing concept, as it extends to considerations such as whole-of-life costs and opportunity costs, as well as non-cost factors such as fitness for purpose, quality, service and support, reliability and sustainability considerations.

Value for money involves the concept of maximising the available benefits from every dollar spent. Value for money has several dimensions which require that:

- objectives are carefully considered and prioritised on a cost benefit basis
- competing objectives are assessed and prioritised so that only those with high benefits are funded
- the most cost effective options are selected to achieve objectives
- explicit evaluation is made as to whether the government or other potential providers are best placed to provide the services
- all activities, both recurrent and capital, are subjected to the same rigorous analysis
- implementation is closely monitored to ensure adherence to budgets, and
- programs, activities and projects are continuously reviewed and evaluated to ensure outcomes are consistent with stated objectives, and benefits are realised.

Performance Audits

Section 37A of the *Auditor-General Act 2009* provides that the Auditor-General may undertake a performance audit of any or all activities of an agency. Performance audits provide Parliament and the community with independent assurance that public money has been spent wisely and that the results meet Parliament's expectations.

This is completed by assessing whether an entity, program or activity is achieving its objectives economically, efficiently, effectively and in compliance with relevant laws. Performance audits do not question the merits of policy objectives, just how well they are being achieved.

Follow-the-Dollar Audits

Section 36A of the *Auditor-General Act 2009* provides that the Auditor-General may conduct an audit of a matter relating to property that is, or was, held or received by a public sector entity and given to a non-public sector entity (for example, funding provided under a grant agreement). The objective of conducting these audits includes deciding whether the property has been applied economically, efficiently and effectively for the purposes for which it was given to the non-public sector entity.

Information Sheet 1.6 Obtaining and Documenting Ministerial Decisions

Introduction

The *Financial Accountability Act 2009* (the FA Act) and its subordinate legislation are focussed upon the responsibilities of accountable officers in the management of their department. Under the FA Act, all financial authority rests with the accountable officer.

The FA Act does not contemplate the concept of Ministers having approval authority over departmental funds. An accountable officer's power over expenditure is explicit in the Explanatory Notes attached to the annual Appropriation Bills, which state:

> *Accountable Officers may apply the total of funds received from the Treasurer for departmental services across the individual services of the department.*

There may be some divergence from the FA Act, however, when there is specific legislation or policy (or government direction) which directs that a Minister (or, occasionally, Governor in Council) must undertake particular decision making responsibility. Examples of this include the Project Commencement Approval Policy, which requires departments to seek Governor in Council or Ministerial approval prior to commencing a high value project, or certain grant programs.

This Information Sheet is designed to highlight the importance of documenting all Ministerial decisions, and is focussed primarily on those decisions with a financial impact. However, similar considerations should apply to other administrative decisions made by Ministers.

Whilst this Information Sheet is directed towards departments, some of the principles discussed may be equally applicable to statutory bodies, depending upon their enabling legislation.

Underlying Concepts

Irrespective of the approving authority for the commitment or expenditure of funds, it is important to keep in mind that public moneys are being spent. Therefore, while the FA Act is not directly applicable to Ministers, it is expected that the underlying concepts of the FA Act will still be adhered to. For example, there must still be transparency, accountability and value for money. There should still be due regard for related policies, such as the Queensland Procurement Policy 2023.

Transparency in how funds are allocated and accountability for how public moneys are used is essential to maintain public trust and confidence in the integrity of the government's decision-making processes.

Appendix 1 of the Ministerial Handbook sets out the Ministerial Code of Conduct. It clearly provides that Ministers must observe fundamental principles such as transparency, accountability and integrity.

If an agency has specific legislation that provides Ministerial responsibilities for approvals (not necessarily financial approvals), the agency should develop policies and guidelines around the approval process. These should be designed to ensure that there is adequate documentation and transparency to support the approval. Examples may be approvals required under the *Land Act 1994* or the *Planning Act 2016*.

Documentation When Seeking Approval

When seeking approval from a Minister, it is important that the agency clearly explains any legislative or policy requirements relating to the proposal. This documentation should also clearly outline information such as:

- what is being recommended
- justification for the recommendation (for example, whether selection criteria were used)
- where applicable, other options considered, and why these are not recommended
- financial impacts of the recommended position
- value for money considerations
- any conflicts of interest that the Minister should be aware of, and
- any risks associated with the recommended position.

In the case of Governor in Council approvals, departments must use the templates in the Executive Council Handbook. In this regard, while the level of detail discussed above may not be contained within the documentation, the department must ensure that it has this level of information to support the recommendation, should it be requested.

Documentation Recording Decisions

Administrative law is the body of law that regulates government decision making. Access to review of government decisions is a key component of access to justice.

As well as being basic components of accountability and governance, there are other Acts which highlight the importance of documenting decisions:

- Under the *Judicial Review Act 1991* (JR Act), an aggrieved party may be able to apply for judicial review of a Ministerial decision.
    - Section 32 of the JR Act provides that a person who is entitled to make an application for a judicial review may request a written statement in relation to the decision.
- Section 27B of the *Acts Interpretation Act 1954* provides that if an Act requires an authority or person making a decision to give written reasons for the decision, the instrument giving the reasons must also set out the finding on material questions of fact, and refer to the evidence or other material on which those findings were based.
- Under the *Public Records Act 2002*, public authorities, including Ministers, have an obligation to keep full and accurate records of decisions.

Further recordkeeping requirements may also be found in the policies, standards and guidelines issued by the State Archivist, including the Ministerial Records Policy.

If Governor in Council or the Minister approves the agency's recommendation, then their signature on the documentation should be sufficient to record the decision.

If a recommendation is not approved, or the Minister makes a different decision, the agency should ensure that it captures and retains reasons for the decision being different to that recommended, and justification for the decision.

This will be particularly important for Ministerial decisions that have direct financial implications. As the expenditure will be coming from the agency's budget, the agency must be able to respond to queries about the transaction (for example, in the case of Right to Information requests, questions in Parliament, or for audit purposes). If there is an absence of documentation, it has the potential to open the Minister to accusations of bias or favouritism.

Related Resources

- Auditor-General Report to Parliament No. 4 2015-16 Royalties for the Regions, Queensland Audit Office
- Commonwealth Grants Rules and Guidelines. Department of Finance, 2017
- Grants and Grant Funding – Keep and Manage Specific Records, Queensland State Archives
- Ministerial Code of Conduct, Ministerial Handbook, Department of the Premier and Cabinet
- Ministerial Records Policy - A recordkeeping policy for Ministers and Assistant Ministers, Queensland State Archives, December 2017

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Translating and interpreting assistance

QUEENSLAND **TREASURY**

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