



Australian Government

Australian Institute of
Health and Welfare

AIHW Charter of Corporate Governance

February 2019

The AIHW logo, where each letter is a different color: 'A' is teal, 'I' is green, 'H' is blue, and 'W' is purple.

AIHW

AIHW CHARTER OF CORPORATE GOVERNANCE

Purpose

This Charter of Corporate Governance outlines the corporate governance framework of the Australian Institute of Health and Welfare (AIHW; 'the Institute'), as established under the *Australian Institute of Health and Welfare Act 1987* (AIHW Act).

The AIHW is a corporate Commonwealth entity and operates within the Commonwealth legislative, regulatory and financial structure. The charter describes the roles and responsibilities of the AIHW Board, including the CEO, and codifies Board operating practices and procedures for the benefit of Board members and management to allow them to best manage the requirements of the organisation.

Introduction

The AIHW is a national agency established under the AIHW Act as an independent entity, to provide reliable, regular and relevant information and statistics on Australia's health and welfare. The AIHW is a body corporate subject to the *Public Governance, Performance and Accountability Act 2013* (PGPA Act).

The AIHW Act provides that the AIHW Board is to ensure the proper, efficient and effective performance of the Institute's functions, whilst day-to-day administration of the Institute is the responsibility of the Chief Executive Officer (CEO).

AIHW's vision, purpose and values

The AIHW is guided in all its activities by its vision, purpose and values.

Vision

Stronger evidence, better decisions, improved health and welfare.

Purpose

To create authoritative and accessible information and statistics that inform decisions and improve the health and welfare of all Australians.

Values

In pursuing its vision, the AIHW draws on its independence and expertise in health and welfare to strive for excellence in all it does. It also upholds the Australian Public Service (APS) values of:

- **Impartial**—apolitical and provides the Australian Government with advice that is frank, honest, timely and based on the best available evidence
- **Committed to service**—professional, objective, innovative and efficient, and works collaboratively to achieve the best results for the Australian community and the government
- **Accountable**—open and accountable to the Australian community under the law and within the framework of ministerial responsibility
- **Respectful**—respects all people, including their rights and their heritage

- **Ethical**—demonstrates leadership, is trustworthy and acts with integrity in all that it does.

Roles, powers and responsibilities

1. Governing laws

Enabling legislation

The AIHW was established in 1987 by the *Australian Institute of Health Act 1987*. In 1992, the AIHW's role and functions were expanded to include welfare-related information and statistics. The Act is now entitled the *Australian Institute of Health and Welfare Act 1987*.

The AIHW is constituted under the AIHW Act as a body corporate.

The main functions of the Institute are to:

- collect and produce information and statistics relating to health and welfare
- coordinate and provide assistance for the collection and production of information and statistics relating to health and welfare by other bodies or persons
- conduct and promote research into the health of the people of Australia and their health services
- develop specialised statistical standards and classifications relevant to health, health services and welfare services, in consultation with the Australian Bureau of Statistics (ABS)
- publish reports on work carried out by, or in association with, the Institute
- make recommendations to the Minister on the prevention and treatment of diseases and the improvement and promotion of the health and health awareness of the people of Australia
- provide biennial reports to the Minister and to Parliament on Australia's health and Australia's welfare

The Institute is required under the AIHW Act to appoint a committee known as the Australian Institute of Health and Welfare Ethics Committee (AIHW Ethics Committee). The Board may appoint such other committees as it thinks fit to assist it in performing its functions.

The duties and responsibilities of AIHW Board members are specified by the PGPA Act, under which the Board is deemed to be the Institute's 'accountable authority'.

Responsible Minister

The Minister for Health is the Minister responsible for the AIHW, as it is an agency within the Health portfolio.

2. Membership

Section 9 of the AIHW Act specifies the membership of the Board.

The Board consists of the following members:

- the Chair
- the Deputy Chair
- the CEO

- not more than 3 members nominated by State Health Ministers
- not more than 6 other members.

With the exception of the CEO, members are appointed by the Minister on a part-time basis for a term of up to 5 years. The Minister must appoint one member to be the Chair and another to be the Deputy Chair.

The CEO is appointed by the Board by written instrument. The CEO holds office on a full-time basis for the period of time specified in the instrument, which must not exceed 5 years.

Role of observers

Visitors, guests and staff members may be invited to attend Board meetings as observers for discussion on matters that are of immediate concern to them or for which they are responsible.

Secretariat

The Board Secretary and a minute taker have standing invitations to attend Board meetings and are not observers.

Acting members

Section 11B of the AIHW Act allows the Minister to appoint a person to act as the Board Chair, Deputy Chair or a member of the Board when there is a vacancy. The Minister may also appoint an individual to act in a position where a current member is absent from duty or from Australia or is unable to perform the functions of their position. Further requirements relating to the appointment of acting Board members are contained in section 33A of the *Acts Interpretation Act 1901*.

3. Conduct of Board members

Board members are expected to ensure that they understand their responsibilities under both the PGPA Act and the AIHW Act, and to uphold the AIHW's values.

Sections 25–29 and section 30 of the PGPA Act respectively describe the general duties of Board members (see also 'Declaration of an interest' and 'Conflict of roles' in section 7 of this charter).

4. Roles

Role of the AIHW Board

The Board is the accountable authority of the Institute under the PGPA Act. It determines the AIHW's vision, purpose and values, sets the overall policy and strategic direction of the AIHW and has broad collective responsibilities to:

- govern in a way that is consistent with the AIHW Act and the PGPA Act
- prepare documents required of the Board as an accountable authority under the PGPA Act:
 - corporate plans
 - annual performance statements that measure and assess performance in achieving the AIHW's purposes, including the keeping of records that properly record and explain this performance
 - budget estimates of the financial impacts of the AIHW's activities

- annual financial statements, including the keeping of accounts and records about transactions and financial position
- annual reports
- govern the AIHW in a way that promotes efficient, effective, economical and ethical use and management of public resources, and the AIHW’s financial sustainability, including by:
 - establishing and maintaining systems relating to risk oversight and management and internal control
 - determining the functions of an audit committee (see ‘Risk, Audit and Finance Committee’ in section 8 of this charter)
 - preventing, detecting and dealing with fraud
- encourage cooperation with others to achieve common objectives
- take into account the effects of imposing requirements on others
- keep Ministers informed about the AIHW’s activities, including significant decisions or issues affecting the AIHW
- appoint the AIHW CEO (Part II Division 4 of the AIHW Act)
- appoint members to the AIHW Ethics Committee
- ensure that the AIHW complies with other legislative and regulatory requirements.

Role of the Board Chair

In addition to his/her board-related responsibilities, the Board Chair has responsibilities to:

- chair meetings of the Board and oversee associated processes
- manage formal relationships between the AIHW and the Minister for Health, other relevant Ministers, and key stakeholders
- manage matters of significance between meetings of the Board that are not more appropriately managed by the AIHW CEO
- represent the Board in its relationship between and communication with the AIHW CEO
- participate in key AIHW activities, notably the launch of *Australia’s health* and *Australia’s welfare*, and the development of corporate plans.

Role of Deputy Chair

In addition to his/her board-related responsibilities, the Deputy Chair is responsible for presiding over meetings of the Board where the Chair is not present.

Role of the AIHW CEO

In accordance with the AIHW Act, the CEO is responsible for the day-to-day administration of the Institute.

The AIHW Act directly confers on the CEO all functions and powers necessary or convenient to the role, including the power to delegate any or all of the CEO’s powers to an AIHW staff member or (with the written approval of the Board) any other person or body. However, the CEO must comply with any written directions of the Board in relation to the performance of his or her functions.

In addition to his/her board-related responsibilities, the AIHW CEO has responsibilities to:

- manage the affairs of the AIHW in accordance with the AIHW Act and the PGPA Act, consistent with the policies, strategies and any written directions of the Board
- provide leadership to the AIHW in policy and statistical issues across the scope of the AIHW's functions
- identify emerging strategic, operational and financial risks to the AIHW, in the context of the *Risk Management Framework* approved by the Board, and actively implement strategies to mitigate those risks
- establish and maintain, in conjunction with the Board Chair, appropriate working relationships with the portfolio Minister and other Ministers whose portfolios include activities within the scope of the AIHW
- establish and maintain appropriate working relationships with the portfolio department, other relevant Commonwealth, state and territory departments and agencies and associated Commonwealth/state forums
- liaise as required with non-government business partners and stakeholders
- ensure the Board is properly advised on all matters properly within its purview
- ensure the security of data provided to and held by the AIHW, and ensure appropriate confidentiality and privacy arrangements are in place as required by relevant statutory, regulatory and best practice requirements
- develop the corporate plan for consideration by the Board
- within the Board-approved budget and subject to any Board directions on financial matters, ensure the continued strong financial position and viability of the AIHW
- promote a work environment and employment conditions designed to attract and retain the committed and skilled staff necessary to carry out the AIHW's functions
- discharge responsibilities as 'Agency head' under the *Public Service Act 1999*, 'employer' under the *Fair Work Act 2009* and 'person conducting a business or undertaking' under the *Work Health and Safety Act 2011*
- ensure that a full induction briefing is provided to new Board members on the AIHW's functions, its operating and legislative frameworks, and members' roles and responsibilities.

Role of individual Board members

In addition to their Board responsibilities (above), individual Board members have responsibilities to:

- act in the best interests of the AIHW, regardless of any stakeholder or organisational affiliation
- support the Board Chair and AIHW CEO in decision making
- provide input to the Board based on their knowledge and background
- advocate and promote the role of the AIHW, including its independence, in improving health and welfare outcomes through the carrying out of its functions
- secure feedback from stakeholders on the use of AIHW products.

Members of the Board may participate in Institute committees established under section 16 of the AIHW Act

Role of the Board Secretary

The Board Secretary is responsible for providing administrative support and corporate governance advice to the Board that is independent of the AIHW's management.

5. Relationships

With management

Management representatives may be invited to attend parts of Board meetings to inform discussion, while having no formal responsibilities.

With stakeholders

Stakeholders, ranging from the Minister to the general public, are important to the proper functioning of the AIHW. The states and territories are key stakeholders, given that they are both data and potential funding providers to the Institute. Board members have an important role in establishing and nurturing sound relationships with the AIHW's stakeholders.

With staff

The AIHW Act places the employment and terms and conditions of staff under the responsibility of the Board within a framework provided by the *Public Service Act 1999*. The CEO, as Agency Head, has the powers of an employer under the *Public Service Act 1999*, which includes approving the AIHW's Enterprise Agreement. The Board seeks to ensure the development and welfare of staff, and provides advice to the CEO when considered appropriate.

Board members relate to AIHW staff in such a way that enhances, not undermines, the position of the AIHW CEO. Board members can only make requests of staff through the CEO, unless otherwise agreed by the Board and CEO. Staff may only report to the Board through the CEO.

The Board, through the CEO, supports and encourages staff by attending staff functions and other related activities.

6. Delegation of powers

The AIHW Board may delegate any or all of its powers to a member of the Board, a staff member of the Institute, or (with approval of the Minister) any other person or body.

7. AIHW Board processes

Meetings

The AIHW Act provides that the Board should meet at least once every 3 months. However:

- the Chair may convene a meeting at any time and must convene a meeting on receipt of a written request signed by at least 3 members; and
- the Minister may convene meetings of the Board as the Minister considers necessary.

Board meetings are usually scheduled for March, June, September and December in each year. This timing is consistent with the key reporting obligations, including approving PGPA Act compliance obligations, notably the preparation of corporate plans, annual financial statements and annual reports.

The Chair must preside at all meetings of the Board where the Chair is present. If the Chair is not present at a meeting, the Deputy Chair must preside.

On occasion, where issues to be discussed relate to certain commercially or otherwise sensitive issues, the Board Chair may excuse from discussion the AIHW CEO or other members as appropriate (see 'Declaration of an interest' section, below).

The CEO must not be present for discussions, or take part in any decisions, relating to the appointment and terms and conditions of the role of CEO that are covered in Part II Division 4 of the AIHW Act.

Agenda and papers

The AIHW CEO develops a draft agenda for each Board meeting, which is approved by the Board Chair. Individual board members are encouraged to propose items for inclusion on the agenda.

Board papers are prepared in a consistent format according to a Board-endorsed template. Papers are generally developed by the AIHW CEO in consultation with, and with the assistance of, relevant AIHW senior executive staff.

Board papers are distributed to members electronically and in hard copy at least 1 week before the meeting date.

The Board will consider late papers with the approval of the Board Chair.

Confidentiality

All papers for Board meetings are 'Board in confidence' unless otherwise determined by the Board. Board members are responsible for maintaining the confidentiality of Board discussions and Board papers. A paper may only be distributed to persons other than members for the purpose of briefing Board members on the matters raised in that paper.

Board papers may not be used for any purpose other than that for which they are intended.

Staff will be notified of relevant Board decisions/outcomes by the CEO or Chair.

Minutes

The Board Secretary's record of the meeting is provided to the Board Chair shortly after the meeting.

The Board Secretary and secretariat staff are responsible for taking the minutes and producing a draft document for clearance by the Board Chair before circulation to all members. The minutes primarily reflect the major decisions taken by the Board at the meeting. Where it is appropriate to do so, a brief background to or notes from the discussion may be recorded to provide a more accurate picture of the proceedings.

The minutes of each meeting are approved, with any amendments considered appropriate, at the subsequent meeting of the Board. Following their approval, the minutes are signed by the Board Chair and retained for the official record and availability for audit scrutiny.

Declaration of an interest

Section 29 of the PGPA Act requires Board members to disclose material personal interests that relate to the AIHW's affairs. Material personal interests could arise, for example, when a Board member is also a director of an organisation that is seeking to provide services to the AIHW.

A Board member who considers that they may have a material personal interest in a matter must disclose the nature and extent of the interest and how it relates to the AIHW's affairs by:

- advising the Board Chair as soon as the Board member becomes aware of the interest, if this is practicable between meetings;
- declaring any interests, when asked by the Chair at the commencement of meetings;
- providing details of the interest as requested by other Board members to determine its nature and extent;
- removing themselves from discussion and decision-making relating to the matter, including physically from the room unless
 - the Minister has provided written advice that the member may be present, or vote, or both; or
 - those Board members who have not disclosed a material person interest in the matter have decided that the member is not disqualified from being present, or vote, or both;
- ensuring that the meeting minutes adequately record the declaration of interest, and any determinations made by other Board members at the meeting concerning the Board member not being required to remove themselves from discussion or decision-making, or both, on the matter.

The CEO must not be present during consideration by other Board members to determine whether the CEO must remove themselves from discussion, or decision-making, or both, on a matter in which the CEO has an interest and must not take part in making that determination.

If there is a change in the nature or extent of a declared interest, the Board member must amend the record using the same process.

The requirement for Board members to disclose material personal interests applies to meetings of AIHW Board committees and will be managed through the same process.

This section of the charter draws on section 29 of the PGPA Act and sections 13, 14, 15, 16A–16C of the *Public Governance, Performance and Accountability Rule 2014*.

Conflict of roles

Board members are members of the Board of the Institute and not representatives of their field of work, home organisation or agency. In some cases, Board members could be representing potential purchasers or competitors of the AIHW with regard to contract work. In such a case, a Board member should declare their interest with regard to particular matters being considered at a meeting through the above process. The other Board members will make a determination on whether the Board member must remove themselves from discussion of the matter.

Concerns held by any Board member who is a customer or other stakeholder of the AIHW will be pursued through an outside stakeholder-consultation process and brought to the attention of the Board as necessary.

Decisions

Decisions of the Board are generally reached on a consensus basis. Decisions are recorded in the minutes.

In accordance with subsections 15(1) and 15(2) of the AIHW Act:

- a question arising at a meeting of the Board is to be determined by a majority of the votes of the members present and voting; and
- the person presiding at a meeting of the Board has a deliberative vote and, if the votes are equal, a casting vote.

Quorum

A quorum is constituted by a majority of the total membership of the Board (that is, 7 members, if all 12 of the maximum number of member positions are filled) which must include either the Chair or the Deputy Chair.

If a quorum would be present to consider a matter, except for the fact that a member is required under section 29 of the PGPA Act not to be present or take part in a decision regarding that matter and leaves the meeting, the remaining members present constitute a quorum for the purposes of deliberating or deciding that matter.

Members may provide the Board Chair with their endorsement or otherwise of a recommendation if they are absent for discussion of a particular item.

Remuneration and travel

Board members are paid remuneration as determined by the Remuneration Tribunal. In accordance with the *Remuneration Tribunal Act 1973* Board members holding an office or appointment in, or employed on a full-time basis by the following cannot be paid remuneration:

- the Commonwealth
- the Administration of a Territory
- a public statutory corporation
- an incorporated company referred to in paragraph 3(4)(da) of the Act; or
- an incorporated company, all the stock or share in the capital of which is/are beneficially owned by the Commonwealth or by a public statutory corporation.

Whether a State public servant can receive remuneration for their membership of the Board is a matter for the relevant State government.

The AIHW makes all travel and accommodation arrangements where necessary. Flights are booked according to the best fare available.

The AIHW will pay for accommodation and meals where members are required to stay overnight. The AIHW will pay for any appropriate and necessary incidental expenses.

Review of performance

The Board will review its own performance every 2 years. Issues reviewed may include its success in pursuing the AIHW's objectives, procedural matters, protocol and clarity of roles, the appropriateness of the mix of skills and experience among Board members to enable it to adequately fulfil its functions and Board member performance.

Induction

New members will be offered an induction program comprising:

- meetings with the Board Chair and AIHW CEO (separately) to discuss the role of the Board, ministerial expectations, and the AIHW's strategic directions;

- a briefing from the AIHW Chief Financial Officer on AIHW finances, with a particular focus on assets, liabilities and risks;
- a tour of the AIHW premises and presentations from line staff in AIHW on a selection of key projects;
- a briefing on the legal responsibilities of Board members arising from the PGPA Act; and
- a package of essential governance information.

Professional development

AIHW will make available, as agreed by the Board Chair, professional development opportunities relevant to the operations of the Board.

Indemnity

The AIHW provides appropriate indemnity for Board members.

Complaints regarding conduct

Complaints about the conduct of members in carrying out their duties should be referred in the first instance to the Board Chair. The Board Chair may provide advice and/or refer the matter to the portfolio Secretary. Resolution of such matters will depend on the nature of the complaint and the conduct that is the subject of that complaint.

8. AIHW Board committees

Risk, Audit and Finance Committee

Under the PGPA Act, each Commonwealth entity must have an audit committee. The PGPA rules specify the constitution and functions of audit committees.

The AIHW Risk, Audit and Finance Committee is established to provide advice and assurance to the AIHW Board, independent of AIHW management, on the integrity of the AIHW's financial reporting and its systems of risk management, performance management, compliance with laws and policies and internal control. Its functions include:

Risk and audit

- oversight the AIHW's risk management strategy and processes and review the AIHW's business risk assessment at least every 6 months prior to its submission to the Board
- monitor and review the fraud control framework
- recommend to the Board the appointment of an internal auditor
- approve the internal audit work program, which must include adequate reviews of the AIHW's system of internal controls and processes for management of compliance with laws and policies
- ensure the internal auditor fulfils the responsibilities required
- consider issues arising from audit reports and monitor and evaluate management's response and action on those reports and recommendations
- report to the Board on any matters arising from either the internal audit or the external audit functions about which the Board needs to be informed

- review the AIHW's business continuity framework, including whether business continuity and disaster recovery plans have been periodically reviewed and updated
- review reports from AIHW management on compliance with the PGPA Act prior to their submission to the Board
- carry out, or cause to be carried out, any investigation of any matter referred to it by the Board

Finance

- comment on the AIHW's most recent monthly and year-to-date financial report prior to its submission to the Board by AIHW management
- review the AIHW's draft audited annual financial statements and discuss with the Australian National Audit Office prior to their submission to the Board by AIHW management
- review the AIHW's draft budget and financial projections prior to their submission to the Board by AIHW management
- review the AIHW's investment policy and current investments
- advise the Board on financial delegations

Performance monitoring

- advise the Board on the appropriateness of the financial and non-financial performance indicators used by the AIHW to report on its performance
- provide advice to the Board on the AIHW's systems and processes for management and reporting of performance
- consider any issues relating to the AIHW's performance that are referred to the committee by the Board.

Membership comprises three or four persons appointed by the Board. Three members of the committee shall be non-executive members of the Board, and one of these is appointed as Chair of the committee by the Board. The fourth member of the committee shall not be a member of the Board. A quorum is a minimum of 2 committee members who are also Board members. The AIHW CEO shall not be a member of the committee but may be invited to attend the meeting along with other relevant AIHW staff. The internal auditors and the Australian National Audit Office shall be invited to attend each meeting and provide advice to the committee on financial and audit matters.

Although the committee is only required to report to the Board on its activities every six months, the accepted practice is that a meeting is held prior to each Board meeting.

Remuneration Committee

The Remuneration Committee advises the AIHW Board on the remuneration of the AIHW CEO and provides performance feedback to the AIHW CEO. It reviews remuneration annually, that is, it considers an appropriate percentage increase in total remuneration. The *Remuneration Committee Guidelines* also set out the process and timeframes for determining remuneration. The committee works within guidelines issued from time to time by the Remuneration Tribunal.

Membership comprises the Board Chair, the Chair of the Risk, Audit and Finance Committee and one other Board member.

9. AIHW Ethics Committee

The AIHW Ethics Committee is established under the AIHW Act. The Committee is a committee of the AIHW Board however it is not subject to direction by the Board.

The *Australian Institute of Health and Welfare (Ethics Committee) Regulations 2018* provide that the Ethics Committee's key functions are:

- a. to consider ethical matters relating to Institute activities or Institute assisted activities, including advising the Institute on such matters; or imposing conditions, on ethical grounds, on the Institute engaging in activities
- b. to advise any body or person on ethical matters relating to the collection and production of health or welfare related information and statistics
- c. its function under paragraph 29(2)(c) of the AIHW Act, that is specifying person(s) to whom 'information concerning a person' may be released, providing this is consistent with written terms and conditions of the relevant data provider(s)
- d. the functions of a Human Research Ethics Committee (HREC) under guidelines issued by the National Health and Medical Research Council (NHMRC) under s. 95 or 95A of the *Privacy Act 1988* (Cth), which means, amongst other things, it may grant a waiver in respect of an action that would otherwise breach an Australian Privacy Principle (APP) in the Act
- e. to provide written annual reports of its operations to the AIHW Board, and
- f. any other functions it has under the AIHW Act or any other law.

In performing functions (a), (b) and (c), the Ethics Committee must have regard to relevant ethical principles and standards formulated or adopted by the NHMRC.

Members of the Ethics Committee are appointed by the Board. Committee composition is prescribed by the regulations. The usual practice is to appoint members for 3-year terms with the opportunity for re-appointment.

The AIHW Board oversees the activities of the AIHW Ethics Committee as part of its overall responsibility for the good governance of the AIHW, through a process of regular reporting by way of an annual written report.

The AIHW Ethics Committee also provides a yearly report of its operations to the NHMRC.



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