

ADMINISTRATIVE GUIDELINE

issued under s36A of the *Public Administration Act 2004*

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Ensuring Good Governance and Transparency Through Integrity of Data on Victorian Government Appointments and Public Entities

1. Introduction

- 1.1. Victoria has a large number of non-departmental entities, which play an important role in service delivery, regulation, asset management, and stewardship across the State. The Government Appointments and Public Entities Database (GAPED) is the central source of information used to manage, monitor and report on all non-departmental entities and public appointments in Victoria. Some of this information is also made available to the general public via Public Board Appointments Victoria (PBAV) at <https://www.publicboards.vic.gov.au/>.
- 1.2. The GAPED information system is administered by the Victorian Public Sector Commission (VPSC). Departments are responsible for inputting information relating to appointments to entities within their portfolios and ensuring this information is kept up to date. GAPED is intended to provide accurate, comprehensive and current whole of Victorian Government information on non-departmental entities and public appointments.

2. Purpose of this Guideline

- 2.1. GAPED data is currently used for a number of purposes, including:
 - reporting on board appointments on the PBAV website;
 - reporting on the representation of people from diverse backgrounds on government boards and committees, to meet the Government's obligations under the *Multicultural Victoria Act 2011*;
 - reporting on the acquittal of the Women on Boards commitment; and
 - being a primary data source for the State of the Public Sector in Victoria report.
- 2.2. In order to ensure GAPED remains a reliable and comprehensive source of information on Victorian Government non-departmental entities and public appointments, this Guideline requires Departments to enter and maintain specified data in GAPED for entities and appointments within their portfolios.

3. Application and commencement

- 3.1. This Administrative Guideline applies to all Departments.
- 3.2. This Administrative Guideline commences from 2 January 2019.

3.3. This Guideline is issued pursuant to section 36A of the *Public Administration Act 2004*. If a Department operates, or intends to operate, in a manner that is inconsistent with this Guideline, the Secretary of that Department is required by the *Public Administration Act 2004* to provide written reasons for doing so to the Secretary, Department of Premier and Cabinet.

4. Definitions

4.1. **Department** means a Department existing by virtue of an Order made under section 10 of the *Public Administration Act 2004*.

4.2. **Mandatory Data Fields** means fields marked as mandatory in the GAPED Data Specification, as listed in Schedule 1.

4.3. **Mandatory Entities** means:

- (a) public entities (as defined by section 5 of the *Public Administration Act 2004*);
- (b) special bodies (as defined by section 6 of the *Public Administration Act 2004*);
- (c) statutory offices, being an office established by or under an Act to which the right to appoint is vested in the Governor in Council or a Minister (including VCAT and Court appointments);
- (d) appointments to a panel or a pool from which a member or some of the members are drawn to undertake a hearing or assessment or provide advice as empowered by statute, on a case by case basis;
- (e) prerogative offices, being an office under the Crown, other than a statutory office, to which the right to appoint is vested in the Governor in Council (for example, the Commissioner for Better Regulation);
- (f) ministerial advisory committees, including but not limited to those falling within section 5(1)(d) of the *Public Administration Act 2004*, with terms exceeding one year;
- (g) exempt bodies (as defined under section 4 of the *Public Administration Act 2004*) where the body has a board to which at least one member is appointed by a Minister or the Governor in Council (for example, Universities and inter-jurisdiction bodies such as the Australia and New Zealand School of Government); and
- (h) bodies that are not public entities, that are a body corporate and have a board to which at least one member is appointed by a Minister or the Governor in Council (for example, Victorian Opera).

but excludes:

- (i) parliamentary committees;
- (j) local government;
- (k) school councils; and
- (l) Departments, Administrative Offices and a department of the Parliament of Victoria.

4.4. **Ministerial advisory committee** means a committee established by a Minister that:

- (a) meets the definition of a public entity under section 5(1)(d) of the *Public Administration Act 2004*; or
- (b) is to operate for a period longer than one year but does not meet the definition of a public entity only because it has not been declared as such in accordance with section 5(1)(d)(iii).

5. Departments are required to ensure GAPED is comprehensive and accurate

5.1. Departments are required to complete all Mandatory Data Fields in GAPED in relation to Mandatory Entities in their portfolio.

5.2. To ensure GAPED is accurate and reliable, Departments must update GAPED within one month of any significant change to a Mandatory Entity within their portfolio. For example, Departments should update GAPED within one month of:

- (a) an entity being established;
- (b) an entity being abolished or ceasing operation; or
- (c) any other change that results in the data previously entered into GAPED being inaccurate or misleading.

Note that the VPSC will extract data from GAPED for reporting purposes on the first working day of each month.

5.3. Each Department must also complete all Mandatory Data Fields in GAPED for all appointments to Mandatory Entities within their portfolio. An overview of the types of appointments that need to be entered into GAPED, as well as examples to help Departments to fulfil their obligations under this Guideline, is provided at Attachment A.

5.4. To ensure GAPED is accurate and reliable, Departments must update GAPED for appointments to Mandatory Entities within their portfolio within a month of:

- (a) an appointment commencing or coming to an end;
- (b) a change being made to the terms of an appointment, including any changes to an appointee's remuneration (including application of any annual remuneration adjustment); or
- (c) any other change that results in the data previously entered into GAPED being inaccurate or misleading.

6. If more than one Department shares responsibility for a Mandatory Entity, those Departments must agree which Department is responsible for maintaining GAPED

6.1. If a Mandatory Entity is a portfolio entity of two or more Departments, the Departments must come to an agreement regarding which of the Departments will be responsible for entering data into GAPED about that entity and appointments to it.

7. Departments are encouraged to complete the optional fields for their entries

7.1. In addition to the Mandatory Data Fields, Departments are encouraged to complete non-mandatory data fields (as specified in the GAPED Data Specification). If a non-mandatory field is completed, the Department must use best endeavours to ensure the data is verified and kept up to date.

8. Additional entities may optionally be added to GAPED but are not mandatory

8.1. Departments may also enter data on other Ministerial or Governor in Council appointments and any related entities within their portfolio. Departments are encouraged to maintain accuracy of this data. However, if the Department will not be able to verify the accuracy of information and keep it up to date, information on the entity should not be added.

8.2. If a Department enters data on an entity pursuant to this clause, the Department should only enter data on appointments that are made by the Minister or Governor in Council. Information on other members of the entity should not be included.

8.3. Data on Departments, Administrative Offices and a department of the Parliament of Victoria should not be entered into GAPED.

9. Data is to be entered consistently with the User Guide and Data Specification

9.1. Data must be entered into GAPED consistently with the GAPED User Guide and the GAPED Data Specification.

10. Support and training

10.1. For information regarding GAPED and the interpretation of this Guideline, please contact the VPSC on 9651 1321.

10.2. For training on the use of GAPED, please contact the VPSC on 9651 1321.



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SECRETARY, DEPARTMENT OF PREMIER AND CABINET

Compliance note: Under section 36A of the *Public Administration Act 2004*, if a public service body or a public entity to which guidelines have been issued operates, or intends to operate, in a manner that is inconsistent with those guidelines, the relevant public service body Head or public entity Head must provide written reasons for doing so to the Secretary, Department of Premier and Cabinet.

SCHEDULE 1

MANDATORY DATA FIELDS MARCH 2018

Board Summary information

Overview details

Entity name

Ministerial portfolio

Public Administration Act Status *i.e. Public entity, Statutory Office, Special Body, Exempt Body etc.*

Purpose *i.e. a summary of the role or functions of the body*

DPC Board Classification

Maximum number of board members

Minimum number of board members

Body Commencement date

Body End date (if inactive)

Enabling legislation

Entity status

Region/Division (department)

Branch of Department *i.e. Branch of Department that is responsible for the Board*

Public Entity details

Relationship status *i.e. flag indicating if body is a subsidiary or parent of a subsidiary*

Parent Board *If Body is a subsidiary*

Name of primary contact for Board

Primary contact :

Mail address

Phone number

E-mail

Web site

Chief Executive Officer name

Member / Candidate details

Salutation

First Name

Last Name

Gender

Date of Birth

Home postcode

Diversity fields mandatory for new and re-appointments

Aboriginal, Torres Strait Islander identity

Disability status

Country of birth

Was one of your parents born overseas?

Primary language spoken at home

Do you have a culturally, religiously and/or linguistically diverse background?

Appointments Information

Position details

Position type	<i>i.e. Chair or member</i>
Position title	
Nominated by	<i>i.e. source of appointment nomination e.g. Minister, Board etc</i>
Work Type	<i>Full time or part time</i>
Position status	<i>Active or inactive</i>

Appointment details

Chair start date	<i>i.e. date when appointee commenced as chair</i>
Chair end date	<i>i.e. date when appointee ends as chair</i>
Appointee name	
Type of appointment	<i>i.e. appointed, elected, ex officio</i>
Appointed by	<i>e.g. Minister, GIC etc</i>
Public sector employee	<i>i.e. flag to indicate if the appointee a public sector employee</i>
Appointment start date	
Appointment end date	
Remuneration (amount)	
Remuneration frequency	
Visible to the public	<i>i.e. flag to indicate that details can appear on the public access Public Boards and Appointments Victoria (PBAV) site</i>

Attachment A: Overview of data that must be recorded in GAPED

After a Mandatory Entity is entered into GAPED, Departments must also add information about appointments to that entity. For the purposes of this Guideline, the term “appointments” refers to all individuals that are members of the entity, regardless of the mechanism through which they are made a member. For example, elected members, or members that are nominated by a non-government organisation, are included as appointments. Ex-officio members (individuals that are automatically members of the entity by virtue of another position they hold) are also included as appointments.

The below table outlines the appointments to Mandatory Entities that must be entered into GAPED, and provides examples of entities and appointments to be entered. The examples provided are non-exhaustive and are for illustrative purposes only.

Mandatory Entity	Appointments	Example entities	Example scenarios
A public entity or special body	<p>All members of the board, panel or committee including any:</p> <ul style="list-style-type: none"> ex-officio members (i.e. where the holder of another position is automatically a member); members that are chosen by other organizations; and members that are elected 	<ul style="list-style-type: none"> Transport Accident Commission Monash Health Service Barwon Region Water Corporation Kardinia Park Stadium Trust Mental Health Tribunal Victorian Aboriginal Heritage Council 	<p>Scenario: A Victorian Act establishes Panel X, which is a public entity under the <i>Public Administration Act 2004</i>. Panel X consists of four individuals appointed by the Governor in Council and a departmental Secretary (an ex-officio appointment).</p> <p>Application: As Panel X is a public entity under the <i>Public Administration Act 2004</i>, it is a Mandatory Entity and must be entered into GAPED.</p> <p>The four individuals appointed by the Governor in Council, and the departmental Secretary, all need to be entered into GAPED as appointments to Panel X.</p> <hr/> <p>Scenario: A Victorian Act establishes Body Corporate Y which is a special body under the <i>Public Administration Act 2004</i>. All of the directors of Body Corporate Y are appointed by the Minister. Body Corporate Y employs a Chief Executive Officer and five employees.</p> <p>Application: As Body Corporate Y is a special body under the <i>Public Administration Act 2004</i>, it is a Mandatory Entity and must be entered into GAPED (including completing the ‘Chief Executive Officer name’ data field).</p>

Mandatory Entity	Appointments	Example entities	Example scenarios
A statutory or prerogative office	The holder(s) of that office	<ul style="list-style-type: none"> ▪ Office of the Victorian Information Commissioner ▪ The Commissioner for Better Regulation ▪ Commissioner for Children and Young People 	<p>The members of the board of directors all need to be entered into GAPED as appointments to Body Corporate Y.</p> <p>The Chief Executive Officer and other employees are public sector employees of Body Corporate Y and are not “appointments” to Body Corporate Y for the purposes of this Guideline. They do not need to be entered into GAPED as appointments.</p> <hr/> <p>Scenario: A Victorian Act establishes the Office of Commissioner Z, which is composed of a single individual appointed as Commissioner. The Commissioner is appointed by the Governor in Council on the recommendation of the Minister.</p> <p>Application: As the Office of Commissioner Z is a statutory office, it is a Mandatory Entity and must be entered into GAPED.</p> <p>The individual appointed as Commissioner needs to be entered into GAPED as an appointment to the office.</p> <hr/> <p>Scenario: A Victorian Act establishes the Office of Commissioner A, which is composed of an individual appointed as Commissioner and two individuals appointed as Deputy Commissioners.</p> <p>Application: As the Office of Commissioner A is a statutory office, it is a Mandatory Entity and must be entered into GAPED.</p> <p>The individuals appointed as Commissioner and Deputy Commissioners must be entered into GAPED as appointments to the office.</p>

Mandatory Entity	Appointments	Example entities	Example scenarios
A ministerial advisory committee	<p>All members of the committee, including any:</p> <ul style="list-style-type: none"> ▪ ex-officio members (i.e. where the holder of another position is automatically a member); ▪ members that are chosen by other organizations; and ▪ members that are elected 	<ul style="list-style-type: none"> ▪ Premier’s Jobs and Investment Panel ▪ Animal Welfare Advisory Committee ▪ Major Hazards Facilities Advisory Committee 	<p>Scenario: A Minister establishes Advisory Committee B, which has a term exceeding one year. Advisory Committee B includes four individuals appointed by the Minister and two individuals chosen by non-government organizations.</p> <p>Application: Advisory Committee B is a Mandatory Entity and needs to be entered into GAPED.</p> <p>All six members need to be entered into GAPED as appointments to Advisory Committee B.</p>
A panel	<p>The people appointed to serve as a member of a panel who are then called upon from time to time as required to sit on a temporarily constituted hearing board or to provide advice</p>	<ul style="list-style-type: none"> ▪ Veterinary Practitioners Registration Board of Victoria Panel Hearings ▪ Geographic Place Names Advisory Panel 	<p>Scenario: A Victorian Act provides for a number of people to be appointed by the Minister to a panel from which individuals or groups of individuals are selected to form a hearing board that sits on a specified day or set of days.</p> <p>Scenario: A Victorian Act provides for the Minister to appoint suitably qualified persons to a panel of experts who may be called upon to provide expert advice as and when required by the Minister.</p> <p>Application: As a member of a panel established under legislation and appointed by the Minister the person is a statutory appointee and must be entered into GAPED.</p>
Exempt bodies	<p>Any member who is appointed by the Governor in Council or a Minister</p>	<ul style="list-style-type: none"> ▪ Universities ▪ Australia and New Zealand School of Government 	<p>Scenario: Universities are listed as exempt in section 4 of the <i>Public Administration Act 2004</i> and are therefore not public entities</p> <p>Application: The government appoints</p>

Mandatory Entity	Appointments	Example entities	Example scenarios
Bodies that are management or governance boards but not public entities	Any members appointed by the Governor in Council or a Minister	<ul style="list-style-type: none"> ▪ Victorian Opera ▪ Public Transport Ombudsman 	<p>members to the University Council. Those members are required to be included in GAPED</p> <p>Scenario: A body is established as a company under corporations law, or as an incorporated association, or through an inter-government agreement, and has board members appointed by the Victorian government as well as members appointed by other government(s).</p> <p>Because the board included members appointed by other governments, it is exempt under section 4 of the <i>Public Administration Act 2004</i> and is therefore not a public entity.</p> <p>Application: The board and the members appointed by the Victorian government are required to be included in GAPED.</p> <hr/> <p>Scenario: An entity is a body corporate established by the Victorian government and has at least half its members appointed by government but does not undertake a public function on behalf of the state.</p> <p>Application: The board and the members appointed by the Victorian government are required to be included in GAPED.</p> <hr/> <p>Scenario: An entity is a body corporate established by the Victorian government but does not have half its members appointed by government.</p> <p>Application: The board and the members appointed by the Victorian government are required to be included in GAPED.</p>