



Australian Government
Australian Digital Health Agency

Australian Digital Health Agency Board Charter

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Approved for external information

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1 Introduction

The Australian Digital Health Agency (Agency) commenced operations in July 2016 to lead the digital transformation of healthcare to create a better health system and enable Australians to make more informed decisions about their health.

The Agency operates under an Intergovernmental Agreement (IGA) between the Australian and State and Territory governments. Under the IGA, the Agency works closely with State and Territory governments to align the implementation of national infrastructure with jurisdictional digital health strategies and investments. The Agency is jointly funded by the Commonwealth and the States and Territories, reflecting the commitment at all levels of government to the delivery of digital health reform.

1.1 Authority

The Agency is established by the [Public Governance, Performance and Accountability \(Establishing the Australian Digital Health Agency\) Rule 2016 \(Agency Rule\)](#). The Agency Rule has been created under the [Public Governance, Performance and Accountability Act 2013](#) (PGPA Act).

The PGPA Act establishes a framework for the management of performance, financial accountability and the use of public resources across all Commonwealth entities. The Agency is classified as a corporate Commonwealth entity under the PGPA Act.

The Agency is governed by a [skills-based Board](#). The Board has been established under section 13 of the Agency Rule and is the accountable authority of the Agency, consistent with subsection 12(2) of the PGPA Act. The Board is supported by several expert advisory committees.

1.2 Purpose and structure

The Agency Board Charter (Charter) operates within the broader framework of Parts 3–7 of the Agency Rule.

The Charter has been prepared on the basis that good corporate governance can add to the performance of the Agency. The Charter is to be read in conjunction with the current Corporate Plan, Accountability Authority Instructions (AAIs) Internal Policy and advisory committee Charters:

- Audit and Risk Committee (ARC) Charter;
- Board Standing Advisory Committees Charter; and
- Jurisdictional Advisory Committee (JAC) Charter.

The Charter sets out the:

- key functions of the Board;
- roles and responsibilities of the Board and specific positions; and
- processes used by the Board to fulfil its roles, responsibilities and functions, aimed at ensuring the effective operation of the Board and the advisory committees.

In the event the Charter is inconsistent with the PGPA Act and/or Agency Rule, the aforementioned will prevail.

1.3 Scope

The Charter applies to the Board only. The advisory committees have separate Charters.

1.4 Definitions and interpretations

In this Charter:

- advisory committee means a Board Standing Advisory Committee;
- advisory committee member means a member of a Board Standing Advisory Committee;
- Board Chair means the Chair of the Board of the Agency;
- Board member means a member of the Board;
- casual vacancy means a vacancy that occurs when a member resigns or otherwise stops holding office;
- Chair means the Chair of an advisory committee;
- members is inclusive of Board members and advisory committee members; and
- Minister means the Commonwealth Minister for Health.

A word or expression not defined in this Charter but is defined in the PGPA Act, PGPA Rule or Agency Rule, has, if the context permits, the meaning given by the Act or Rule.

The words 'including', 'for example' or similar expressions mean there may be more inclusions or examples than those mentioned after that expression.

Reference to an Act includes every amendment, re-enactment or replacement of that Act and any subordinate legislation made under that Act (such as regulations, rules, principles).

Singular also includes plural and vice versa, and word importing any gender includes all genders.

Headings, where used in the Charter, are purely for the purpose of identification and shall not be considered in the interpretation of the provisions of this Charter.

2 Purpose and function of the Board

2.1 Purpose

The Board has power to do all things necessary or convenient to be done for, or in connection with, the performance of the Agency's functions¹.

Anything done in the name of, or on behalf of, the Agency by the Board, or with the authority of the Board, is taken to have been done by the Agency².

2.2 Ministerial direction

The Commonwealth Minister for Health (the Minister) is the responsible Minister for the Agency and under section 15 of the Agency Rule, the Minister may give the Board a written statement setting out strategic guidance for the Agency.

This statement must:

- be of a general nature only; and
- not relate to a particular individual; and
- not be inconsistent with:
 - the PGPA Act; or
 - the Agency Rule; or
 - any other instrument made under the PGPA Act.

The Minister must not give this statement unless each State/Territory Health Minister agrees to the giving of the statement.

In performing its functions or exercising its powers, the Board must have regard to this statement.

2.3 Functions

The Board has the following functions:

- to decide the objectives, strategies and policies to be followed by the Agency; and
- to ensure the proper and efficient performance of the Agency's functions³.

2.4 Delegations

2.4.1 Delegations by the Board

The Board, by instrument, has delegated certain powers and functions to the Chief Executive Officer (CEO)⁴ to manage the day-to-day operations of the Agency, subject to those delegations reserved to the Board and any specific delegations approved by the Board.

¹ Subsection 16(1), Agency Rule.

² Subsection 16(2), Agency Rule.

³ Section 14 of the Agency Rule.

⁴ Section 17, Agency Rule and Accountable Authority Instructions Internal Policy

2.4.2 Delegations by the Chief Executive Officer

The day-to-day management of the Agency is the responsibility of the CEO, supported by the Senior Executive Committee (SEC). In performing this role, the CEO is subject to the direction of the Board.

The CEO has authority to sub-delegate all or any of his or her powers or functions to specific positions within the Agency. Specific limits are set out in the AAls.

2.5 Access to information

The Board will be provided accurate, timely and clear information to enable the Board and its Board members to effectively discharge their responsibilities and duties.

Unless otherwise resolved by the Board, this occurs through distribution of the Board papers. In addition to regular reports by the CEO and SEC, the Board is entitled to request and receive such additional information as it considers necessary to support informed decision-making and to enable Board members to discharge their responsibilities and duties.

2.6 Independent advice

The Board may obtain legal or other professional advice, at the Agency's expense, as considered necessary to fulfil its role.

2.7 Work Plan

The Board must prepare a national digital health work plan (work plan) for each financial year⁵. The work plan must be prepared before 31 March in each financial year⁶.

The Ministerial Council⁷ may approve a later date for the preparation of the work plan in relation to a particular financial year⁸.

2.8 Performance

Evaluating the Board's performance on a periodic basis is a leading practice in strengthening the Agency's governance framework, in maintaining good corporate oversight and in identifying areas for improvement.

The Board Chair will arrange for Board performance reviews every three years. Performance will be assessed against this Charter and the Board's national digital health work program.

2.9 Reporting

The Agency is a prescribed agency⁹ which means that each State/Territory Health Minister may request the following reports, documents and information from the Board:

- the Agency's corporate plan, once the Board has given the corporate plan to the Minister and Minister for Finance¹⁰;
- the Agency's records, once the Board has prepared the records¹¹;

⁵ Subsection 70(1), Agency Rule.

⁶ Subsection 70(2)(a), Agency Rule.

⁷ Formerly the Council of Australian Governments Health Council, now known as the Health Council.

⁸ Subsection 70(3), Agency Rule.

⁹ Section 82, PGPA Act.

¹⁰ Section 35(1)(b), PGPA Act and Subsection 67(4)(a), Agency Rule.

¹¹ Section 37, PGPA Act and Subsection 67(4)(b), Agency Rule.

- the Agency's annual performance statements, once the Board has prepared the annual performance statements¹²;
- the Agency's accounts and records, once the records have been used in the preparation of the annual financial statements¹³;
- the Agency's annual financial statements, once the Board has prepared the annual financial statements and given them to the Auditor-General¹⁴;
- the Agency's annual report, once the Board has given the annual report to the Minister¹⁵;
- a report or recommendation prepared by an advisory committee for consideration by the Board, once the Board has received the report or recommendation from the advisory committee¹⁶.

The Board must inform State/Territory Health Ministers, as soon as practicable, that they may request these documents¹⁷.

The Board must provide the requested document within 30 days to the requesting State/Territory Health Minister¹⁸.

2.10 Advisory Committees

2.10.1 Establishing advisory committees

The Board may establish such advisory committees as the Board thinks appropriate to advise the Board on the performance of the Agency's functions¹⁹.

2.10.2 Purpose

The advisory committees are directly accountable to the Board for the performance of their functions. The primary function of the advisory committees is to advise and make recommendations to the Board on the performance of the Agency's functions²⁰. Any decisions resulting from such advice, or taken against such advice, are the Boards'. The Board will consider advice given but is not bound by the advice.

The advisory committees have no executed powers in relation to the operations of the Agency and may only review particular aspects of those operations, consistent with its functions.

The Board may:

- determine an advisory committee's terms of reference (Charter), terms and conditions of appointment of advisory committee members, and procedures to be followed by the advisory committee²¹;
- give directions to an advisory committee relating to the assistance an advisory committee is to provide to the Board. The advisory committee must comply with those directions.

¹² Section 39, PGPA Act and Subsection 67(4)(c), Agency Rule.

¹³ Section 41, PGPA Act and Subsection 67(4)(d), Agency Rule.

¹⁴ Section 42, PGPA Act and Subsection 67(4)(e), Agency Rule.

¹⁵ Section 46, PGPA Act and Subsection 67(4)(f), Agency Rule.

¹⁶ Subsection 67(4)(g), Agency Rule.

¹⁷ Section 68, Agency Rule.

¹⁸ Subsection 69(2), Agency Rule.

¹⁹ Subsection 43(1), Agency Rule.

²⁰ Subsection 43(1), Agency Rule.

²¹ Subsection 43(2), Agency Rule

The Board approves the advisory committee Charters (as set out in [Section 1.2 above](#)).

2.10.3 Membership

An advisory committee may be constituted:

- wholly by Board members; or
- wholly by persons who are not Board members; or
- partly by Board members and partly by other persons²².

2.10.4 Advisory committee performance reports

Each advisory committee, except for the ARC, must prepare an annual performance report of its deliverables under the Board's national digital health work program. The annual performance report must be prepared each financial year and delivered by the date requested by the Board before 31 August each year.

The ARC will undertake a self-assessment of the performance of the ARC and its members' performance against the ARC Charter at least once every two years.

Results from the annual performance and self-assessment process will be presented to the Board.

2.10.5 Periodic advisory committee reviews

The Board may from time-to-time undertake a performance review of each advisory committee.

2.10.6 Cross-advisory committee work

The Board may from time-to-time direct advisory committees to provide joint or collective advice on a particular matter. The Board will identify the lead advisory committee which will be responsible for engaging with the committee/s and preparing consolidated advice to the Board. In these circumstances it may be appropriate to convene joint advisory committee meetings with the approval of the Board Chair.

²² Subsection 43(3), Agency Rule.

3 Membership

3.1 Composition

The Board consists of the Board Chair and at least six, and not more than ten, other members²³.

A person is eligible for appointment as a Board member only if the Minister is satisfied that the person has the skills, experience or knowledge in at least one of the fields set out in the Agency Rule²⁴.

The Board will collectively possess:

- an appropriate balance of skills, experience or knowledge in as many as possible of the fields set out in the Agency Rule; and
- experience in Board affairs, corporate governance, risk management, financial literacy, business leadership and experience at a high level in industry²⁵.

Additional prerequisites include three Board members having:

- the skills, experience and knowledge in developing, implementing and managing national digital health policies, strategies and services, and be a Senior Executive Service (SES) officer in the Department of Health (Health) who is nominated in writing by the Secretary;
- the skills, experience and knowledge in managing and delivering digital health systems in State and Territory health facilities, and is nominated in writing by the Health Chief Executives Forum (HCEF)²⁶; and
- the skills, experience and knowledge in leadership and management in the delivery of traditional and digital health services that are managed, operated or provided by a State or Territory government and is nominated in writing by HCEF²⁷.

3.2 Appointment

The Board Chair is appointed by the Minister, by written instrument, on a full-time or part-time basis²⁸.

The other Board members are appointed by the Minister, by written instrument, on a part-time basis²⁹ after seeking the support of all State/Territory Health Ministers for the proposed appointment and being satisfied that the appointment is supported by the majority of State/Territory Health Ministers³⁰.

3.3 Term

A Board member holds office for the period specified in his or her instrument of appointment, and for no more than a period of three years³¹ in any one term, provided they are not disqualified by law or become ineligible under this Charter. The Minister may choose to appoint a Board member for an additional term(s).

²³ Section 18, Agency Rule.

²⁴ Subsection 19(3), Agency Rule.

²⁵ Subsection 19(3) and (5), Agency Rule.

²⁶ Formerly the Australian Health Ministers' Advisory Council (AHMAC).

²⁷ Subsection 19(3) and 20(2-4), Agency Rule.

²⁸ Section 19(1), Agency Rule.

²⁹ Section 19(2), Agency Rule.

³⁰ Subsection 20(5-6), Agency Rule.

³¹ Subsection 19(6), Agency Rule.

When a Board member nominated by:

- HCEF ceases to be an officer in the State/Territory Health Department, their membership as HCEF nominee on the Board also ceases; and
- Health ceases to be a SES officer in Health, they also cease to hold office as a Board member³².

If a Board member encounters a situation impacting on their eligibility (e.g. no longer holds a particular professional role and/or change in employment), they must notify the Minister. An assessment will be made to determine ongoing eligibility as a Board member and/or the termination procedures enacted, as detailed in [Section 8 below](#). This assessment will be conducted on a case-by-case basis.

A Board member appointed to an advisory committee may hold office for the same term as their Board appointment. When membership on the Board ceases, their position as a Board nominee on the advisory committee, will also cease.

The Secretariat will keep a schedule of appointments and note the period of service of each Board member to determine if any Board members are coming due for retirement/reappointment.

3.4 Acting Board Chair or members (casual vacancies)

If a vacancy occurs on the Board, the Board may continue to act despite the vacancy. However, the membership of the Board must not fall below seven Board members for a period of more than six months³³.

The Minister may, by written instrument, appoint a Board member to act as the Board Chair or person to act as a Board member during:

- a vacancy in the office of the Board Chair or a Board member (whether an appointment has previously been made to the office); or
- any period, or all periods, when the Board Chair or Board member is:
 - absent from duty; or
 - for any reason, unable to perform the duties of the office; or
 - acting as the Board Chair³⁴.

A person must not be appointed to act as a Board member other than the Board Chair for more than six months³⁵.

A person is not eligible for appointment to act as a Board member unless the person is eligible for appointment as a Board member (refer to [Section 3.1: Composition](#))³⁶.

3.5 Member's register

A member's register will be maintained by the Secretariat and will include the following particulars for each Board member:

- full name;

³² Subsection 19(7), Agency Rule

³³ Subsection 19(8), Agency Rule.

³⁴ Section 21–21, Agency Rule.

³⁵ Subsection 22(3), Agency Rule

³⁶ Subsections 22(3), Agency Rule.

- postal or residential address;
- date of appointment;
- date and time of resignation; and
- details about the termination or reappointment.

The Secretariat will use Board member information for purposes that support the ongoing and proper operation of the Board. Board member information may also be disclosed to Agency personnel for the purpose of, but not limited to, consultation/engagement initiatives, seeking specific expertise and/or following up on items out-of-session or after a Board meeting. The Secretariat may withhold information about a Board member if the Secretariat has reasonable grounds for believing the disclosure of the information would put the Board member at risk of harm or the disclosure is not reasonably necessary.

A Board member must not use information about a fellow Board member/s to contact, send material to, for the purpose of advertising for political, religious, charitable or commercial purposes, or disclose information to someone else knowing the information is likely to be used to contact, or send material to, for the purpose of advertising for political, religious, charitable or commercial purposes.

For further information refer to the Agency's [Privacy Policy](#), which sets out how the Agency collects, uses, or discloses personal information to carry out its functions under the Agency Rule.

4 Roles

4.1 Board

The Board, as the accountable authority of the Agency, must comply with the following duties and carry out these duties consistently with the Agency's values of respect and trust, transparency and accountability:

- duty to govern the Agency in a way that promotes the proper use and management of public resources, promotes the achievement of the Agency's purposes and promotes financial sustainability;
- duty to establish and maintain systems relating to risk and control;
- duty to encourage cooperation with others to achieve common objectives, where practicable;
- duty to consider the risks and effects of imposing requirements on others in relation to the use or management of public resources; and
- duty to keep the responsible Minister and Minister for Finance informed³⁷.

4.2 Board Chair

The role of the Board Chair is to:

- promote constructive and effective relationships between the Board, advisory committee members, CEO, SEC and stakeholders;
- facilitate effective contribution by all Board members;
- lead the Board;
- implement the Board's forward work program and deliverables;
- liaise with and report to the Minister on behalf of the Board;
- keep discussions relevant and decision making clear, encouraging broad participation and ensuring the Board gets through Board business in a timely manner;
- ensure meetings are conducted in accordance with this Charter;
- fulfill any additional responsibilities as set out within this Charter (e.g. undertaking periodic reviews of the advisory committees, granting leave of absence of Board members);
- manage conflicts of interest with advice from the Secretariat;
- sign endorsed minutes confirming the minutes are an accurate record of the previous meeting;
- lead reviews of the Board and monitor performance of members in meeting their roles and responsibilities
- maintain regular dialogue with the CEO and being the principal communication channel between the Board, CEO and SEC.

³⁷ Sections 15–19, PGPA Act.

4.3 Board members

The responsibilities of Board members are set out in [Section 5 below](#).

4.4 Secretariat

The Secretariat provides secretariat support to the Board and its advisory committees.

All Board and advisory committee members have direct access to the Secretariat for advice and services relating to the operation of the Board and advisory committees.

The role of the Secretariat is to:

- maintain the meeting production schedule for the Board and its advisory committees;
- provide governance advice to the Board and advisory committee Chairs and Executive Sponsors regarding meeting proceedings, advising on good governance practices and adherence to applicable laws, policies and procedures including this Charter;
- support the induction of new members through the provision of documents or information as necessary for their successful onboarding;
- maintain a Declarations of Interest register;
- monitor attendance and terms of members, and maintain a register of members;
- coordinate queries from members;
- manage meeting logistics including location, venue and travel;
- prepare agendas and the business to be conducted at meetings in consultation with the Board and advisory committee Chairs and/or Executive Sponsors;
- ensure meeting papers are distributed to members with adequate time for papers to be read by members and in accordance with record management practices;
- attend all Board and advisory committee meetings to provide administrative support;
- ensure accurate minutes of all meetings are taken and properly retained;
- maintain a register of decisions made without meeting, or out of session;
- support the advisory committee Chairs in the preparation of their Chair's Report and facilitate the annual performance reporting process; and
- manage action item registers and action item response processes.

5 Board members' responsibilities

5.1 Appointment and induction

Prior to and/or on appointment, Board members are requested to:

- complete and sign relevant documentation acknowledging his or her responsibilities as a Board member; and
- participate in an induction to support him or her in understanding the role of a Board member, and the functions and purpose of the Agency, Board and advisory committees.

5.2 Duties and obligations

All Board members, as officials of the Agency, must comply with his or her legal, statutory and fiduciary duties and obligations when discharging his or her responsibilities as a Board member, including but not limited to:

- duty of care and diligence;
- duty to act honestly, in good faith and for proper purpose;
- duty in relation to use of position;
- duty in relation to use of information; and
- duty to disclose interests³⁸.

5.3 Code of conduct

All Board members are subject to the [Australian Public Services Code of Conduct](#) and must uphold the ethics, principles, values and standards of conduct as set out in the Code.

5.4 Confidentiality

Board members may receive information regarded as Official or Official Sensitive or have privacy or security implications. Board members acknowledge their responsibility to maintain confidentiality of all information (including, but not limited to, all deliberations, decisions and activities of the Board) not in the public domain or where expressly stated by the Board Chair, or in the absence of the Board Chair any other person presiding over a meeting, or his or her delegate.

Information is provided in confidence and must be handled appropriately.

Board members must notify the Board Chair if they believe confidential information has been accessed by anyone other than the Board member. Unauthorised disclosure of information is an offence under Division 122 of the *Criminal Code Act (1995)*.

5.5 Conflict of interest

Board members are required to disclose all interests, pecuniary or otherwise, he or she has acquired that may conflict with the proper performance of his or her functions as a Board member. Board members are expected to take reasonable steps to avoid any such conflict of interest, real or apparent.

³⁸ Sections 25–29, PGPA Act.

5.5.1 Annual Declaration of Interest

Upon appointment and annually thereafter, Board members are required to make a Declaration of Interest, declaring any material personal interests they may have in relation to their responsibilities. It is a Board member's responsibility to ensure this declaration is updated if circumstances change during his or her term of appointment. If an interest is declared, the Secretariat, in consultation with the relevant business area, will provide recommendations on how to effectively manage the conflict and develop a management plan for consideration by the Board Chair. Interests declared and any associated management plan will be recorded in the Declaration of Interests Register maintained by the Secretariat.

5.5.2 Agenda Items

As soon as practicable after a Board member becomes aware of his or her interest in a specific matter on the meeting agenda or at the beginning of a Board meeting (whichever is sooner), the Board member must give notice of the interest to the Board Chair. The Board Chair will determine the extent of the interest, on advice from the Secretariat, and can require the Board member be excused from the meeting or from the Board's consideration of the relevant agenda item(s). Details of interests declared, and actions taken will be recorded in the minutes.

5.6 Meeting attendance and preparation

Board members are expected to:

- attend and participate in all scheduled meetings;
- be familiar with the agenda and past minutes;
- invest appropriate time to read and understand the meeting papers;
- come to meetings prepared and ready to contribute;
- be collaborative and acknowledge the view of other Board members;
- undertake tasks assigned to them in a timely manner and report back on completion and outcomes of actions;
- familiarise themselves with their roles and responsibilities;
- notify the Secretariat prior to the meeting if they are unable to attend (refer to [Section 6.4](#) for information on leave of absence).

Whilst membership to the Board may call upon specific skills, it is acknowledged each Board member has a duty in relation to the functions and activities of the Board and to make sufficient enquiries to ensure this duty is adequately discharged by asking questions to fully understand.

5.7 Restrictions on outside employment

5.7.1 Board Chair

If the Board Chair is appointed on a:

- full-time basis, he or she must not engage in paid employment outside the duties of the Board Chair's office without the Minister's approval; or
- part-time basis, he or she must not engage in any paid employment that, in the responsible Minister's opinion, conflicts or may conflict with the proper performance of his or her duties.

5.7.2 Board members

A Board member must not engage in any paid employment that, in the Minister's opinion, conflicts or may conflict with the proper performance of his or her duties on the Board³⁹.

5.8 Support for Board Chair

All Board members are expected to take an active role in leading or monitoring matters, issues or projects that may require a decision of the Board. For example, a Board member may be required to take the lead in managing an action arising from a Board meeting and bringing the matter to a close.

5.9 Media

Only the Board Chair or CEO are permitted to speak to the media or make public comment on behalf of the Agency.

Board members are not authorised to make public comment 'representing' the views of the Board or Agency.

5.10 Other terms and conditions

A Board member holds office on the terms and conditions (if any), in relation to matters not covered by the Agency Rule that are determined by the Minister⁴⁰.

Terms and conditions are set out in Board member's instrument of appointment, the Agency Rule, and [Remuneration Tribunal \(Remuneration and Allowances for Holders of Part-time Public Office\) Determination 2021](#) and [Remuneration Tribunal \(Official Travel\) Determination 2019](#).

³⁹ Subsection 25(3), Agency Rule.

⁴⁰ Section 28, Agency Rule.

6 Remuneration, allowances and leave arrangements

6.1 Remuneration

A Board member is paid the remuneration as set out in the [Remuneration Tribunal \(Remuneration and Allowances for Holders of Part-time Public Office\) Determination 2021](#). However, a Board member who holds an office or appointment or is employed full-time as a Public Servant representing a State or public statutory corporation is not entitled to remuneration⁴¹.

The Board can determine remuneration for a Board member who is appointed to an advisory committee but is not the advisory committee Chair and therefore not subject to the above Determination⁴².

6.2 Travel expenses and allowances

Flights and accommodation for Board members will be booked and paid for by the Secretariat consistent with the Agency's Travel Policy and Whole of Government booking arrangements. Board members should not arrange or pay for their own flights and accommodation as these costs will not be reimbursed by the Agency.

The Agency will reimburse Board members for any ground travel costs incurred for attendance at face-to-face meetings, such as parking or public transport expenses. Claims must be made to the Secretariat via email with a copy of the tax invoices attached. The Secretariat can provide Cab Charge vouchers to Board members where appropriate.

Travel allowance is provided in accordance with the [Remuneration Tribunal \(Official Travel\) Determination 2019](#).

6.3 Other expenses

The Board Chair may approve the reimbursement of other expenses deemed appropriate to the business of the Board.

6.4 Leave

6.4.1 Board Chair

If the Board Chair is appointed on a:

- full-time basis:
 - he or she has recreation leave entitlements that are determined in writing by the Remuneration Tribunal; and
 - the Minister may grant the Board Chair leave of absence, other than recreation leave, on the terms and conditions as to remuneration or otherwise that the Minister determines⁴³.
- part-time basis, the Minister may grant leave of absence on the terms and conditions that the Minister determines⁴⁴.

⁴¹ Subsection 23(4), Agency Rule.

⁴² Board decision (18–19 April 2018 and 23–24 June 2021 Board meetings).

⁴³ Subsection 24(1), Agency Rule.

⁴⁴ Subsection 24(2), Agency Rule.

The Board Chair is required to advise the CEO and Secretariat in writing of their intent to take leave from Board business and their availability (if any) during this period.

The Board Chair, in consultation with the Secretariat, will determine the need for backfilling and if required, will identify and confirm availability of a Board member to be appointed as Acting Board Chair for the duration of their absence.

6.4.2 Other Board members

Board members are not required to apply for a leave of absence while on leave from their substantive employment unless they are indisposed or unavailable to attend to Board business during that period.

A Board member requesting leave of absence is required to inform the Board Chair and Secretariat in writing. The Board Chair will consider the request and advise the Board member of the decision regarding leave.

The Board Chair may grant leave on the terms and conditions he or she determines⁴⁵.

The Board Chair must notify the Minister and all State/Territory Health Ministers if he or she grants a Board member a leave of absence for a period that exceeds three months⁴⁶.

⁴⁵ Subsection 24(3), Agency Rule.

⁴⁶ Subsection 24(4), Agency Rule.

7 Meeting procedures

7.1 Conduct of meetings

The Board may regulate the conduct of its meetings as it thinks fit⁴⁷.

7.2 Meeting cycle

The Secretariat has adopted an indicative meeting cycle. The actual timing of events in the lead up and following Board and advisory committee meetings will be dependent upon the circumstances surrounding each meeting.

7.3 Forward agendas

The Secretariat maintains 12 months of forward draft agendas for the Board which are reflective of the work program. Any items to be considered on future agendas are to be raised with the Secretariat for inclusion on the forward draft agendas.

7.4 Meeting frequency

The Board Chair must convene such meetings of the Board as are, in his or her opinion, necessary for the efficient conduct of its affairs⁴⁸.

The Board Chair must convene at least four meetings of the Board each calendar year⁴⁹.

The Board Chair must convene a meeting of the Board if directed to do so by the Minister⁵⁰.

On receipt of a written request signed by a majority of Board members, the Board Chair must convene a meeting of the Board⁵¹.

7.5 Presiding at meetings

The Board Chair must preside at all meetings at which he or she is present⁵². If the Board Chair is not present at a meeting, the Board members present must choose one of their number to preside as Chair at the meeting⁵³.

7.6 Attendees

Key Agency personnel (e.g. CEO, SEC members) may be invited to attend Board meetings or part thereof (e.g. specific agenda item) to provide information within their areas of responsibility. The Board may also invite external advisors to attend Board meetings where necessary or desirable.

Board members are not permitted to appoint a proxy to attend a meeting on their behalf.

The Board may, by resolution, appoint an observer of the Board. The observer may:

- be provided with Board papers on the day of or prior to a Board meeting;
- attend and observe Board meetings;

⁴⁷ Section 34, Agency Rule.

⁴⁸ Subsection 29(1), Agency Rule.

⁴⁹ Subsection 29(2), Agency Rule.

⁵⁰ Subsection 29(3), Agency Rule.

⁵¹ Subsection 29(4), Agency Rule.

⁵² Subsection 31(1), Agency Rule.

⁵³ Subsection 31(2), Agency Rule.

- where considered appropriate by the Board Chair, participate in discussions including through responding to questions from Board members; and
- at the discretion of the Board Chair, be excluded from portions of Board meetings (such as where the Board is considering sensitive personnel matters or to preserve legal professional privilege).

The Board Chair must not permit any observer to:

- sponsor amendments to any Board papers;
- contribute to quorum requirements; and
- give direction to the Board.

7.7 Technology

The Board may hold meetings or permit a Board member to take part in its meetings, by using any technology that reasonably allows the Board member to hear and take part in discussions as they happen⁵⁴. A Board member who participates in the meeting using any technology is taken to be present at the meeting⁵⁵.

At the commencement of the meeting, each Board member must acknowledge his or her presence and will be presumed to have been present and to have formed part of the quorum unless excused or he or she has advised the Board Chair.

7.8 Quorum

A quorum is constituted by a majority of the Board members holding office at the time⁵⁶. The quorum must be maintained at all times during the meeting. However, if a Board member is required by section 15 of the PGPA Rule (which deals with material personal interests):

- not to be present while a matter is being considered; or
- not to contribute to the decision-making process; and
- when the Board member leaves the meeting concerned there is no longer a quorum present;

the remaining Board members constitute a quorum for the purposes of any consideration of the matter at the meeting⁵⁷.

The Secretariat will monitor attendance to ensure a quorum remains constituted throughout the course of a meeting. Where a quorum is not constituted during a meeting, the Secretariat will bring this to the attention of the Board Chair for him or her to determine whether:

- to adjourn the meeting to another date; or
- the meeting can continue without a quorum, depending on the nature of the business to be conducted at the meeting.

⁵⁴ For example, telephone, closed-circuit television or any other means of communication as listed under Section 33B of the *Acts Interpretation Act 1901 (Cth)*.

⁵⁵ Section 33B, *Acts Interpretation Act 1901*.

⁵⁶ Subsection 30(1), *Agency Rule*.

⁵⁷ Subsection 30(2), *Agency Rule*.

7.9 Decision-making

The Board adopts a collaborative, consensus approach to making decisions (to be read in conjunction with [Section 5.4.2 Conflict of Interest – Agenda Items](#)).

Board members must read papers and undertake any research or exploration prior to meetings to ensure they are able to constructively contribute to discussions.

Non-member attendees do not form part of the consensus on matters to be decided by the Board (e.g. presenters, CEO).

A matter must result in consensus and commitment to a clear and unambiguous decision. Board members must promote the solidarity of the Board once a decision has been made.

7.10 Decisions without meetings

The Board is taken to have made a decision if:

- without meeting, where consensus is achieved on the proposed decision; and
- that agreement is indicated in accordance with the method determined by the Board whereby the Board has determined:
 - that it may make decisions of that kind without meeting; and
 - the method by which Board members are to indicate agreement with proposed decisions; and
- all Board members were informed of the proposed decision, or reasonable efforts were made to inform all the Board members of the proposed decision⁵⁸.

A record of decisions without meetings⁵⁹ will be retained by the Secretariat on behalf of the Board.

7.11 In-camera session (closed session)

The Board may meet informally either before or after the Board meeting or at any other time. The purpose of the in-camera session is to allow the Board members to raise or explore any issues of concern or clarification prior to or after the meeting.

The Board may also hold in-camera sessions at other times as the Chair sees fit.

For the avoidance of doubt, in-camera sessions are not Board meetings.

The Secretariat is to be advised of actions arising from an in-camera session, for the purposes of accurate record keeping and timely response to action items.

7.12 Meeting papers and notes

All physical and electronic meeting paper annotations and meeting notes made by Board members may be kept until the minutes of the relevant meeting have been signed, after which all must be destroyed.

Board members may choose to keep their own personal notes on papers. Board members, however, should be aware that the personal notes and comments they choose to make can be discoverable under law and so should proceed with caution in this regard.

⁵⁸ Subsection 35(1–2), Agency Rule.

⁵⁹ Subsection 35(4), Agency Rule.

7.13 Out-of-session

Board members need to be prepared to work out-of-session. Urgent matters may be progressed out-of-session with the agreement of the Board Chair, CEO and/or Secretariat. Careful planning, however, will be undertaken to ensure such work does not become unreasonable or unduly burdensome for Board members.

8 Resignation and termination

8.1 Resignation of Board members

A Board member may resign his or her appointment by giving written notice to the Board Chair and/or Minister⁶⁰. The resignation takes effect on the day it is received by the Minister or, if a later day is specified in the resignation, on that later day⁶¹.

8.2 Termination of Board members

The Minister may terminate the appointment of a Board member:

- (a) for misbehaviour; or
- (b) if the Board member is unable to perform the duties of his or her office because of physical or mental incapacity; or
- (c) if the Board member fails, without reasonable excuse, to disclose material personal interests⁶² (refer to [Section 5.5](#) on conflicts of interest); or
- (d) if the Board member is appointed on a:
 - (i) full-time basis—if he or she engages, except with the Minister’s approval, in paid employment outside the duties of his or her office; or
 - (ii) part-time basis—if he or she engages in paid employment that, in the Minister’s opinion, conflicts or may conflict with the proper performance of the duties of his or her office (refer to [Section 5.7](#) on restrictions on outside employment); or
- (e) if the Minister is satisfied that the performance of the Board member has been unsatisfactory for a significant period⁶³.

The Minister must terminate the appointment of a Board member if:

- (a) the Board member:
 - (i) becomes bankrupt; or
 - (ii) takes steps to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
 - (iii) compounds with one or more of his or her creditors; or
 - (iv) makes an assignment of his or her remuneration for the benefit of one or more of his or her creditors; or
- (b) the Board member is appointed on a:
 - (i) full-time basis—he or she is absent, except on leave of absence, for 14 consecutive days or for 28 days in any 12 months; or
 - (ii) part-time basis—he or she is absent, except on leave of absence, from 3 consecutive meetings of the Board⁶⁴.

⁶⁰ Subsection 26(1), Agency Rule.

⁶¹ Subsection 26(2), Agency Rule.

⁶² In accordance with section 29 of the PGPA Act or Subdivision B of Division 2 of Part 2-2 of the PGPA Rule.

⁶³ Subsection 27(1), Agency Rule.

⁶⁴ Subsection 27(2), Agency Rule.

8.2.1 Procedures relating to certain terminations

Before the Minister terminates the appointment of a Board member (including the Board Chair), the Minister must:

- seek the support of all the State/Territory Health Ministers for the termination; and
- be satisfied that the termination is supported by a majority of the State/Territory Health Ministers or 30 days have passed since the Minister sought that support⁶⁵; and
- as soon as practicable after terminating an appointment, notify all the State/Territory Health Ministers in writing of the termination⁶⁶.

⁶⁵ Subsection 27(4), Agency Rule.

⁶⁶ Subsection 27(5), Agency Rule.

9 Board responsibilities in relation to the Chief Executive Officer

9.1 Appointment of the Chief Executive Officer

The CEO is appointed by the Board, by written instrument on a full-time basis, after consultation with the Minister and all State/Territory Health Ministers⁶⁷.

The CEO holds office for the period specified in his or her instrument of appointment. The period must not exceed five years⁶⁸.

The CEO must not be a Board member⁶⁹.

9.2 Acting Chief Executive Officer

After consulting the Minister, the Board may appoint a person to act as the CEO during:

- a vacancy in the office of the CEO (whether or not an appointment has previously been made to the office); or
- any period, or all periods, when the CEO:
 - is absent from duty; or
 - is, for any reason, unable to perform the duties of the office⁷⁰.

This excludes periods of approved recreation and/or personal leave.

9.3 Outside employment

The CEO must not engage in paid employment outside the duties of the CEO's office without the Board Chair's approval⁷¹. The Board Chair must notify the Minister of any approval given⁷².

9.4 Disclosure of interests

The CEO must disclose any material personal interest to the Board.

9.5 Leave for the Chief Executive Officer

The CEO is required to advise the Board Chair in writing of their intent to take leave.

The Board Chair may grant the CEO leave of absence, other than recreation leave, on the terms and conditions as to remuneration or otherwise that the Board Chair determines⁷³.

The Board Chair must notify the Minister if he or she grants the CEO leave for a period that exceeds one month⁷⁴.

⁶⁷ Subsection 55(1–3), Agency Rule.

⁶⁸ Subsection 55(4), Agency Rule.

⁶⁹ Subsection 55(5), Agency Rule.

⁷⁰ Section 56, Agency Rule.

⁷¹ Subsection 57(1), Agency Rule.

⁷² Subsection 57(2), Agency Rule.

⁷³ Subsection 60(2), Agency Rule.

⁷⁴ Subsection 60(3), Agency Rule.

9.6 Resignation of the Chief Executive Officer

The CEO may resign his or her appointment by giving written notice to the Board Chair⁷⁵. The resignation takes effect on the day it is received by the Board Chair or, if a later day is specified in the resignation, on that later day⁷⁶. The Board Chair must notify the Minister of the resignation⁷⁷.

9.7 Termination of the Chief Executive Officer

The Board may terminate the appointment of the CEO:

- (a) for misbehaviour; or
- (b) if the CEO is unable to perform the duties of his or her office because of physical or mental incapacity; or
- (c) if the Board is satisfied that the performance of the CEO has been unsatisfactory for a significant period;
- (d) if the CEO:
 - (i) becomes bankrupt; or
 - (ii) takes steps to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
 - (iii) compounds with one or more of his or her creditors; or
 - (iv) makes an assignment of his or her remuneration for the benefit of one or more of his or her creditors; or
- (e) if the CEO is absent, except on leave of absence, for 14 consecutive days or for 28 days in any 12 months;
- (f) if the CEO fails, without reasonable excuse, to disclose material personal interests⁷⁸; or
- (g) if the CEO engages, except with the Board Chair's approval, in paid employment outside the duties of his or her office (refer to [Section 9.3](#) on outside employment)⁷⁹.

Before the Board terminates the appointment of the CEO, the Board must notify the Minister and each State/Territory Health Minister that it is considering terminating the appointment⁸⁰.

If the Board terminates the appointment of the CEO, the Board must notify the Minister and each State/Territory Health Minister of the termination⁸¹.

9.8 Annual performance review

The Board will set Key Performance Indicators and conduct an annual review of the performance of the CEO.

⁷⁵ Subsection 61(1), Agency Rule.

⁷⁶ Subsection 61(2), Agency Rule.

⁷⁷ Subsection 61(3), Agency Rule.

⁷⁸ In accordance with section 29 of the PGPA Act or Subdivision B of Division 2 of Part 2-2 of the PGPA Rule.

⁷⁹ Subsection 62(1), Agency Rule.

⁸⁰ Subsection 62(2), Agency Rule.

⁸¹ Subsection 62(3), Agency Rule.

9.9 Other terms and conditions

The CEO holds office on the terms and conditions (if any), in relation to matters not covered by the Agency Rule that are determined by the Board⁸².

⁸² Section 63, Agency Rule.

10 Publication and review of Charter

This Charter will be available on the Agency's website. The Charter will be reviewed every three years or as required to ensure it remains consistent with the Board's functions, objectives and responsibilities, to maintain its alignment with excellence in governance standards and to ensure compliance with the PGPA Act, PGPA Rule and Agency Rule. Any changes must be approved by the Board.