



Tasmanian
Audit Office

**Report of the Auditor-General
No. 2 of 2020-21**

Management of Underperformance
in the Tasmanian State Service

27 August 2020

The Role of the Auditor-General

The Auditor-General's roles and responsibilities, and therefore of the Tasmanian Audit Office, are set out in the *Audit Act 2008* (Audit Act). The Auditor-General's role as Parliament's auditor is unique.

Our primary responsibility is to conduct financial or 'attest' audits of the annual financial reports of State entities. State entities are defined in the Interpretation section of the Audit Act. We also audit those elements of the Treasurer's Annual Financial Report reporting on financial transactions in the Public Account, the General Government Sector and the Total State Sector.

Audits of financial reports are designed to add credibility to assertions made by accountable authorities in preparing their financial reports, enhancing their value to end users. Following financial audits, we report findings and outcomes to Parliament.

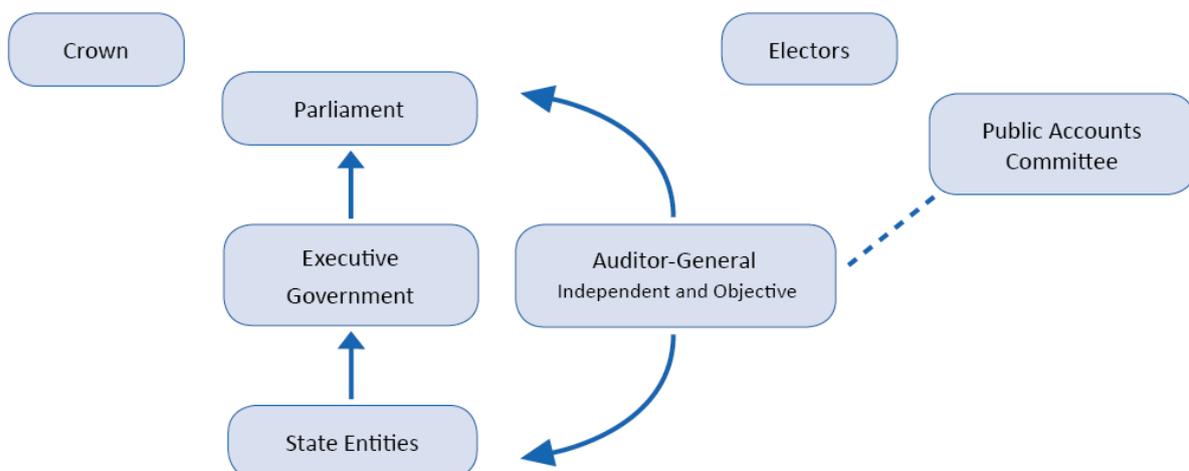
We also conduct performance audits and compliance audits. Performance audits examine whether a State entity is carrying out its activities effectively and doing so economically and efficiently. Audits may cover all or part of a State entity's operations, or consider particular issues across a number of State entities.

Compliance audits are aimed at ensuring compliance by State entities with directives, regulations and appropriate internal control procedures. Audits focus on selected systems (including information technology systems), account balances or projects.

We can also carry out investigations but only relating to public money or to public property. In addition, the Auditor-General is now responsible for state service employer investigations.

Where relevant, the Treasurer, a Minister or Ministers, other interested parties and accountable authorities are provided with opportunity to comment on any matters reported. Where they choose to do so, their responses, or summaries thereof, are detailed within the reports.

The Auditor-General's Relationship with the Parliament and State Entities



2020

(No. 27)



2020
PARLIAMENT OF TASMANIA

Report of the Auditor-General No. 2 of 2020-21
Management of Underperformance in the Tasmanian State Service

27 August 2020

Presented to both Houses of Parliament pursuant to
Section 30(1) of the *Audit Act 2008*

© Crown in Right of the State of Tasmania August 2020

Auditor-General's reports and other reports published by the Office can be accessed via the Office's website. For further information please contact:

Tasmanian Audit Office

GPO Box 851

Hobart

TASMANIA 7001

Phone: (03) 6173 0900, Fax (03) 6173 0999

Email: admin@audit.tas.gov.au

Website: www.audit.tas.gov.au

ISBN: 978-0-6488176-0-4

27 August 2020

President, Legislative Council
Speaker, House of Assembly
Parliament House
HOBART

Dear Mr President, Madam Speaker

Report of the Auditor-General No. 2 of 2020-21: Management of Underperformance in the Tasmanian State Service

This report has been prepared to examine elements of the performance and exercise of the Employer's functions under the *State Service Act 2000* pursuant to section 23(1)(g) of the *Audit Act 2008*.

Yours sincerely



Rod Whitehead
Auditor-General

Page left blank intentionally.

Table of contents

Independent assurance report	1
Executive summary	4
Summary of findings	4
Recommendations	5
Submissions and comments received	6
1. Introduction	11
Importance of managing performance	11
Characteristics of in-scope agencies	11
Data capture and evidence for findings	12
Naming and other conventions	12
Legal and regulatory framework for managing performance	13
What is underperformance?	18
Managing underperformance	19
Probation processes	21
2. Do TSS and agency policies and procedures contribute to the effective management of underperformance?	22
Chapter summary	22
Where they existed, agency policies and procedures were aligned with ED 26	23
Agencies provided varying levels of guidance on why and how to manage underperformance	25
Managers and staff did not have confidence underperformance was being managed effectively	28
3. Is the performance management framework consistently applied?	32
Chapter summary	32
Each agency having responsibility for managing performance has led to inconsistent outcomes	33
With some exceptions, training provided to managers was not adequate	40
Agency HR was able to provide personalised support to managers, however this advice could be inconsistent	44
Effective management of underperformance was time intensive	45

Investing time in managing underperformance often led to positive outcomes	47
4. Do agencies know if underperformance is managed effectively?	49
Chapter summary	49
All agencies maintained centralised records relating to employee performance, however informal interventions were poorly documented	49
Agencies were unable to assess the impact of underperformance	52
Acronyms and abbreviations	55

Independent assurance report

This independent assurance report is addressed to the President of the Legislative Council and the Speaker of the House of Assembly. It relates to my performance audit on management of underperformance in the Tasmanian State Service (TSS).

Audit objective

The objective of the audit was to form conclusions on whether underperformance is managed effectively in the TSS.

Audit scope

The audit examined and analysed information relating to the performance framework established and activities undertaken to manage underperformance of employees in the following state entities:

- Department of Police, Fire and Emergency Management (including the Tasmanian Fire Service, which became part of the Department in April 2016)
- Department of Primary Industries, Parks, Water and Environment (DPIPWE)
- Department of State Growth (prior to July 2014 the Department of Economic Development and Tourism and the Department of Infrastructure, Energy and Resources)
- Department of Treasury and Finance.

The audit only covered permanent, ongoing TSS staff. Specifically, the scope excluded:

- staff subject to the *Police Service Act 2003*
- fixed-term staff on a contract
- staff recently recruited and still under a probationary period.

The audit did not specifically cover known preventative measures for underperformance, namely:

- strength of recruitment practices
- effective use of probationary periods for new employees.

Audit approach

The audit evaluated the following criteria:

1. Do TSS and agency policies and procedures contribute to the effective management of underperformance?
2. Is the performance management framework consistently applied?
3. Do agencies know if underperformance is managed effectively?

The audit fieldwork was conducted from late October to early December 2019.

The COVID-19 pandemic occurred subsequent to the fieldwork and analysis phase of this audit. The impact of the COVID-19 pandemic is still unfolding. One key consequence for the TSS has been a transition to, and scaling up of, working from home arrangements for agencies. Those arrangements, as well as the deployment of human resources across the TSS to manage the pandemic, present additional challenges for managers¹ and employees in assessing performance, effectiveness and outputs remotely. However the fundamentals of performance management have not changed, and no further reference is made in this Report.

Responsibilities of Management

The legal framework for performance management in the TSS is set out under the *State Service Act 2000* (the Act) and through Employment Direction 26 *Managing Performance in the State Service* (ED 26). ED 26 specifies:

- Heads of Agencies are accountable for developing and implementing effective performance management arrangements in their agency, including integration with Government and Agency policies, programs and priorities; communication and information to support employee participation in performance activities; support, training, education and/or development of managers; completion of Performance Management Plans; and reporting of information relating to performance management activities in Agency Annual Reports.
- Managers are obliged to prepare for the discussion and development of Performance Management Plans and support employees in their endeavours to achieve performance requirements; specifying, managing, monitoring and assessing employee performance (and be consistent, fair and objective in doing so); identifying and enabling appropriate development actions; providing ongoing recognition and feedback to employees on their performance (including when they meet, exceed or do not meet requirements in the Performance Management Plan); and undertaking development activities to effectively manage the performance of employees that report to them.
- Employees have an obligation and responsibility to prepare for and engage in performance management activities, including development and completion of their Performance Management Plan; undertaking agreed development actions; and demonstrating positive workforce behaviours and meeting requirements identified in their Performance Management Plan.

Responsibilities of the Auditor-General

In the context of this audit, my responsibility was to express a reasonable assurance conclusion on the effectiveness of the management of underperformance in the TSS.

¹ The term managers includes supervisors who are responsible for managing employee performance.

Independence and quality control

I have complied with the independence and other relevant ethical requirements relating to assurance engagements, and applied Auditing Standard ASQC 1 *Quality Control for Firms that Perform Audits and Reviews of Financial Reports and Other Financial Information, and Other Assurance Engagements* in undertaking this audit.

Conclusion

It is my conclusion that agencies did not perform, in terms of effectiveness, with respect to certain criteria and sub-criteria of the performance engagement.

Agency policies and procedures were aligned, and complied, with ED 26. Performance management procedures encouraged managers to provide ongoing and regular feedback to staff and promptly intervene when underperformance was identified. However, a significant proportion of managers and staff did not believe underperformance was effectively understood or managed in the TSS or in their agency.

The application of the performance management framework was inconsistent between agencies, and varied considerably within each agency depending on the capability, capacity and commitment of individual managers. This led to inconsistent outcomes and a low level of confidence in underperformance management processes among managers and staff. This contributed to a culture where underperformance may be tolerated, or considered too difficult or time consuming for managers. The capability, capacity and commitment of individual managers is central to effective management of underperformance, however support and training provided to managers was inconsistent, not only between agencies but also between different managers within an agency.

Agencies maintained centralised record-keeping systems that included documents relating to formal underperformance processes, and were generally able to monitor compliance with key performance management processes. However, the ability of agencies to monitor the number of underperforming employees, the impact of underperformance and the effectiveness of underperformance management was significantly constrained by system, capability, resourcing and information limitations. Consequently, agencies did not have visibility of the extent of informally managed underperformance beyond ad-hoc reporting or anecdotal comments from managers. Nor did they have the capability to assess the impact of underperformance from an agency-wide perspective or effectively target responses.



Rod Whitehead
Auditor-General

27 August 2020

Executive summary

Summary of findings

There are significant opportunities within agencies and the TSS as a whole to manage underperformance more effectively. The legislative and regulatory framework delegates responsibility for performance management to Heads of Agency, which has resulted in an environment where the support and guidance available to managers and the application of underperformance processes is inconsistent. Currently, across the agencies in scope, management of underperformance and resultant outcomes (or lack of outcomes due to lack of action) could be significantly improved. There was a strong perception among managers and staff the current framework for managing underperformance was time consuming, ineffective and inconsistently applied.

The adequacy of agency documentation of underperformance policies and related guidance varied considerably, and in the case of one agency, documentation relating to the management of underperformance tailored to the needs of that agency did not exist. While the documentation that did exist generally complied with ED 26, all agencies could have supported managers more effectively by providing additional guidance on how to identify and respond to underperformance.

Several agencies had not reviewed their Performance Management System in recent years and ED 26 itself had not been updated in seven years. There is therefore an opportunity for a more comprehensive review and update of performance management practices across the TSS to address items raised in this audit and the perception from managers and staff underperformance is not effectively managed.

Barriers impeding the management of underperformance were not being effectively addressed. Limited training and other support reduced the capability and capacity of managers to adequately respond to underperformance. There was also a strong perception among managers attempting to address underperformance, it is overly time consuming and may not necessarily result in improved performance. This had created a culture where underperformance was often not dealt with from the very beginning, genuine issues were not raised with employees, and hence underperformance was not addressed and tacitly accepted.

In the limited number of cases where formal underperformance processes were initiated, almost half of underperforming employees returned to performance. This indicated, when correctly implemented by capable and confident managers, interventions could lead to successful outcomes. A key task for the TSS and agencies is addressing this gap between perceptions and actual outcomes to improve confidence in underperformance processes and encourage managers to intervene and act when performance issues arise in their team.

Agencies maintained centralised record-keeping systems that included documents relating to formal underperformance processes and were generally able to monitor compliance with key performance management processes. However, the ability of agencies to monitor the number of underperforming employees in their agencies, the impact of underperformance

on the agency, and the effectiveness of underperformance management was significantly constrained by system, capability, resourcing and information limitations.

In particular, agencies did not have visibility of the extent of informally managed underperformance beyond ad-hoc reporting or anecdotal comments from managers. As such, agencies did not have the capability to assess the impact of underperformance from an agency-wide perspective or effectively target responses to underperformance across their organisation, or within specific sectors of the agency.

Recommendations

We recommend:

1. The State Service Management Office (SSMO) and agencies work together to improve process guidance, including:
 - a. a review of ED 26 and the supporting guidelines to ensure that the regulatory framework aligns with contemporary practices. A particular focus should be on improving rigour in the process and monitoring occurrences of underperformance being informally managed. Some considerations should be:
 - i. providing guidance and clarity on what underperformance is (and is not)
 - ii. establishing key documentation to be used in an informal process that could, if needed, support the transition to a formal process
 - iii. providing indicative timeframes for informal management.
 - b. development of a suite of standardised policies, procedures and template documents to improve consistency of practice across the TSS. In developing new documentation, a focus should be on providing:
 - i. clear expectations of the duration of key processes
 - ii. practical examples to help managers identify underperformance
 - iii. a range of interventions for managers to apply to different instances of underperformance.
 - c. development of tailored resources by each agency, including:
 - i. clear guidance on the support and assistance available to managers from HR
 - ii. practical tools like checklists, flowcharts and tips and tricks for managers to respond to underperformance.
2. The SSMO and agencies work together to improve manager capability, including:
 - a. mandatory training for all new managers on the fundamentals of managing people

- b. implementation of consistent training for all managers, regardless of their agency. Training should focus on explaining the employment framework and the responsibilities of managers, and giving managers the opportunity to develop skills to manage underperformance
 - c. development of supplementary training resources (e.g. online learning) for managers to 'self-select' for additional support
 - d. development of initiatives to give managers an opportunity to discuss with their peers how they manage underperformance within their teams to encourage collaborative learning among managers.
3. Agencies improve monitoring of the occurrence and impact of informal and formal underperformance to understand the extent of, and key drivers for, underperformance within their workforce, including:
 - a. determining the types of underperformance that need to be monitored
 - b. modifying existing tools and systems to better capture this information.
4. Agencies pursue initiatives to enhance managers' capacity and preparedness, to deal with employee underperformance. Initiatives may include:
 - a. an increased focus by executive leadership on reinforcing the importance of managing underperformance
 - b. reiterating that managing performance is the primary responsibility of managers and emphasising the importance of addressing underperformance at an early stage and documenting outcomes
 - c. providing support to managers in recognition of the additional effort required and pressures when managing underperformance
 - d. encouraging managers to seek out the guidance and support they need to become confident in managing underperformance
 - e. assessing managers' people management skills and responding with appropriate development actions
 - f. recognising and rewarding managers who manage underperformance, and holding accountable those who do not
 - g. interventions by higher level managers to support or reinforce the need to deal with underperformance when required.

Submissions and comments received

In accordance with section 30(2) of the *Audit Act 2008* (Audit Act), a copy of this Report was provided to the Employer as well as Heads of Agency for in-scope agencies, with a request for submissions or comments.

Submissions and comments that we receive are not subject to the audit nor the evidentiary standards required in reaching an audit conclusion. Responsibility for the accuracy, fairness and balance of these comments rests solely with those who provided the response.

Section 30(3) of the Audit Act requires that this Report include any submissions or comments made under section 30(2) or a fair summary of them. Submissions received are included in full below.

Premier (as the Employer) and Treasurer

I have been advised that you have provided a detailed briefing to the Head of the State Service and the Director, State Service Management Office. I will provide you with my comments in my capacity as both the Employer and Treasurer, noting that the Department of Treasury and Finance was one of the participating agencies in the audit.

While the Report states there are significant opportunities for agencies and the Tasmanian State Service (TSS) as a whole to more effectively manage underperformance, I note you have recognised COVID-19 has changed the landscape and presented additional challenges for managers that were not present at the time of the audit fieldwork and analysis.

I consider there are two matters the Report does not touch on, which are relevant to its recommendations.

The first is the Review of the State Service, chaired by the independent Reviewer Dr Ian Watt, which will consider whether the governing framework is fit-for-purpose for Tasmania today and into the future. It will identify structural, legislative and administrative improvements that will transform current structures, services and practices to deliver a more efficient and effective TSS.

The second is the whole-of-government business case being developed for a Human Resources Information System (HRIS), which is relevant to Recommendation 3. A consistent HRIS across Government is likely to provide significant opportunity for improvement in terms of monitoring and reporting.

Thank you again for providing the opportunity to comment on the Report.

The Honourable Peter Gutwein MP

Premier and Treasurer

Minister for Environment and Parks and Minister for Aboriginal Affairs

As Minister for Environment and Parks and Minister for Aboriginal Affairs, I note the findings of the review and can confirm DPIPWE's continued commitment to managing underperformance in the Tasmanian State Service. The Report's recommendations will assist DPIPWE in reviewing current internal underperformance management practices and help guide the development of further employee and manager support in this area.

As Minister for the Parks and Environment and the Aboriginal Affairs portfolios, I support DPIPWE's continued focus and commitment to addressing and managing underperformance within the Agency.

The Honourable Roger Jaensch MP

Minister for Environment and Parks and Minister for Aboriginal Affairs

Department of Police, Fire and Emergency Management

The Department of Police, Fire and Emergency Management acknowledges and supports the recent recommendations from the Performance Audit – Management of Underperformance in the Tasmanian State Service, report of the Auditor General, No. 2 of 2020-21.

The Department has recently undertaken a reinvigoration of the agency wide Performance Development Program, which aligns to the Performance Management in the Tasmanian State Service: A focus on quality conversations, report of the Auditor General, No. 7 of 2018-19. This current project will form the foundation of the guidelines, processes and training which will subsequently be further enhanced to more effectively manage general performance on a day to day basis and early identification of underperformance for intervention and appropriate steps.

We look forward to working with the Department of Premier and Cabinet to further develop our processes and practices within the management of underperformance.

Commissioner Darren Hine

Secretary

Department of Primary Industries, Parks, Water and Environment

I acknowledge the findings of the review and note we are committed to continually improving DPIPWE's approach to managing underperformance. The Report's recommendations will assist DPIPWE in reviewing current underperformance management practices and help shape how the Department supports and guides employees and managers in performance management processes.

I am pleased to advise that DPIPWE is undertaking the following actions:

- DPIPWE supports its managers through toolkit resources and via guidance and support from People and Culture in areas such as adaptive leadership, performance management processes, change management processes and managing underperformance. This was further enhanced during COVID-19 response to support managers with remote teams.
- DPIPWE is currently running a 'Managing People for Performance' program which aims to educate managers on effective people management within DPIPWE and across the State Service. This training will become mandatory for all managers after the initial pilot phase.
- DPIPWE has been working closely with the Department's Employee Assistance Program to deliver state-wide educational sessions for all employees on topic areas such as coping, resilience and managing conflict in the workplace. These sessions aim to help educate and inform employees about appropriate workplace behaviours which may impact on performance. Related training sessions are available on the Department's learning management system for all employees.

DPIPWE's People Strategy highlights performance as an important pillar on which the Department stands and aims to embed a learning and development mindset in performance management activities. This includes equipping our people with the right tools for effective performance, which includes the work we are doing to develop a learning and development strategy, a leadership capability framework and a leadership program. These are scheduled to be rolled out under an implementation plan over the next three years.

Thank you for the opportunity to comment on your review.

Deidre Wilson

Acting Secretary

Department of State Growth

I have reviewed the Summary Report and Recommendations and have no further comments to add to the report. I am supportive of the Department working with SSMO in implementing recommendations of the report.

Kim Evans

Secretary

Department of Treasury and Finance

The findings of the report show that application of the performance management framework was inconsistent between agencies and varied considerably within each agency depending on the capability, capacity and commitment of each manager. To this end, Treasury notes the report includes a number recommendations aimed at addressing manager capability.

The recommendations of the report are broadly supported. However, in terms of the methods of data capture, a significant proportion of the report relies on an analysis of a staff survey issued by a consultancy firm to the employees in participating agencies. At the time of the survey Treasury provided feedback on the survey design, noting that a range of questions were difficult to complete given that more complex cases of underperformance are each unique and involve actions by both managers, senior managers and Human Resources personnel and therefore are likely to generate unusual results. For example, the survey did not allow the insertion of time ranges or qualitative text explanations but instead forced pre-set numerical estimates.

Treasury notes that the survey also included questions that employees could not reasonably answer due to the confidentiality and sensitivity of managing underperformance in the workplace. Many employees who responded would likely have had no involvement in managing underperformance which may explain why they did not have a good understanding of departmental policies or any direct experience.

There are some qualitative claims in the report related to the sentiments expressed by managers in the focus groups e.g. 'anecdotally it appeared managers approached multiple

HR staff until they received the advice they wanted to hear', but there is no framework information contained in the report which outlines the format and context for those focus group sessions. Treasury recommends that the framework followed in the focus group sessions also be included in the report appendix for background context.

Thank you for the opportunity to comment.

Tony Ferrall

Secretary

Rejoinder from the Auditor-General

The survey used for preliminary data collection was designed and issued by an external consultancy firm. The design incorporated feedback from the four in-scope agencies prior to deployment. The survey allowed for free text responses to five of the 48 questions, with some additional questions enabling an 'Other' free text response. The number of free text answers was deliberately limited to facilitate data analysis. The final response rate to the survey was 38%, which equated to 1 137 TSS staff. The framework for the focus groups has been included in the 'Data capture and evidence for findings' section in Chapter 1 of this Report.

1. Introduction

Importance of managing performance

- 1.1 Managing the performance of staff is important to maintaining a high-performing TSS. The primary responsibility of managers in the TSS is to manage for performance². However, at times, managers may need to manage underperformance. Managing underperformance effectively is important to the overall performance management framework because underperforming employees negatively impact efficiency, productivity and morale not only within their direct team but more broadly across the TSS. Underperforming employees may also lead to unhappy customers, clients or community members. Additionally, many underperforming employees may not be happy at work themselves.
- 1.2 The Tasmanian Audit Office tabled a report³ in March 2019 that dealt with performance management in the TSS more generally, with a focus on quality conversations. This current audit examines how underperformance, once identified, is rectified.

Characteristics of in-scope agencies

- 1.3 In conducting this audit, we examined the management of underperformance in four TSS agencies:
 - Department of Police, Fire and Emergency Management
 - Department of Primary Industries, Parks, Water and Environment
 - Department of State Growth
 - Department of Treasury and Finance.
- 1.4 These agencies provide a mix in relation to size, operational function, staff demographics, management structure and dynamics, geographic spread and organisational culture, among other attributes.
- 1.5 From an agency perspective, managing any control framework tends to be easier when:
 - agencies have a smaller number of employees to manage and managers to support

² *Managing Performance Guidelines for the Tasmanian State Service*. Sourced from: http://www.dpac.tas.gov.au/data/assets/pdf_file/0004/186052/13_4687_1_Attachment_2_-_ED_26_-_Performance_Management_Guide_for_the_TSS.pdf

³ Tasmanian Audit Office, March 2019. *Report of the Auditor-General No.7 of 2018-19 – Performance management in the Tasmanian State Service: A focus on quality conversations*. Sourced from: <https://www.audit.tas.gov.au/wp-content/uploads/Report-No7-Performance-Management-in-the-TSS-Full-Report.pdf>

- the workforce is made up of employees with similar roles and functions
 - staff are physically in a single or small number of locations
 - the agency has not been combined, merged or structurally changed for several years
 - organisational culture is largely homogenous.
- 1.6 The specific characteristics of each agency are a contributing factor explaining variations in outcomes of managing underperformance between agencies, as documented within this Report.

Data capture and evidence for findings

- 1.7 Several key sources of data capture were used in compiling this Report. They included:
- examination of relevant documentation (legislation, guidelines, agency processes and procedures)
 - examination and testing of Performance Improvement Plans (PIPs).
 - focus group sessions with managers in each agency covering the following discussion points:
 - proactive performance management
 - initial informal interventions
 - engaging with HR
 - formal mechanisms
 - a survey of all in-scope employees in each agency, including additional questions for respondents who identified themselves as people managers and/ or having been subject to a PIP in the past
 - interviews with key agency stakeholders and SSMO personnel.

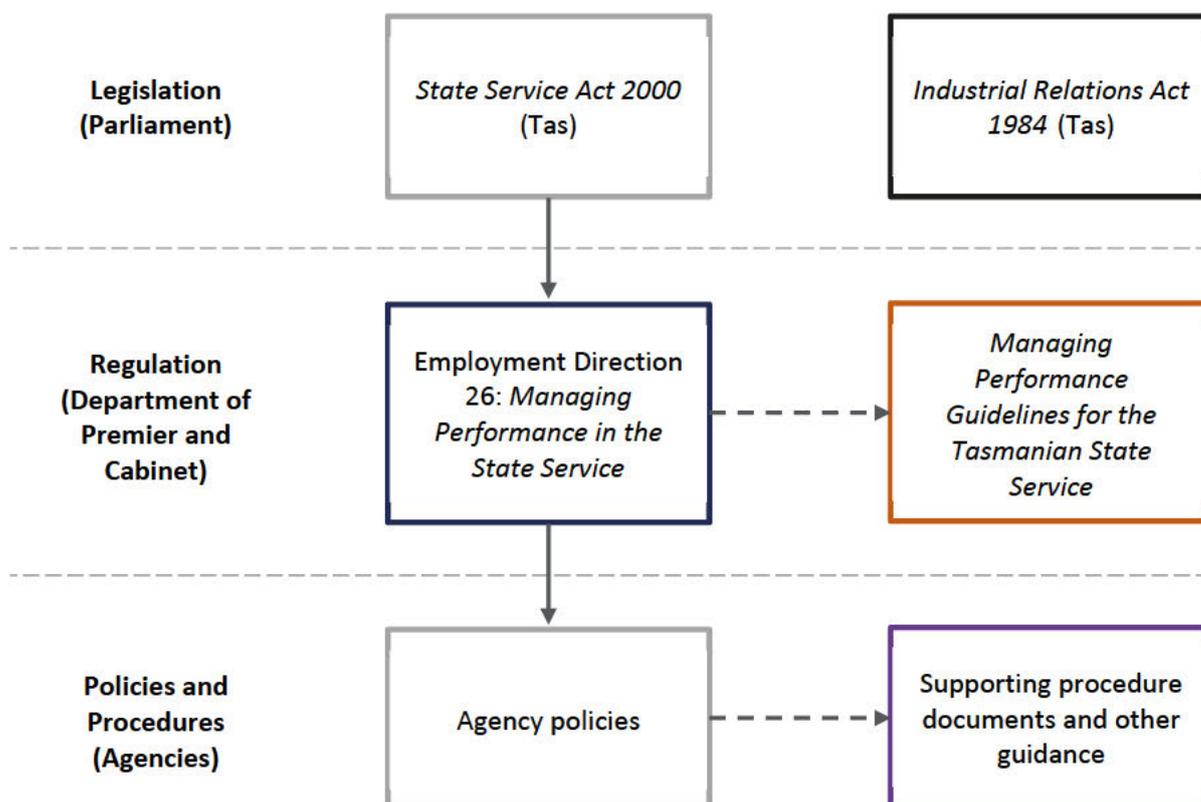
Naming and other conventions

- 1.8 In several instances, scoped agencies used different terms for comparable practices, teams or documents. For clarity, throughout this Report we will use the following generic terms:
- ‘Performance Management System’ instead of ‘Performance Framework’ or similar terms
 - ‘Human Resources’ instead of ‘People and Culture’ or similar terms
 - ‘Performance Management Plan’ instead of ‘Career Plan’ or similar terms
- 1.9 In our survey, participants were asked to rate a variety of statements on a five point scale (Strongly Disagree, Disagree, Neutral, Agree, Disagree). For clarity, throughout this Report ‘Agree’ and ‘Disagree’ includes those who responded ‘Strongly Agree’ and ‘Strongly Disagree’ respectively due to the limited number of responses in the stronger categories.

Legal and regulatory framework for managing performance

1.10 A simplified view of the legal, regulatory and operational framework for managing performance in the TSS is shown in Figure 1.

Figure 1: Legal, regulatory, and operational framework for managing performance



Industrial Relations Act 1984 and the Tasmanian Industrial Commission

1.11 The TSS is covered by the provisions of the *Industrial Relations Act 1984* (IR Act) in relation to terminating the employment of an underperforming employee. Under these provisions, employees can seek review after date of termination of employment to the Tasmanian Industrial Commission (TIC).

1.12 While there is no legislative requirement specifying employees must be given a certain number of written warnings prior to being terminated for unsatisfactory performance, the IR Act sets out in section 30 the criteria applying to disputes relating to termination of employment. It makes clear, among other things, that, in cases of underperformance:

- there must be a valid reason connected with performance of the employee
- the onus of proving the existence of a valid reason for the termination rests with the employer

- the employment of an employee must not be terminated unless they are informed of those reasons and given an opportunity to respond to them, unless in all the circumstances the employer cannot reasonably be expected to provide such an opportunity.

1.13 Other industrial tribunals within Australia support this approach and have consistently upheld unfair dismissal claims where an employee did not have an opportunity to respond to performance concerns or to improve their performance over a reasonable period of time⁴.

State Service Act 2000 and Employment Directions

1.14 The Act is the principal legislation governing the TSS. Under section 51A of the Act, a Head of Agency is responsible for ensuring:

- performance management and development is integrated with employment practices and advances the business direction of the agency
- all employees participate in performance management programs and systems
- all employees understand the importance of the standards and requirements identified in their Performance Management Plan
- performance management and development systems and programs are established and implemented, and information relating to these are available to all employees

1.15 Under section 51C of the Act:

- the Employer (the Minister responsible for administering the act, currently the Premier), can issue Employment Directions relating to performance management and reporting on performance management
- Heads of Agency are able to take action where they identify an employee is not meeting the required standard, including termination
- employees must be given an opportunity to improve their performance before a Head of Agency recommends termination
- employees must be given notice in writing of their underperformance and the intention of the Head of Agency to recommend termination and an opportunity to respond to this notice.

⁴ Fair Work Commission. Sourced from: <https://www.fwc.gov.au/unfair-dismissals-benchbook/what-makes-dismissal-unfair/warnings-unsatisfactory-performance>

1.16 The Act is supplemented by requirements set out in the EDs, which are maintained by SSMO. The relevant ED for managing underperformance is ED 26. In particular, ED 26 sets out:

- the underlying principles of performance management
- the purpose of performance management
- obligations, roles and responsibilities of Heads of Agencies, managers and employees
- elements that must be present in the Performance Management System of each agency, including frequency of review
- the purpose and contents of a Performance Management Plan
- the purpose, elements and frequency of employee performance assessments
- the purpose and process of managing underperformance, including requirements governing the use and contents of a PIP
- actions to recommend termination of employees
- dispute resolution processes available for employees to resolve issues.

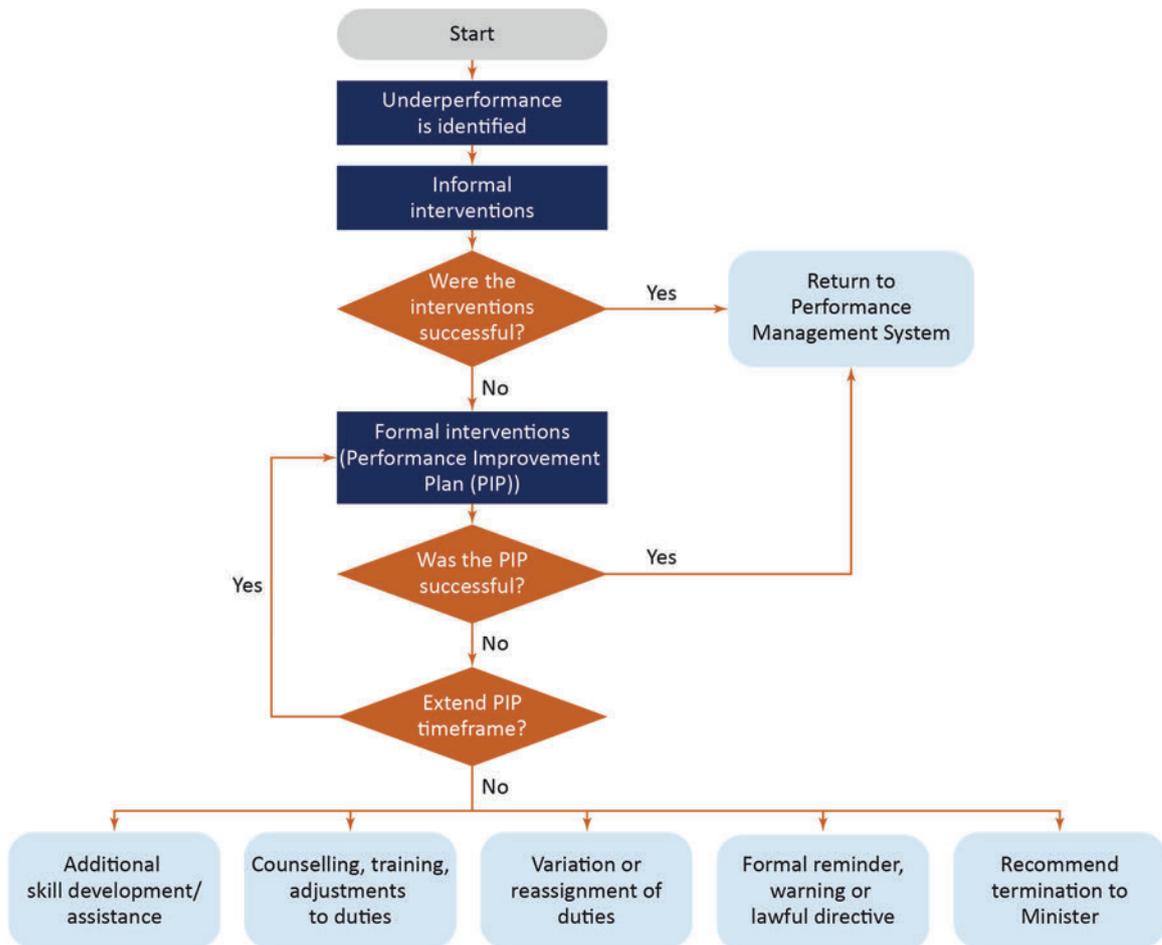
1.17 Where underperformance is identified, ED 26 states intervention is to occur early and is to be as constructive as possible. Early informal interventions can be addressed through an agency's Performance Management System and are designed to prevent minor issues from developing into more significant matters. Informal interventions will often be a more effective way of dealing with underperformance than formal processes. Informal interventions also allow time for the provision of additional training, coaching and advice to aid improvement in performance. However, the employee should also be made aware formal processes will be used if performance does not improve to the required standard or if any improvement is not sustained.

1.18 Where informal interventions do not sufficiently address the underperformance, or the issue is significant, ED 26 requires the employee to be managed through a formal and documented process. A PIP is to be developed between an employee and their manager in consultation with HR management and the next level of manager. This PIP must document:

- the underperformance, by identifying the requirements that have not been met
- performance outcomes that must be achieved under the PIP, including timeframes, milestones, monitoring arrangements, and specific work requirements and behaviours that must be met
- development and support that will be provided to the employee to help achieve the documented performance outcomes
- consequences if the employee's performance does not improve.

- 1.19 Documented feedback must be provided by the manager to the employee on their performance throughout the duration of the PIP. Employees should be given an opportunity to respond to this feedback.
- 1.20 If employees meet the performance outcomes identified in the PIP, the PIP will conclude, and the employee will return to working within the agencies Performance Management System. If underperformance continues managers can extend the timeframe of the PIP (to provide the employee a further opportunity to demonstrate improved performance), or can conclude the PIP and, in consultation with HR, determine options for further action.
- 1.21 HR must review the PIP documentation to ensure the process was appropriate, before determining options for further action. Further actions may include:
- additional skills development, mentoring or further assistance
 - counselling, training or adjustments to duties
 - variation or reassignment of the employee's duties
 - issue of a formal reminder, warning or lawful direction
 - recommendation to terminate.
- 1.22 A simplified overview of the requirements for managing underperformance as documented in ED 26 is presented in Figure 2.

Figure 2: Employment Direction 26 process to manage underperformance



Agency procedures

1.23 Per ED 26, Heads of Agencies are responsible and accountable for developing and implementing effective performance management arrangements in their agency. As such, each agency has procedures in place in relation to managing underperformance that are set out in administrative or policy documents. This documentation typically includes communication and information to support employee participation in performance activities; support, training, education and/or development of managers; and completion of Performance Management Plans.

Dispute resolution

1.24 All employees have a range of actions they can take in relation to performance management under state law. TSS employees also have access to agency dispute and grievance resolution processes to resolve issues, including escalation to the TIC in relevant cases.

What is underperformance?

1.25 Neither 'performance' nor 'underperformance' are defined within the Act, or in ED 26. The Australian Fair Work Ombudsman⁵ provides the following definition of underperformance, which has been used as a basis for consultations as part of this audit:

What is underperformance?

Underperformance or poor performance can be exhibited in the following ways:

- unsatisfactory work performance, that is, a failure to perform the duties of the position or to perform them to the standard required
- non-compliance with workplace policies, rules or procedures
- unacceptable behaviour in the workplace
- disruptive or negative behaviour that impacts on co-workers.

Underperformance is not the same as misconduct. Misconduct is very serious behaviour such as theft or assault which may warrant instant dismissal.

What are the reasons for underperformance?

There are many reasons why an employee may perform poorly. Some of the common reasons include:

- an employee doesn't know what is expected because goals and/or standards or workplace policies and consequences are not clear (or have not been set)
- interpersonal differences
- there is a mismatch between an employee's capabilities and the job they are required to undertake, or the employee does not have the knowledge or skills to do the job expected of them
- an employee does not know whether they are doing a good job because there is no counselling or feedback on their performance
- lack of personal motivation, low morale in the workplace and/or poor work environment
- personal issues such as family stress, physical and/or mental health problems or problems with drugs or alcohol
- cultural misunderstandings
- workplace bullying.

⁵ Fair Work Ombudsman. *Best Practice Guide – Managing underperformance*. Sourced from: <https://www.fairwork.gov.au/how-we-will-help/templates-and-guides/best-practice-guides/managing-underperformance>

- 1.26 The causes of underperformance are varied. Under the Act and ED 26, employees have a personal responsibility to achieve the performance expectations of their job. Cases of underperformance that also include some medical, personal or minor misconduct aspects (such as minor absenteeism or minor behavioural issues) can be particularly complex to manage.
- 1.27 EDs 5⁶ and 6⁷ establish processes for situations where an employee has breached the code of conduct or is unable to effectively perform their duties, meaning the TSS' definition is taken to be limited to instances where the underperformance is not due to some innate capacity or capability reason, or due to a breach of the TSS code of conduct.
- 1.28 Underperformance may occur when a recruitment process fails to select a candidate that matches the capabilities required for the role, combined with a failure to effectively use a probationary period to test the suitability of newly appointed employees. The strength of recruitment practices and the effective use of probationary periods was specifically out of the scope of this audit, however we noted these topics were consistently raised by TSS managers and others during consultations.

Managing underperformance

- 1.29 We assessed the scoped agencies against the methodology for managing underperformance described in the SSMO Guidelines *Managing Performance Guidelines for the Tasmanian State Service*⁸. This principles of this model are consistent with contemporary public sector organisations in Australia, and are described in the following paragraphs.
- 1.30 Underperformance should be dealt with promptly and appropriately by an employer, as employees are often unaware they are not performing at the level expected and so are unlikely to instigate any positive change in their performance. Proactive employers understand issues that are not addressed promptly also have the potential to become more serious over time. Underperformance issues that are not dealt with can have a negative effect on the business as a whole as they can affect the productivity and performance of the entire team or workplace.

⁶ *Employment Direction 5 Procedures for the Investigation and Determination of whether an employee has breached the Code of Conduct*. Sourced from: http://www.dpac.tas.gov.au/_data/assets/pdf_file/0017/186002/ED5_Procedures_InvestigationDetermination_BreachOfCodeOfConduct.PDF

⁷ *Employment Direction 6 Procedures for the Investigation and Determination of Whether an Employee is able to Effectively and Efficiently Perform His / Her Duties*. Sourced from: http://www.dpac.tas.gov.au/_data/assets/pdf_file/0020/186005/ED6_Procedures_InvestigationDetermination_EfficientlyEffectivelyPerformDuties.PDF

⁸ *Managing Performance Guidelines for the Tasmanian State Service*. Sourced from: http://www.dpac.tas.gov.au/_data/assets/pdf_file/0004/186052/13_4687_1_Attachment_2_-_ED_26_-_Performance_Management_Guide_for_the_TSS.pdf

- 1.31 The prime focus of managers is to manage for performance. Proactive management techniques help prevent underperformance issues from arising. This begins with managers allocating task to employees with appropriate capabilities and providing them with clear goals and directions, and actively managing performance through regular, constructive conversations. Dealing with underperformance can be challenging and confronting for managers and employees alike but it does need to be addressed immediately by both parties as often issues that arise can be easily discussed in an open and constructive manner leading to a satisfactory resolution. If not, misunderstandings occur, mistrust develops and channels for two-way communication are closed. The longer poor performance is allowed to continue, the more difficult a satisfactory solution becomes.
- 1.32 Early interventions are useful to proactively address the risk of underperformance. Firstly, issues may be addressed as part of ongoing coaching or performance conversations. The ability to engage in this level of conversation is an essential skill that underpins a manager's ability to succeed in their role.
- 1.33 Where these more proactive interventions are not effective, managers may then choose to give the underperforming employee informal notice their performance is not meeting requirements and provide additional support to resolve the issue. This will usually be in the form of a face-to-face meeting with the notice provided verbally or in writing. This should be a two-way discussion, aimed at highlighting and exploring the perceived issues and encouraging improvement to the expected standards.
- 1.34 Feedback should be constructive, with the emphasis on finding ways for the employee to improve and for the improvement to be sustained. This may entail the agreement of additional support, guidance and/or training plans. This discussion should be based on the employee's Statement of Duties and Performance Management Plan. Any objectives and/or work plans agreed as part of ongoing workplace activities may also be used to support the discussion. An opportunity should be given to the employee to provide a reasonable explanation for the underperformance.
- 1.35 If informal interventions do not resolve the underperformance, with agreement from HR, an employee can be placed on a PIP. This is a formal method of escalating the matter, documenting both the underperformance issue and expectations and proposed rectifying actions. The ultimate goal of a PIP is to find a solution to the underperformance for both the employee, their professional development and the agency. PIPs are most effective when they:
- set clear goals for the employee
 - establish a collaborative environment for managers and employees to address issues together
 - contain regular check-ins to review progress
 - identify and address the root cause of underperformance issues, rather than symptoms of underperformance
 - highlight positive actions and behaviours

- create a structured plan to improve performance
- provide ongoing support
- set a clear timeline to improve performance
- are clear on consequences of failing to meet expectations.

1.36 When all avenues of addressing underperformance fail, it is appropriate to resolve the issue using other measures (e.g. reassignment of duties, reclassification or termination).

Probation processes

1.37 The effectiveness of probation processes was a common issue raised throughout the audit, during both our survey of employees and managers and focus group discussions. Probation periods are an important part of robust recruitment and selection processes, and should be used to test the suitability and capability of newly appointed employees for the job. The common view from managers is probation processes are not well used to test the suitability of newly appointed employees. However, recruitment, selection and probation processes were outside of the scope of this audit, so the issue has not been examined in detail.

2. Do TSS and agency policies and procedures contribute to the effective management of underperformance?

We assessed the effectiveness of TSS and agency policies and procedures by determining whether:

- agency policies and procedures were aligned with ED 26
- management and staff believed underperformance was being effectively managed
- agency policies and procedures foster:
 - informal management of underperformance
 - formal management of underperformance
 - other processes to manage underperformance.

Chapter summary

There are significant opportunities to improve TSS and agency policies and procedures to support the management of underperformance more effectively. The adequacy of agency documentation varied considerably and, in the case of one agency, documentation relating to the management of underperformance tailored to the needs of that agency, did not exist.

The documented performance management procedures that existed encouraged managers to provide ongoing, regular feedback to staff and promptly intervene when underperformance is identified. However all agencies could support managers more effectively by providing more guidance on how to identify underperformance (e.g. by providing examples of the behaviours and outcomes that show what underperformance looks like) and techniques managers can use to respond to instances of underperformance in their teams. Agencies could also provide further guidance on the support that can be provided by HR either during informal interventions or after a PIP has been implemented.

Overall, a significant majority of managers and staff alike did not believe underperformance was effectively managed in the TSS or their agency.

Several agencies had not reviewed their Performance Management System in recent years, and ED 26 itself had not been updated in seven years. Therefore, there is an opportunity for a more comprehensive review and update of performance management practices across the TSS to address items raised in this audit, and the perception from managers and staff that underperformance is not effectively managed.

Where they existed, agency policies and procedures were aligned with ED 26

- 2.1 Policy and procedure documents are key elements of any organisational framework, providing a reference point and practical direction as to how processes are to be carried out, promoting operational alignment with the regulatory requirements and highlighting organisational goals and objectives. Policy review and revision is a crucial part of an effective policy and procedure management plan. While the core elements of a policy may stay the same, the detail must be reviewed to reflect changes in the organisation and changes in practice. Outdated policies may not address new processes, technology changes, regulatory changes or better practice, resulting in inconsistent implementation and outcomes.
- 2.2 To promote continual improvement and ensure processes and controls remain relevant and effective, policies and procedures should be updated and reviewed on a regular basis. Typically, policies would normally be reviewed every two years (policies governing high risk processes may be reviewed more regularly), or when circumstances change (e.g. due to large-scale organisational changes, process or technology changes, or to respond to incidents or policy violations).
- 2.3 We obtained documentation from each agency to determine if they had a policy governing the management of underperformance. We then assessed whether they had a process consistent with ED 26. We expected agencies would have documentation tailored to the specific needs of their organisation, but aligning with ED 26, in terms of:
 - process flow (i.e. identification of underperformance, informal interventions, escalation to formal interventions if required, resolutions - including improved performance, termination, or other action if required)
 - documentation requirements for a PIP (noting there are no specific requirements for earlier, informal interventions)
 - dispute resolution processes.
- 2.4 While we did not identify any instances where agency policies and procedures were non-compliant with ED 26, of the four in-scope agencies:
 - One had a brief policy outlining the use of a Performance Management Plan but did not have any policies or procedures relating to managing underperformance. When prompted further, the agency referred us to *Managing Performance Guidelines for the Tasmanian State Service*⁹, guidance

⁹ *Managing Performance Guidelines for the Tasmanian State Service*. Sourced from: http://www.dpac.tas.gov.au/data/assets/pdf_file/0004/186052/13_4687_1_Attachment_2_-_ED_26_-_Performance_Management_Guide_for_the_TSS.pdf

developed by SSMO which provides further context and additional information for agencies on the requirements of ED 26

- One had a document relating to broader performance management processes, which included a section on managing underperformance
- Two maintained discrete policies relating to the management of underperformance, with supporting documentation also available (e.g. competency descriptors and example objectives for performance management).

2.5 We also determined when policy and procedure documentation was most recently reviewed or updated. We found:

- ED 26 itself was published in February 2013, requiring a review by February 2014 (however there was no evidence this review occurred). The further guidance document *Managing Performance Guidelines for the Tasmanian State Service* was published in 2012
- of the policies of the four in-scope agencies¹⁰:
 - one was most recently updated in 2014. This agency had significant machinery of government changes since that review
 - one was most recently updated in 2015 and required a review within two years, however there was no evidence review occurred
 - one was most recently updated in 2016
 - one was most recently updated in 2019.

2.6 Under ED 26, Performance Management Systems must be reviewed at least every three years. Of the in-scope agencies, only one was compliant with this requirement.

2.7 ED 26 has not been updated for seven years, and some agencies have delayed updating their own documentation pending a broader review of the EDs. SSMO advised a broad review of EDs has been planned and delayed multiple times.

2.8 Several of the in-scope agencies are increasingly encouraging managers to address underperformance early, using more informal interventions rather than formal mechanisms. This increases the importance of up-to-date, effective guidance material as informal interventions are typically performed by operational managers rather than HR professionals.

¹⁰ Where an agency had more than one policy or procedure document, we considered the review date of the primary or highest level document.

Agencies provided varying levels of guidance on why and how to manage underperformance

- 2.9 Insufficient policy and procedure guidance diminishes the transparency of underperformance processes. Without clear guidance, managers and employees may not understand performance expectations or have clear parameters around what is and is not acceptable practice when it comes to managing underperformance.
- 2.10 Although TSS agencies are diverse in terms of operational responsibilities, size, geographic spread and other characteristics, all are subject to ED 26 and operate within the same employment framework. As such, we would expect each agency to have similar suites of policies, procedures and other documentation, tailored to specific agency requirements.
- 2.11 We reviewed documentation provided by each agency, as well as SSMO guidelines, for material that supported compliance obligations and the broader effective management of underperformance, including:
- defining underperformance and how to identify when it is occurring
 - encouraging early identification and intervention
 - providing guidance on informal interventions available to managers
 - outlining when to escalate issues to HR/use formal interventions
 - documenting what must be included in PIPs, and how the process must be managed and documented
 - outlining minimum and maximum timeframes for informal or formal interventions
 - emphasis on the importance of procedural fairness.
- 2.12 The result of our assessment is shown in Table 1.

Table 1: Assessment of SSMO and agency policy documentation

Criteria	Number of Agencies providing			
	SSMO Guidelines	Good level of guidance	Criteria	Reliance on SSMO Guidelines
Defines underperformance	No	2	0	2
Encourages early identification and intervention	Yes	2	1	1

Criteria	Number of Agencies providing			
	SSMO Guidelines	Good level of guidance	Criteria	Reliance on SSMO Guidelines
Provides guidance on informal interventions available to managers	Some	2	0	2
Outlines when to escalate to HR/use formal interventions	Some	0	3	1
Details what must be included in PIPs, and how the process must be documented	Yes	1	1	2 (these agencies rely on the PIP template itself)
Outlines expected minimum/maximum timeframes for informal interventions	No	0	0	4
Outlines expected minimum/maximum timeframes for formal interventions	No	0	0	4
Emphasises procedural fairness	Yes	1	2	1

Notes:

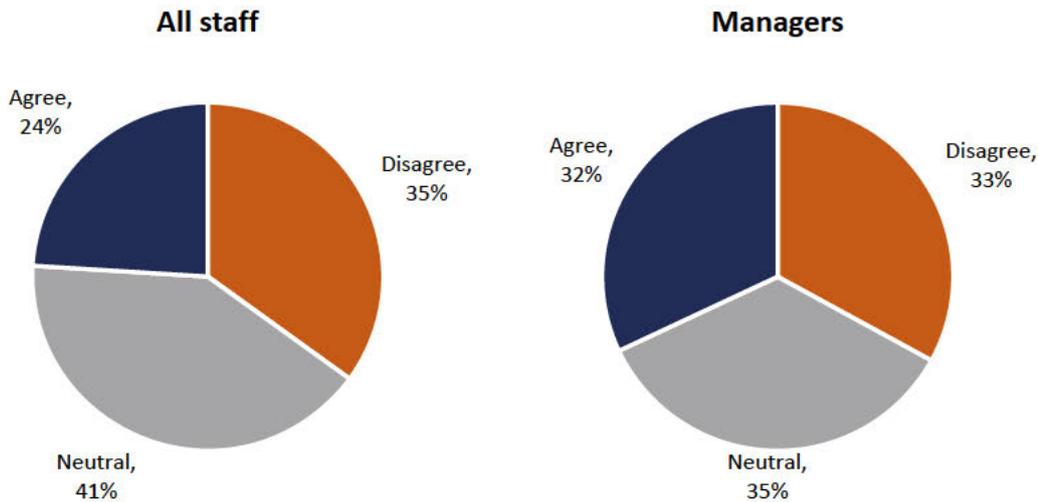
1. No guidance refers to where there was no mention of the topic in the documentation reviewed
2. Some guidance refers to where documentation mentioned the topic, however did not provide readers with explicit examples or explanation of terms, was unclear, and/or provided no further guidance beyond verbatim content from the ED or SSMO guidelines
3. Good level of guidance refers to where documentation was clear and concise, provided examples, and/or was tailored to the specific agency context.

2.13 Broadly speaking SSMO provided a basic level of guidance for agencies beyond ED 26. Two agencies performed well in most criteria of our assessment and also provided additional tools to assist managers, further improving the effectiveness of their policy framework. One agency could significantly improve the effectiveness of their documentation by defining underperformance, and by providing practical guidance

and examples to staff. As noted previously, one agency did not provide any guidance to staff, relying solely on SSMO documentation.

- 2.14 None of the agencies' underperformance procedures provided managers with clear guidance on the support and assistance available from HR professionals. While agency HR reported they provide assistance on request, the nature of this assistance and when to access it were not fully outlined in any policy documentation.
- 2.15 None of the agencies' policies specified timeframes for the duration of formal or informal intervention in the underperformance process. It is important agencies communicate clear timeframes for each stage to shape managers' and employees' expectations and to help ensure underperformance is addressed in a timely way - noting what is a reasonable duration will vary with the specific issue and personal circumstances of employees. With this in mind, it is appropriate to document both a minimum and a maximum duration.
- 2.16 Our survey showed managers and their staff did not find the policies and procedures provided useful. Figure 3 summarises the responses of staff and managers to the statement 'My Department has documented policies and procedures for managing underperformance that are clear and easy to understand'. In both cohorts, fewer than a third of respondents agreed with the statement. However, we did note responses varied considerably between agencies, from a minimum of 10% to a maximum of 44% of all staff. This variation was consistent with the results of our assessment (i.e. agencies whose policies provided a good level of guidance had a higher 'agree' rate).

Figure 3: Responses of all staff and managers to statement 'My Department has documented policies and procedures for managing underperformance that are clear and easy to understand'



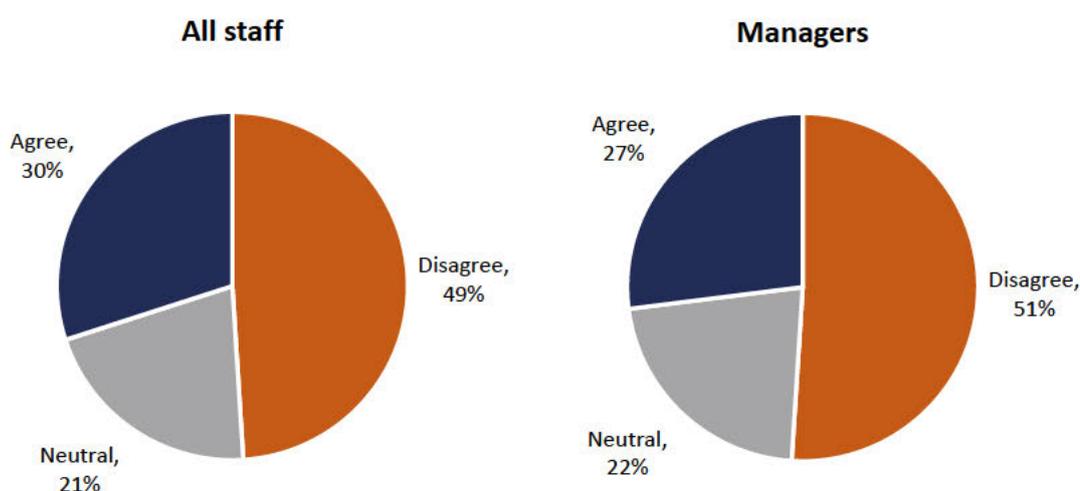
- 2.17 There is an opportunity for all agencies to improve the level of guidance relating to underperformance. In particular, agencies could more effectively support managers by providing clearer and/or more concise guidance on the outcomes and behaviours that distinguish fully effective and unsatisfactory performance.

Managers and staff did not have confidence underperformance was being managed effectively

2.18 Dealing with underperformance can be challenging and confronting for employees and employers alike but it does need to be addressed. Managers need clear procedures, organisational support and the courage and willingness to manage issues as they arise. When managers are not confident in performance related processes, they delay intervening with underperforming staff which prolongs the problem and causes dissatisfaction among staff and managers alike.

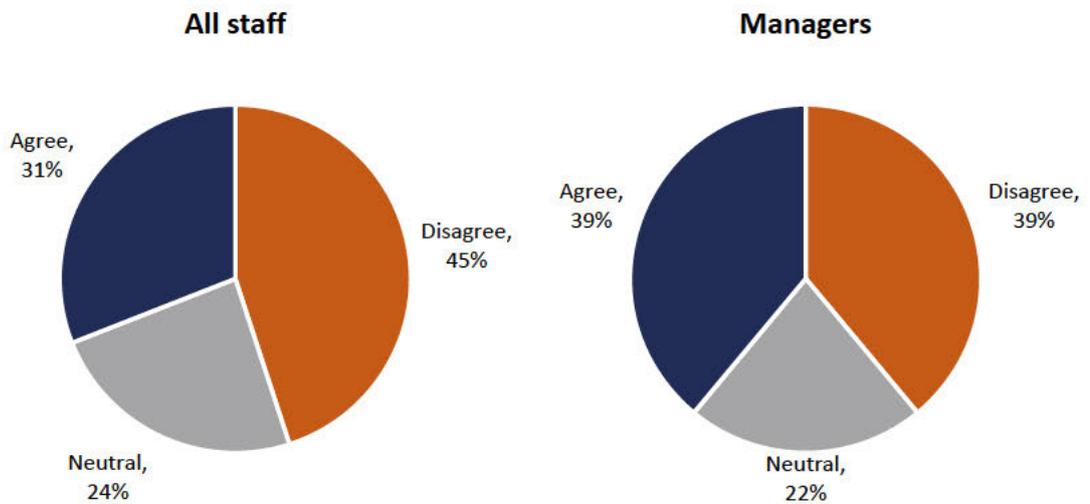
2.19 Insufficient (and in some cases non-existent) guidance is one contributing factor to staff not being confident in the ability of their agency, or the broader TSS, to effectively manage underperformance. Only 30% of survey respondents agreed with the statement 'It is clear what underperformance means in the Tasmanian State Service', including only 27% of managers (see Figure 4). The low rate among managers shows many may not be able to identify when underperformance is occurring, preventing effective management.

Figure 4: Responses of all staff and managers to statement 'It is clear what underperformance means in the Tasmanian State Service'



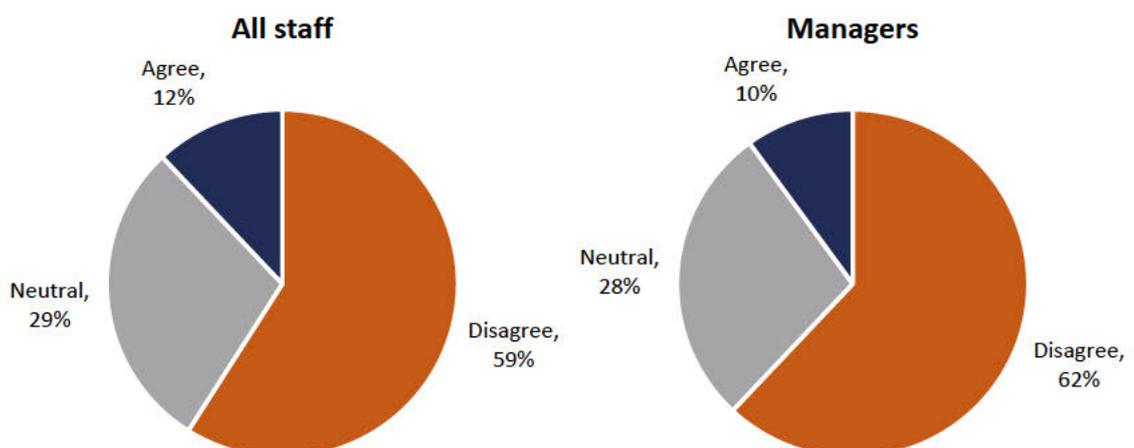
2.20 Responses were similar when TSS employees were asked about how underperformance is managed within their agency, with 45% of staff disagreeing with the statement 'I understand how underperformance is managed in my Department'. However, we note in this case managers were marginally more confident in their responses, as can be seen in Figure 5.

Figure 5: Responses of all staff and managers to statement 'I understand how underperformance is managed in my Department'



2.21 In our survey, less than 40% of managers understood how underperformance is managed in their agency. This has led to inconsistent application of policies and procedures and contributed to a culture where underperformance may be tolerated, or considered too difficult or time consuming to manage. These factors have resulted in an overwhelming perception underperformance is not effectively managed. Only 12% of respondents agreed their agency manages underperformance effectively. This view was even more pronounced among managers, as can be seen in Figure 6. There was some variation among the agencies surveyed, however even in the best performing agency only 27% of managers and staff responded they thought underperformance was effectively managed.

Figure 6: Responses of all staff and managers to statement 'My Department manages underperformance effectively'



2.22 Common themes among survey respondents when asked about how their agency could more effectively manage underperformance included:

- intervening in cases of underperformance earlier
- being more consistent in applying the performance framework
- developing and applying clear performance standards, including relevant KPIs or performance targets
- providing additional training to managers on how to identify and manage performance issues
- providing a single source of truth for resources relating to underperformance, including policies, capability frameworks, tools and the like.

2.23 Other Australian and international organisations also conduct surveys that ask employees about their views on the management of underperformance. The relevant questions and the results of the surveys, reproduced and modified from a report by the Australian National Audit Office (ANAO)¹¹, are outlined in Table 2. Although there is a strong trend in public sector organisations managing underperformance poorly, this is particularly pronounced within the TSS.

Table 2: Employee perceptions benchmarking data (percentage of employees agreeing with question)

Question	TSS	Irish Civil Service	Australian Public Service (APS)	USA Federal Service	UK Civil Service	Queensland State Service	Global Public Sector	Australia All Sectors	Global Private Sector
My department manages underperformance effectively	12%								
Poor performance is effectively addressed throughout the department		12%							
My agency deals with underperformance effectively			21%						

¹¹ Adapted from ANAO, *Managing Underperformance in the Australian Public Service*. Sourced from: <https://www.anao.gov.au/work/performance-audit/managing-underperformance-aps>

Question	TSS	Irish Civil Service	Australian Public Service (APS)	USA Federal Service	UK Civil Service	Queensland State Service	Global Public Sector	Australia All Sectors	Global Private Sector
In my work unit, steps are taken deal with a poor performer who cannot or will not improve				28%					
Poor performance is dealt with effectively in my team					39%				
I am confident that poor performance will be appropriately addressed in my workplace						40%			
Poor performance is dealt with effectively where I work							40%	46%	48%

2.24 The perception the process is ineffective, and the limited guidance and other support provided to managers, has resulted in an environment where there is an overreliance on informal processes and the individual capabilities of managers instead of agency level guidance. Managers told us in focus groups they used informal techniques such as check-ins, coaching, training and any other assistance on a case-by-case basis, however the effectiveness of these techniques depends greatly on the capability and capacity of managers. In addition, underperformance interventions were not consistently applied, as is discussed in the following Chapter.

2.25 Managers reported in focus groups they were reluctant to escalate issues to HR and use more formal processes, which can also be seen in the rate of PIP use. At 30 June 2019, only eight staff across the four in-scope agencies were on a PIP, representing only 0.3% of all permanent staff. While we consider this outcome to be very low, we note this rate was higher than was seen among the APS in the ANAO audit in 2016¹² (0.13%). In the survey and in focus groups, managers explained this low rate was unsurprising, and in their view, using informal approaches, and not involving HR was far less time consuming and had proven to have more positive outcomes.

¹² ANAO, *Managing Underperformance in the Australian Public Service*. Sourced from: <https://www.anao.gov.au/work/performance-audit/managing-underperformance-aps>

3. Is the performance management framework consistently applied?

We assessed if the performance management framework was consistently applied by determining whether:

- underperformance policies and procedures were largely consistent across agencies
- the underperformance process was understood by management and staff
- managers were adequately supported to manage underperformance
- underperforming employees were adequately supported
- known barriers impeding effective management of underperformance were being addressed.

Chapter summary

The application of the performance management framework was inconsistent between agencies, and varied considerably within each agency depending on the capability, capacity and commitment of individual managers. Inconsistent application of underperformance had led to inconsistent outcomes and a low level of confidence in and understanding of underperformance processes among managers and staff.

Barriers impeding the management of underperformance were not effectively being addressed by agencies (or the TSS as a whole). Training and other support for managers are critical components to managing underperformance that can be significantly improved. While some level of support was provided by all agencies (in the form of training or ad-hoc assistance from HR), some agencies provided considerably higher levels of training or more active support than others. Generally, these agencies providing higher levels of support had more positive perceptions of underperformance processes from managers and staff. The early involvement of HR staff in underperformance processes can deliver a range of benefits, however managers reported advice and assistance from HR could be inconsistent.

These limitations resulted in a culture where underperformance was frequently accepted or ignored, causing frustration among managers and staff alike. There was a strong perception among managers that attempting to address underperformance is overly time consuming and may not result in improved performance anyway. This has created an environment where underperformance is often not dealt with from the very beginning, and genuine issues are not raised with employees, and hence underperformance is not addressed and thereby is seen to be accepted.

In the limited number of cases where formal underperformance processes were initiated, almost half of underperforming employees returned to satisfactory performance. This indicates, when correctly implemented by capable and confident managers, interventions do work.

A key task for the TSS and agencies is addressing this gap between perceptions and actual outcomes to improve confidence in underperformance processes and encourage managers to intervene and act when performance issues arise in their team.

Each agency having responsibility for managing performance has led to inconsistent outcomes

- 3.1 The legal and regulatory framework for managing underperformance is discussed in Chapter 1 of this Report. EDs are developed and maintained by SSMO and provide a broad principles-based approach to managing of employment in the TSS. As such, ED 26 outlines the basic compliance obligations agencies must follow when managing performance rather than providing detailed and descriptive requirements. Agencies are responsible for interpreting ED 26 and developing their own Performance Management System. SSMO has also published additional guidelines¹³ to provide agencies context, additional information and better practice on specific requirements.
- 3.2 Noting each agency has different operational characteristics, strategic objectives, and functions, all agencies operate under the same legal and regulatory framework. So we would expect the overall policies, procedures and processes to be broadly consistent, albeit tailored where necessary to specific requirements. Consistency not only makes it simpler for agencies to manage compliance with ED 26, but it also makes it easier when employees (including managers) transfer from one agency to another as they do not need to learn, adapt and apply new processes.
- 3.3 The performance management cycle, including Performance Management Plans, is outside of the strict scope of this audit, however, is a key element of managing underperformance. As discussed in Chapter 1, clear, consistent and achievable performance expectations are critical inputs for managers to identify underperformance and for staff to understand when they are underperforming. Under ED 26, each employee must have a Performance Management Plan which identifies these performance expectations and other specific requirements. Performance Management Plans must be completed at least annually.
- 3.4 Measuring and evaluating the performance of employees is equally important to identifying underperformance. Under ED 26, this must include:
 - communicating feedback to, and receiving input from, the employee
 - evaluating where performance requirements have been exceeded, met or not met
 - identifying the impact and significance of the employee's performance

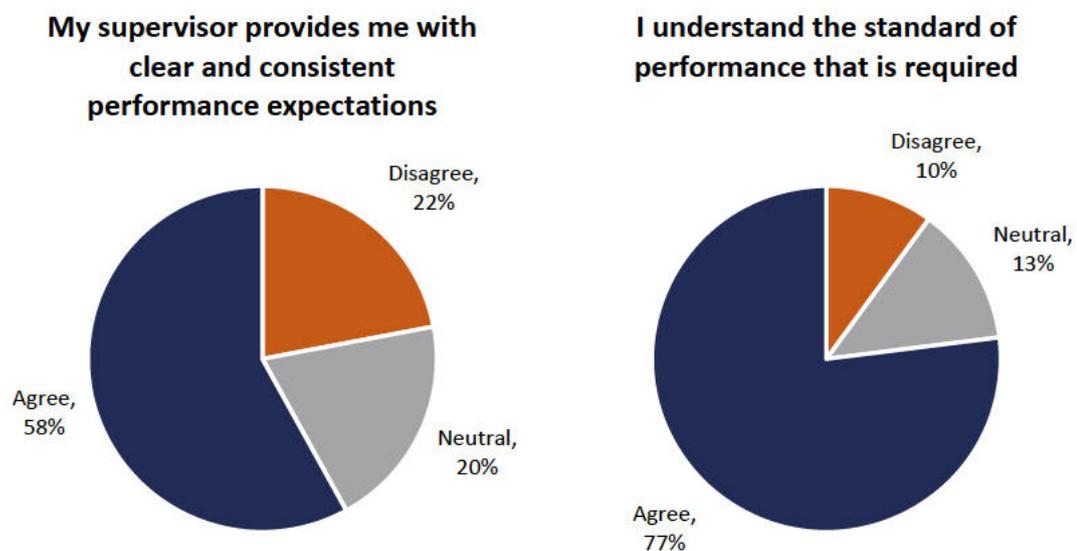
¹³ State Service Management Office. *Managing Performance Guidelines for the Tasmanian State Service*. Sourced from: http://www.dpac.tas.gov.au/data/assets/pdf_file/0004/186052/13_4687_1_Attachment_2_-_ED_26_-_Performance_Management_Guide_for_the_TSS.pdf

- identifying the extent to which performance issues are within the control of the employee
 - formalising the assessment of the employee and documenting evidence for the record.
- 3.5 Through review of policy and procedure documentation, interviews with agency HR staff, focus groups with managers and a survey, we assessed each agency to confirm:
- a performance management cycle existed
 - Performance Management Plans were completed
 - employees understood their performance expectations
 - employee performance was evaluated
 - formal Performance Improvement Plans were completed when required
 - employees understood how underperformance was managed.
- 3.6 As the scope of this audit relates specifically to how underperformance is managed, rather than the application of the Performance Management System as a whole, we did not assess how each agency complied with the requirements of clauses 4, 5 or 6 of ED 26, nor did we conduct detailed testing of Performance Management Plans.
- 3.7 Each agency maintained its own performance management cycle. Of the four agencies:
- two used an annual performance cycle, and in practice encouraged managers to have a mid-cycle review and ongoing performance conversations with staff
 - one used an annual performance cycle with a documented requirement for a mid-cycle review, and encouraged managers to have ongoing performance conversations with staff
 - one replaced annual performance reviews with a more regular practice of informal check-ins, usually on a monthly basis.
- 3.8 Each agency maintained a different Performance Management Plan template, with similar but different fields. In focus groups and survey responses, managers and staff in three of four agencies consistently reported the template for their agency was not fit-for-purpose for all roles, particularly where agencies have a diverse employee base. Managers and employees reported not knowing what to include in Performance Management Plans, and not receiving training or advice on how to complete them. One of the major issues identified by managers was some jobs cannot be measured in terms of SMART (Specific, Measurable, Achievable, Realistic and Time-Based) performance objectives. Managers also reported in focus groups and in our survey that developing individual performance expectations for every employee takes a long time.
- 3.9 Employees reported in our survey and in focus groups with managers that Performance Management Plans did not always clearly and accurately describe the

role they perform, and that Performance Management Plans were not always consistent between employees with similar roles. Performance expectations not being articulated in a specific, measurable way make it difficult to assess if they are being met.

- 3.10 Actual compliance with documented performance cycles also varied considerably. In our survey and manager focus group sessions, many participants commented performance review meetings were ‘tick-box’ exercises that do not genuinely add value or provide employees clear objectives. While some managers in the focus groups mentioned they had performance conversations with their staff on a regular basis, others did not.
- 3.11 Based on these comments and the lack of consistent guidance and training provided to managers, it was clear the effectiveness of the performance planning cycle varied in line with the effort and capability of individual managers. Positively, the majority of staff said their supervisor provided clear and consistent performance expectations, and more than three quarters said they understand the standard of performance that is required, as can be seen in Figure 7.

Figure 7: Responses of all staff to statements ‘My supervisor provides me clear and consistent performance expectations’ and ‘I understand the standard of performance that is required’



- 3.12 Noting the use of formal performance ratings for staff is not a settled contemporary practice, we expected all agencies to evaluate employee performance. Agencies had inconsistent methodologies when evaluating employee performance:

- one evaluated employees using a five-point rating scale (‘not meeting expectations’ to ‘exceeding expectations’)
- two evaluated employees using a binary rating scale (‘met’ or ‘not met’)
- one had transitioned off a formal performance rating system.

- 3.13 Where agencies were no longer using a formal performance rating system, there had been no replacement with another mechanism for ensuring employee performance was formally evaluated at least annually as required by ED 26.
- 3.14 Where a rating system existed, employees who were assessed as not meeting expectations (being 'Not Met' in a binary system or the lowest rating in a multi-point system) were required to have a PIP put in place to improve performance.
- 3.15 Agencies are also able to withhold pay increment advancement where a staff member is underperforming, however from interviews with HR and focus group conversations this rarely occurred.
- 3.16 Use of PIPs across agencies was low. At 30 June 2019, approximately 0.3% of staff were subject to a PIP. Although there was some variation in this rate between agencies, all were below 0.5% and all were within a single PIP of the average. The low rate is consistent with the findings of the ANAO report relating to APS agencies, where 0.13% of employees were undergoing formal underperformance management processes¹⁴. However evidence from interviews with HR and focus groups with managers suggested the small percentage of employees evaluated as not meeting expectations (as represented by those on formal PIPs) significantly underrepresented the actual extent of underperformance.
- 3.17 Each agency maintained its own PIP template, populated with similar information. All templates were consistent with the requirements of ED 26. We tested 100% of PIPs from in-scope agencies raised between 1 July 2015 and 30 June 2019 (a total of 27 across all agencies) for compliance with ED 26. We examined whether PIPs contained:
- commencement and expected completion dates (noting the completion date may be extended)
 - review meeting frequency
 - documented performance areas requiring improvement and proposed corrective actions
 - documented consequences of performance not improving
 - an opportunity for employees to provide comments (e.g. reasons for poor performance), noting they may decline to do so (it is an optional field)
 - signed acknowledgement by:
 - the employee subject to the PIP
 - the employee's manager
 - the manager one level higher than the employee's manager (the 'one-up' manager)
 - a record of follow-up meetings, including any meeting outcomes.

¹⁴ ANAO, *Managing Underperformance in the Australian Public Service*. Sourced from: <https://www.anao.gov.au/work/performance-audit/managing-underperformance-aps>

- 3.18 The only exception noted in our testing related to PIPs that did not include the correct signed acknowledgements - which occurred in approximately 30% of cases. These exceptions either related to the 'one-up' manager signing the document or the employee not acknowledging the PIP or its content by refusing to sign. In cases where the employee refused to sign, the PIP continued as if they had. But it should be noted that this could technically lead to an agency providing an intent to terminate (but did not occur in the tested cases).
- 3.19 As discussed in Chapter 2, each agency provided a varying amount of guidance in relation to how to manage underperformance after it is identified, ranging from one agency that provided no specific guidance beyond a guide on Performance Management Plans to two agencies who provided a suite of guidance documents. In focus groups, managers from all agencies reported they are encouraged to use informal interventions when underperformance is first identified. However, from reviewing policies and procedures only two agencies provided a satisfactory level of guidance as to what informal interventions managers can use.
- 3.20 This was reflected in manager responses to our survey, where there was a clear distinction in responses from these agencies (agencies C and D) to the statements 'There are a range of options available to me in how I manage underperformance', and 'Documented policies, procedures and other guidance are clear and useful', as can be seen in Figure 8 and Figure 9.

Figure 8: Responses of managers to statement 'There are a range of options available to me in how I manage underperformance'

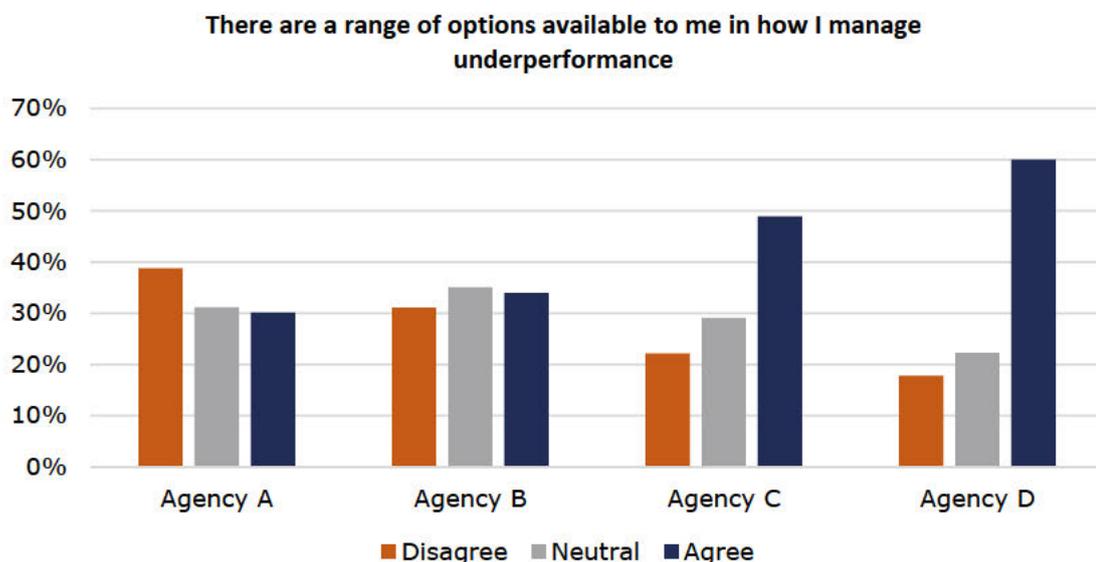
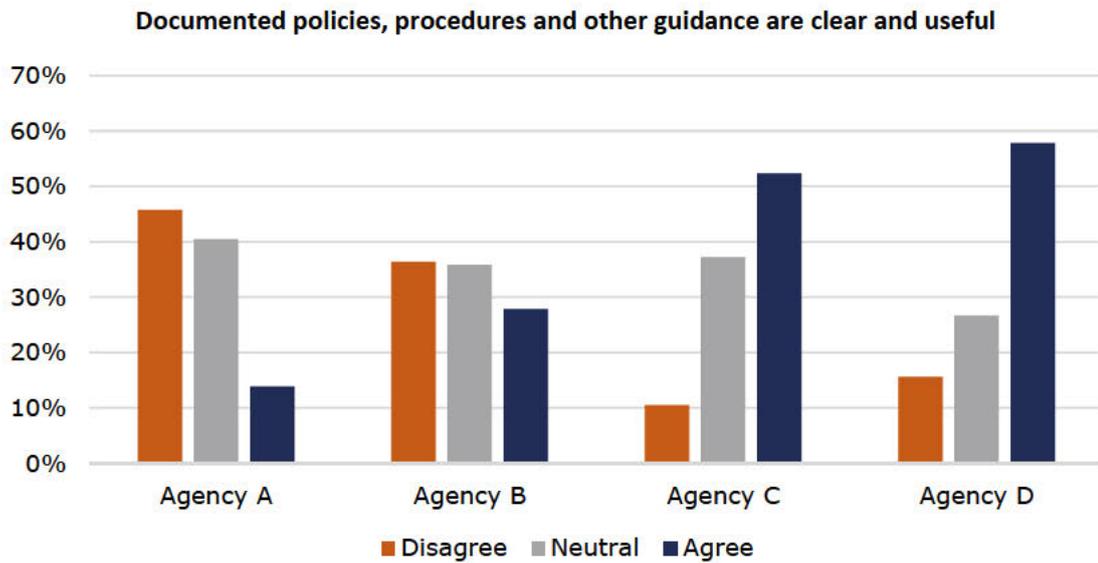
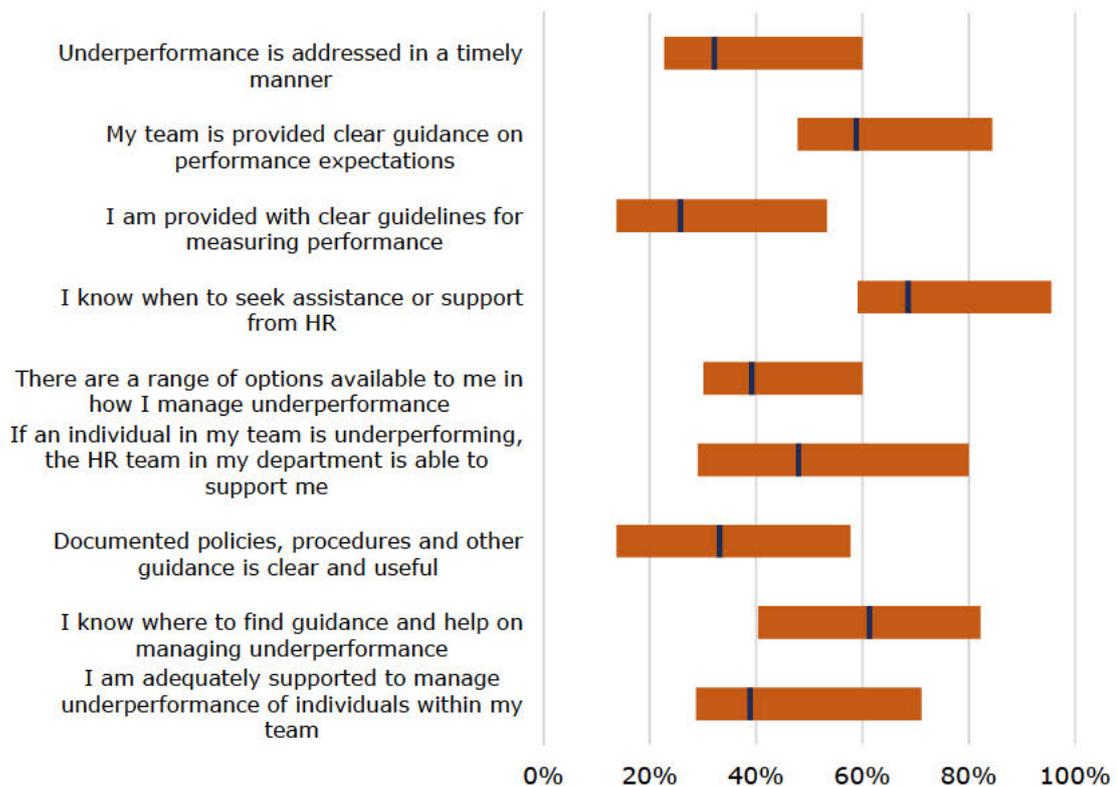


Figure 9: Responses of managers to statement 'Documented policies, procedures and other guidance are clear and useful'



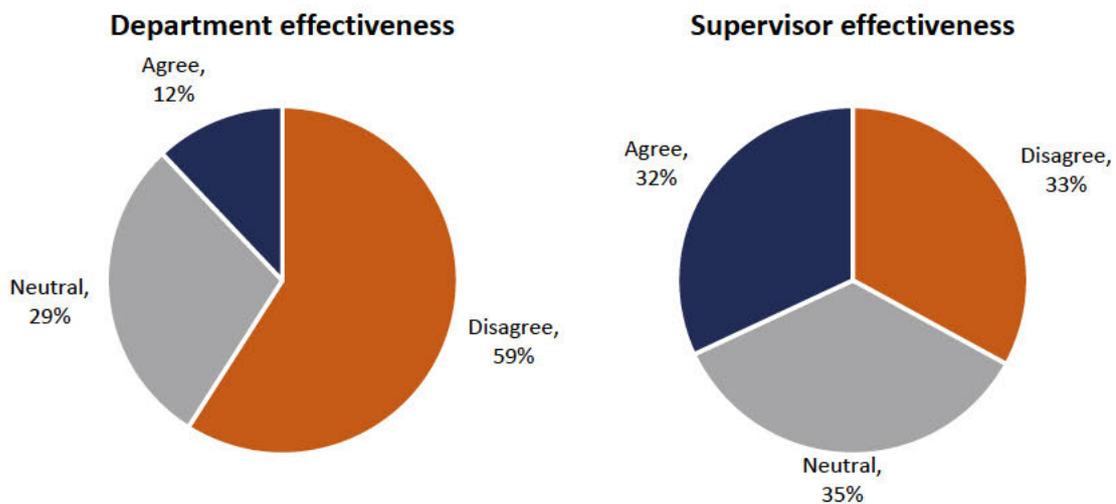
3.21 A similar trend can be seen in other statements posed to managers in our survey. Figure 10 shows the disparity between the agency with the lowest 'agree' rate and the agency with the highest 'agree' rate, as well as the overall average rate across all agencies, to nine statements.

Figure 10: Proportion of managers who agree with each statement. Orange bar shows variation between lowest agency 'agree' rate and highest agency 'agree' rate; blue bar shows overall average



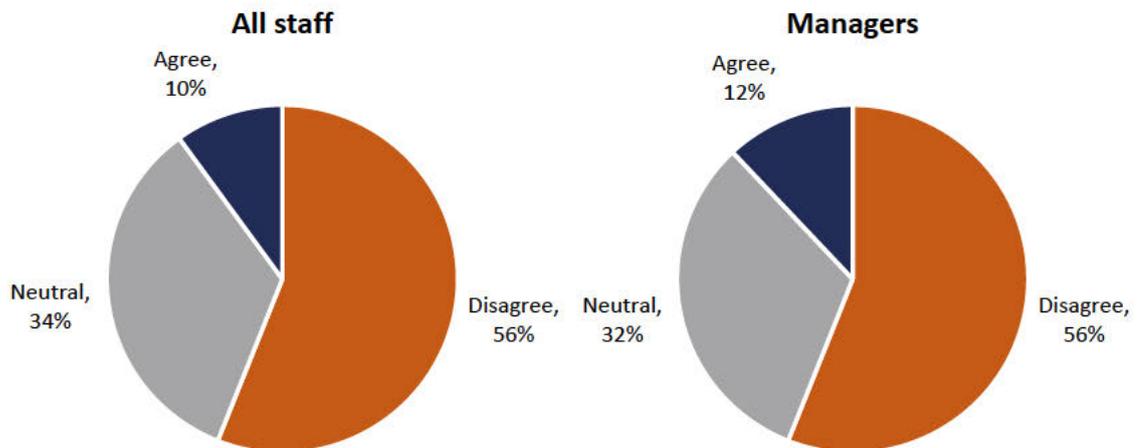
- 3.22 In all statements, a high 'agree' rate correlated with agencies providing satisfactory guidance relating to managing underperformance. Given data on the rate of underperformance does not exist (as will be discussed in Chapter 4), perceptions of managers are a useful analogue to evaluate the effectiveness of how each agency manages underperformance. The disparity in perceptions shown above indicates there is likely a similar disparity in the outcomes of each agency's approach.
- 3.23 Regardless of the design of an agency's Performance Management System, or the sufficiency of guidance and other support provided by HR, ultimately it is the responsibility of operational managers within each agency to manage underperformance within their team. Actual outcomes are therefore primarily driven by the capability, capacity and commitment of individual managers.
- 3.24 Positively, although employees had a perception their department was not effectively managing underperformance (as discussed in Chapter 2), they had more faith in their direct supervisor. Survey respondents were more than twice as likely to agree with the statement 'My supervisor effectively manages underperformance in my team' than 'My Department effectively manages underperformance', as can be seen in Figure 11. However, the low rate of both measures indicates there is a significant opportunity to improve.

Figure 11: Responses of all staff to statements 'My Department manages underperformance effectively and 'My supervisor manages underperformance in my team effectively'



- 3.25 This reliance on managers, who are not trained HR professionals, to manage underperformance has resulted in a perception of inconsistency. Only 10% of survey respondents agreed with the statement 'A consistent process is followed when staff are underperforming'. This rate was similar when only managers were considered (12%), as can be seen in Figure 12, and was low across all agencies. In the best performing agency less than a fifth of staff agreed.

Figure 12: Responses of all staff and managers to statement ‘A consistent process is followed when staff are underperforming’



3.26 There is therefore considerable room for improvement in all agencies on the consistency of how underperformance is managed. Employees must have confidence the process is consistently applied in order to believe they will be supported, provided the opportunity to address the performance concerns and be treated fairly if they underperform.

With some exceptions, training provided to managers was not adequate

3.27 Where the delivery of operational people management activities is the responsibility of managers who are non-HR professionals, it is important those managers have sufficient people management capabilities. While basic people management skills are a core requirement for all managers, they are developed through a combination of on-the-job experience, supervision, coaching and mentoring and advice and support from HR. These capabilities should be supplemented and maintained by regular training opportunities.

3.28 We assessed people management training offered to managers by each agency. From this information, as well as feedback from managers in focus groups and the survey, we identified training provided to managers was inconsistent, not only between agencies, but also between different managers within an agency:

- One agency did not maintain a training plan for its employees or provide specific training related to managing underperformance, beyond the SSMO offered Manager Essentials program (ME program). The ME program modules are designed to equip managers with the foundations of management practice, including a strong emphasis on managing underperformance and facilitating challenging conversations.

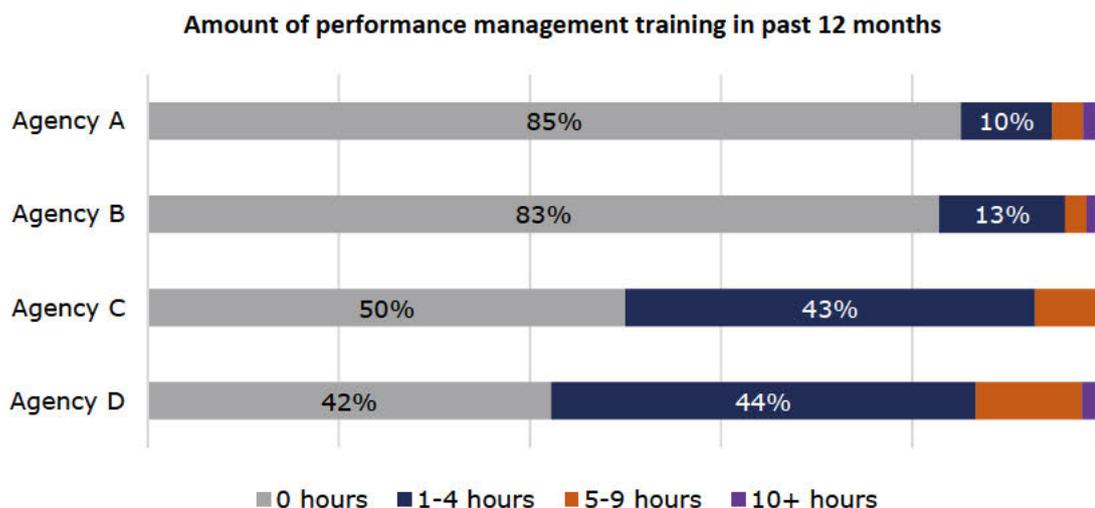
HR reported training is typically provided upon request in an employee’s Performance Management Plan, and there were no self-enrolment or online

training opportunities available. While enrolment for the ME program significantly increased over the past five years it was still low (less than 20 enrolments in the most recent financial year). We were told that the cost of the program was an impediment to agencies providing more managers the opportunity to participate.

- Two agencies provided managers with optional specific training to help manage underperformance. However, based on agency data, the number of enrolments significantly decreased year on year. For example, in one agency, enrolment in the program ‘How to have difficult conversations’ dropped by 70% between 2017 and 2019. These two agencies also provided some managers the opportunity to attend the ME program.
- One agency provided mandatory in-person people management training for all managers, as well as optional online training to help manage underperformance. However, these were typically one-off sessions and no refresher training was provided. This agency also offered some managers the opportunity to attend the ME program.

3.29 In our survey, we asked managers how many hours of performance management training they had received in the previous twelve months. Ninety-four per cent of respondents reported they had received less than five hours of training, 75% reporting receiving zero hours. While there was significant variation between agencies in the number of managers receiving zero hours of training (as can be seen in Figure 13), the number of managers receiving five or more hours of training did not exceed 14% in any agency.

Figure 13: Responses from managers to question ‘How many hours of performance management related training have you received over the past 12 months?’

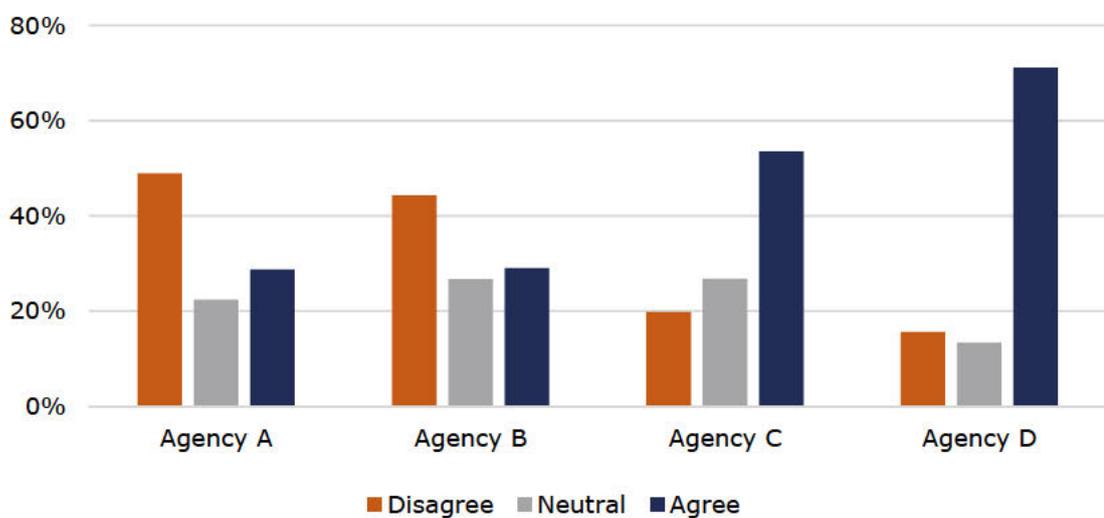


3.30 People management, including managing underperforming employees, is a key skill and responsibility of managers. However, a culture of regular, informal performance discussions had not been established in most agencies so many managers were not

building-up these skills over the course of their careers. In focus groups, many managers reported they had had difficulties conducting performance conversations with underperforming staff. The infrequency of underperformance action increased the need for support, with managers finding underperformance procedures unfamiliar, time consuming and relatively complex.

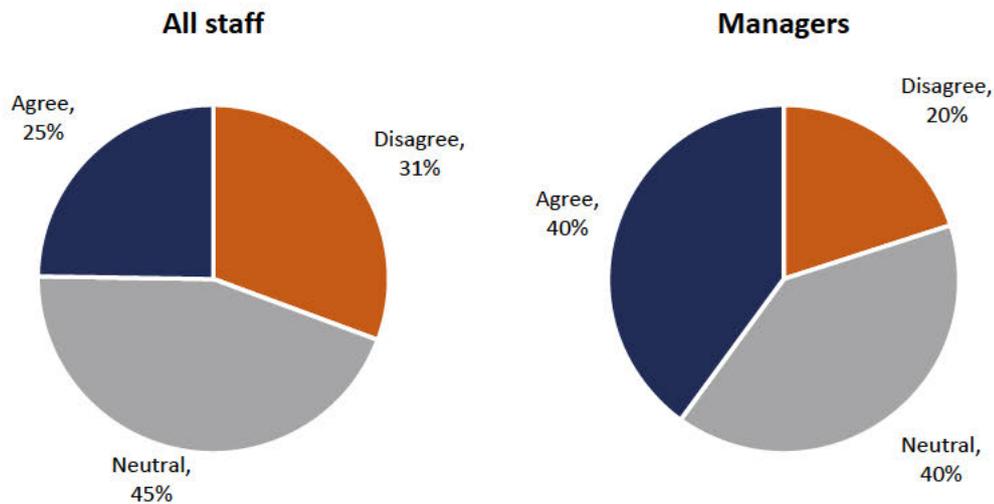
- 3.31 Overall, fewer than 40% of managers who responded to our survey reported they were adequately supported to manage underperformance of individuals within their team. However, as with similar statements, responses varied significantly between agencies, as can be seen in Figure 14.

Figure 14: Responses from managers to statement 'I am adequately supported to manage underperformance of individuals in my team'



- 3.32 Limited training of managers in people management skills meant they did not feel empowered, supported, or able to effectively implement the performance management framework and manage underperforming staff. Managers in multiple agencies advised many of the HR forms were confusing and difficult to complete, even when they needed to be completed before receiving support from HR. One of the other reasons raised during the focus groups was training was typically not mandatory, and the content covered was too basic and did not provide practical examples, tools or opportunities for participants to test their skills. Managers also reported ongoing 'refresher' style training was missing, which would have helped to make sure their skills remained up-to-date and knowledge was effectively retained.
- 3.33 There was also an opportunity to improve the support provided to employees who were underperforming. Only 25% of survey respondents agreed underperforming staff were adequately supported, noting one agency returned a far higher response (42%) than others, and managers tended to have a better view of the support provided than staff, as seen in Figure 15.

Figure 15: Responses from all staff and managers to statement 'Underperforming staff are supported adequately to improve their performance'

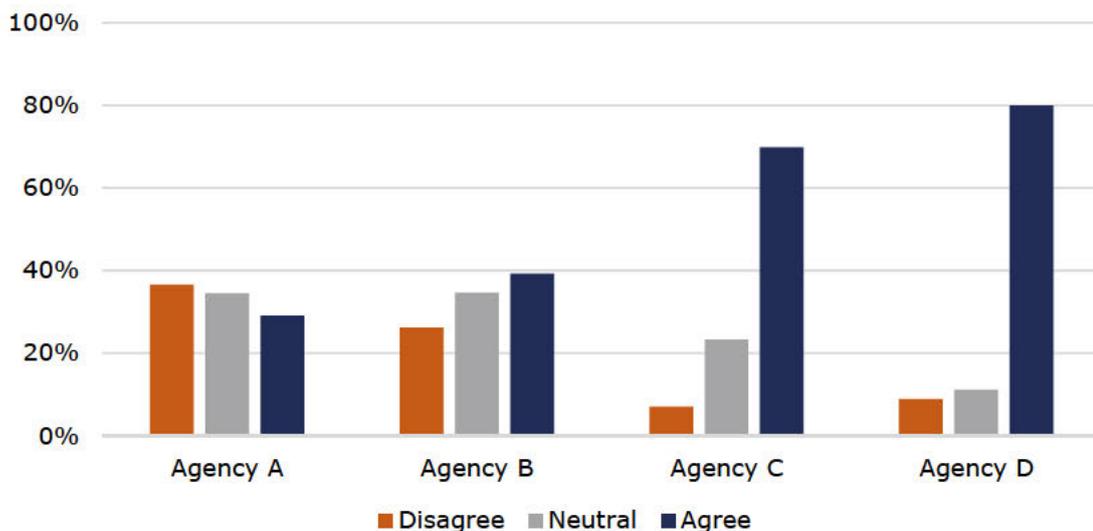


- 3.34 When we surveyed staff who had been advised they were underperforming and asked if they received enough support, 38% responded they had. Positively, this indicated the perception support was inadequate was worse than reality, however there is still clear room for improvement. When asked how support could be improved, many advised they would have liked to receive more guidance from managers throughout the process, and often there was limited management performance feedback prior to issues being raised. Those who reported they were adequately supported noted regular check-in meetings with their manager helped improve their performance, workplace relationships and confidence in themselves. They also appreciated the time and effort invested and the honest conversations from their direct managers. Support for underperforming employees also included buddying or shadowing other employees, targeted training and development opportunities, role clarification and support from employee assistance programs.
- 3.35 As discussed earlier, the capability, capacity and commitment of individual managers is central to effective management of underperformance. Knowledge of how to manage underperformance, as well as broader people management skills, is a key trait of a successful manager. Often, employees transition quickly from roles where their primary responsibility is to 'do things' to roles where the primary responsibility is to 'manage others', which requires different capabilities. While all agencies offered some level of support to managers through training and with assistance through the structured processes for managing underperformance, some agencies offered more active support and higher levels of training than others. Generally, those agencies that offered higher levels of support and training had more positive employee perceptions about the management of underperformance.
- 3.36 As a result of the above limitations, underperformance was generally not addressed early, negative feedback may come as a surprise to employees, and employees may not receive timely and adequate support to improve their performance.

Agency HR was able to provide personalised support to managers, however this advice could be inconsistent

- 3.37 The role of HR professionals as a key mechanism of support in managing staff underperformance is critical for operational managers. HR teams in all agencies provided ad-hoc support to managers during informal interventions, and required HR involvement in formal underperformance interventions (i.e. during PIPs). Some examples of ad-hoc support included: practicing difficult conversations with managers, providing tailored advice, and commenting on performance improvement plans.
- 3.38 Positively, almost 70% of managers reported in our survey they know when to seek assistance and support from HR. This was consistently high across all agencies. However, when it came to managers' perceptions of the effectiveness of support, we again saw variation. In two agencies, more than 70% of managers agreed HR was able to support them when an individual in their team was underperforming. In two other agencies, less than 40% agreed, as can be seen in Figure 16.

Figure 16: Responses from managers to statement 'If an individual in my team is underperforming, the HR team in my Department is able to support me'



- 3.39 In focus groups, managers informed us conversations regarding performance were stressful, and the processes for managing underperformance unfamiliar and complex. They commented support from HR was useful, but felt HR often appeared to be resource constrained or limited in their ability to accommodate managers' concerns and provide the required level of support.
- 3.40 When asked what support was provided by HR, managers in focus groups agreed HR personnel were often able to provide useful assistance, including providing personalised advice, sitting in on meetings, helping with writing difficult emails, and other support as needed. However, managers reported instances where the advice they received differed depending on which member of the HR team they spoke to,

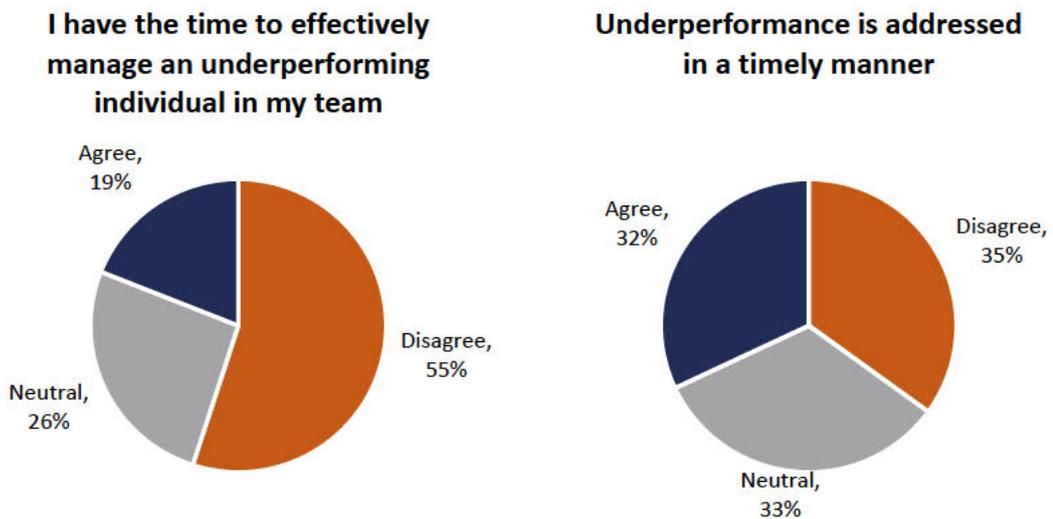
and anecdotally it appeared managers approached multiple HR staff until they received the advice they wanted to hear.

- 3.41 When the perception of a lack of support was raised, interviews with HR in some agencies revealed managers were frequently not aware of the guidance documentation and available support. This indicated there was considerable scope to improve manager awareness of the resources available. HR personnel noted unless someone is exposed to the PIP process, it was very unlikely they would be aware of how it was dealt with given the matter was kept private and confidential.
- 3.42 Effective involvement of HR has many advantages. HR staff, who are generally more experienced with underperformance policies and processes, can assist managers to correctly diagnose key issues, and identify the best course of action for managers to take. Involvement of an HR staff member who is independent to the manager/employee relationship can also be useful in identifying whether a manager's personality or capabilities are a contributing factor to underperformance.
- 3.43 HR staff can also provide a quality assurance role to help ensure processes, communications and record keeping are consistent with ED 26 and agency policies, and that employees are receiving sufficient support. Several HR staff, as well as managers, indicated in interviews it was not unusual for underperformance cases to require considerable repetition of processes to make sure they were documented and procedural fairness followed. This added to process timeframes and to the strain faced by both the manager and employee.
- 3.44 Finally, when managers intervene in underperformance cases early, and are supported by HR, issues can often be managed quickly and effectively. This reduces perceptions it takes too long to address underperformance, creates a more positive impression of the PIP process, and makes the process less time intensive overall. This is especially the case where interventions are well considered, structured and include clear expectations, actions and timeframes.
- 3.45 Managing underperformance can be complex, unfamiliar and stressful. When inconsistent advice and support from HR occurs, the requirements of the process become increasingly unclear, contributing to confusion and frustration.

Effective management of underperformance was time intensive

- 3.46 Managing underperformance can be a sensitive and multi-layered process. Sometimes significant time must be spent on processes to address underperformance. This is part of a manager's duties, and what employees should be able to expect.
- 3.47 Managers told us that a significant barrier to managing underperformance was the time it took to manage staff and fully document performance management activities. Less than 20% of managers responded they have the time to effectively manage an underperforming individual in their team, and consequently only 32% agreed underperformance is addressed in a timely manner, as can be seen in Figure 17.

Figure 17: Responses from managers to statements ‘I have the time to effectively manage an underperforming individual in my team’ and ‘Underperformance is addressed in a timely manner’



3.48 Further discussions with HR and comments from managers in focus groups suggested managing underperformance was often delayed due to a perceived lack of time, particularly when combined with existing workloads. To assess how long interventions were delayed, we asked managers a series of questions in our survey:

- Thinking about when you have managed underperforming staff, how long (in weeks) does it usually take before you have a ‘tough conversation’ with a staff member about their performance?
- If an employee continued to underperform, how long after that (in weeks) would you initiate informal action?
- If an employee continued to underperform, how long after that (in weeks) would you initiate formal action (i.e. a Performance Improvement Plan)?

3.49 From their responses, the mean time it would take to have a ‘tough conversation’ was six and a half weeks, a further five weeks to initiate informal actions, and a further twelve and a half weeks to initiate a PIP (assuming performance did not improve)¹⁵.

3.50 Multiple managers made comments in focus group discussions such as ‘I am already flat out with my normal workload – it’s not reduced when I have to manage underperforming staff’. However, we note people management is a core responsibility of a manager, and as such should be considered as part of a normal workload. Noting that agency policies and practices have contributed to the less than effective management of underperformance, it is clear there is scope for all agencies to improve managers’ commitment to responding to underperformance in a timely manner.

¹⁵ Note we removed the response of one manager as the values provided were extremely high, clearly not serious and artificially distorted our calculations.

- 3.51 Managers from the focus groups who previously dealt with underperforming staff reported that escalating the issue to HR and formally acting (i.e. through a PIP) was similarly time intensive and not worth the effort. Managers also reported they were particularly concerned about employees taking retaliatory action, such as making a bullying or harassment claim. Managers reported they were not only concerned about the professional damage such a claim could have, but also that PIPs were typically put on hold while claims were resolved, further delaying the resolution of underperformance issues.
- 3.52 Based on survey comments and focus group discussions with managers, many instances of underperformance were ignored or resolved using alternative solutions such as transferring the employee to another agency or team. In some cases, this may be appropriate (e.g. where there is a genuine misalignment of roles and skills), however, using such a method is frequently perceived as shifting a performance issue to someone else. This in turn has created a cycle where underperformance is not dealt with from the very beginning, and genuine issues are not raised with employees. In particular, managers new to the role or an area can be faced with an employee who has been underperforming for a long time but who has been rated as effective. This adds to the complexity of managing underperformance.

Investing time in managing underperformance often led to positive outcomes

- 3.53 When formal underperformance processes were initiated, they were typically resolved in a timely manner and often resulted in performance improvement. PIPs were developed with a commencement date and an expected completion date. From our analysis of PIPs, the expected completion date was usually met - barring delays such as prolonged leave or health issues for the employee or the PIP concluding some other way (e.g. by the employee resigning). We examined 100% of PIPs for the four in-scope agencies raised between 1 July 2015 and the time of testing (September 2019), to analyse the duration of each PIP and the nature of its conclusion.
- 3.54 On average, PIPs lasted three and a half months, with formal check-ins between managers, employees and HR once a fortnight. Of the 27 PIPs tested:
- four were ongoing at the time of our testing
 - thirteen resulted in performance improvement with the employee returning to satisfactory performance
 - six resulted in the employee resigning while subject to the PIP
 - one where an employee abandoned their employment and it was terminated
 - one where an employee voluntarily transferred to a role in another agency
 - one where an employee accepted a voluntary redundancy

- one which was abandoned due to the manager implementing the PIP implicated in a code-of-conduct breach related to the employee.
- 3.55 The rate of underperforming employees returning to satisfactory performance (48%) indicates, when implemented correctly, the formal performance improvement process can work. This is contrary to the strong perception of staff that formal underperformance processes are only used as a means of forcing staff to resign, or to terminate an employee and either outcome takes too long or is too difficult. Addressing the gap between perception and actual outcomes will likely assist in improving the low rates of staff and manager confidence in the formal underperformance process.
- 3.56 However, as discussed throughout this Chapter, there is significant room for improvement in the support provided to managers and underperforming staff. Focus group discussions found managers often avoided addressing underperformance due to a lack of support, capability, and perceptions that intervening to address underperformance is a waste of time and puts managers at risk of retaliation from employees.
- 3.57 Major barriers to more effectively manage underperformance related to the lack of support provided to managers and employees, and significant negative perceptions of the process, have led to a poor culture among staff where underperformance often has been accepted rather than addressed. Managers feeling unsupported contributed to performance management cycles that in many cases focused more on compliance rather than high-quality conversations aimed at improving performance. These barriers have limited the effectiveness of agencies' management of underperformance.

4. Do agencies know if underperformance is managed effectively?

We assessed if the performance management framework was managed effectively by determining whether:

- agencies had visibility of the extent of formally and informally managed underperformance
- underperformance was monitored
- agencies assessed the impact of underperformance in their agency.

Chapter summary

Agencies maintained centralised record-keeping systems that included documents relating to formal underperformance processes and were generally able to monitor compliance with key performance management processes. However, the ability of agencies to monitor the number of underperforming employees, the impact of underperformance, and the effectiveness of underperformance management was significantly constrained by system, capability, resourcing and information limitations.

In particular, agencies did not have visibility of the extent of informally managed underperformance beyond ad-hoc reporting or anecdotal comments from managers. As such, agencies did not have the capability to assess the impact of underperformance from an agency-wide perspective or effectively target responses to underperformance across or within specific areas of the agency.

All agencies maintained centralised records relating to employee performance, however informal interventions were poorly documented

- 4.1 Monitoring and managing underperformance at an organisational level requires an effective records management system, providing appropriate personnel access to the right information, in the right format, at the right time. Given information relating to managing underperformance is frequently sensitive, it is important appropriate controls are in place to restrict access to this information. This information is important to enable a collective view of the level of underperformance in an agency, or areas thereof, to enable the formulation of an appropriate response to potentially improve performance.
- 4.2 We interviewed HR staff within each agency to understand what information is gathered, and to understand how agencies have visibility over the formal and informal underperformance processes, and live cases being managed. All agencies stored performance management documentation on a restricted access network shared

drive or using an electronic document and record management system. Access was restricted to appropriate authorised personnel (e.g. HR staff and Head of Agency).

4.3 HR in each agency reported they collected the following information relating to underperformance:

- Performance Management Plans for all employees
- where relevant, correspondence with managers about employee performance (e.g. where managers raised concerns regarding employee performance prior to implementing a PIP) and other information including notes from previous interventions, meetings and the like
- where relevant, PIPs and associated information (e.g. meeting notes, correspondence with employees, managers and unions).

4.4 However, centralised information gathering was typically limited to storing records such as scanned or uploaded emails and electronic documents. This limits agency-level performance management visibility to monitoring compliance with a limited range metrics (e.g. measuring the proportion of users who have uploaded a Performance Management Plan), and does not allow HR teams to generate data-driven insights regarding the extent of underperformance or effectively proactively manage underperformance (e.g. by identifying the proportion of staff who are at risk of underperforming across their agency, or areas thereof, and responding in a targeted, effective manner).

4.5 Agencies are required to provide some data to SSMO annually as part of the Annual Agency Survey. Information gathered by SSMO includes:

- the number and percentage of employees who participated in a formal performance management review
- the number of PIPs in place at 30 June and completed during the reporting period.

4.6 From our review of the data provided to SSMO, it appeared that frequently agencies were unable to produce accurate data and instead provided estimates. Significant variation between agencies and year-to-year from the same agency indicated questions may be interpreted differently by different people.

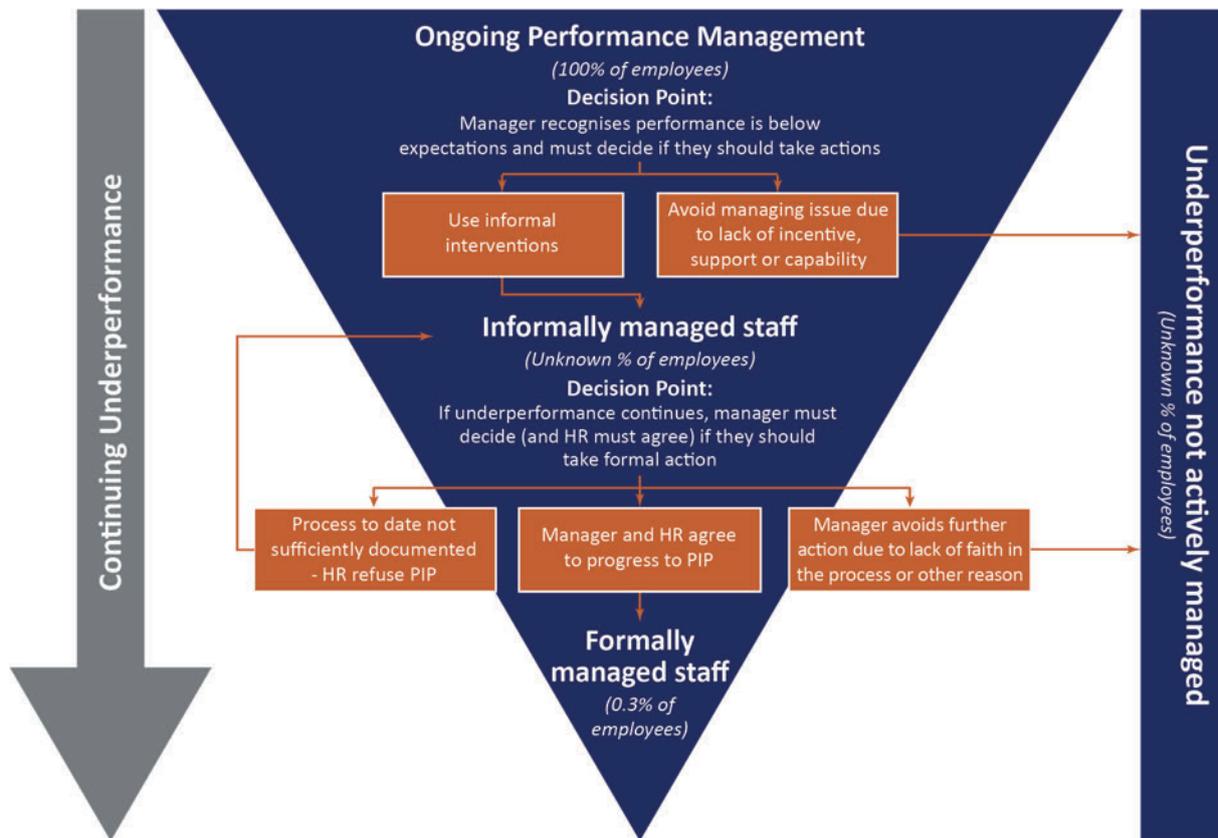
4.7 Underlying record quality was higher when formal interventions were initiated. Based on our review of all PIPs, we noted appropriate monitoring and documentation of underperformance occurred throughout the PIP timeframe. PIPs occur for a set duration (usually 3 months), and during this time frequent review meetings occurred (typically either weekly or fortnightly). Discussions and outcomes of each meeting were documented, reviewed and signed by the manager and employee. Objectives and expectations were documented and assessed throughout the process. At the completion of the PIP, the manager and employee assessed whether expectations were met and the employee could return to normal performance management activities or if there was a need for further corrective action (e.g. extension of the PIP

or termination). This outcome (and any recommendation for further action) was documented and retained.

- 4.8 However, managers and HR reported informal underperformance interventions were frequently not sufficiently documented by managers (if documented at all). This issue typically became evident when managers approached HR requesting a PIP be developed for one of their employees only to be advised there was insufficient evidence of the underperformance or action previously taken to resolve the issue. Consequently, in our focus group sessions and in responses to our survey, managers raised they frequently needed to recommence the process of managing underperformance from the very beginning to gather evidence, thereby extending the time taken to resolve the issue and frustrating managers and employees alike.
- 4.9 Formal underperformance interventions were effectively monitored (noting this related to a small number of individuals). However, while agency management stated they could monitor informal performance interventions through discussion with managers if required, the scale of underperformance being managed informally was not effectively monitored and was largely unknown.
- 4.10 A simplified view of the limitations of the monitoring regime for underperformance in the TSS is presented in Figure 18 (adapted from the ANAO¹⁶). Although all employees were subject to ongoing performance management activities, and agencies were able to monitor formally managed underperformance cases, the scale of underperformance (both informally managed and not actively managed) among the remaining 99.7% of staff was largely unknown.

¹⁶ Australian National Audit Office, *Managing Underperformance in the Australian Public Service*. Sourced from: <https://www.anao.gov.au/work/performance-audit/managing-underperformance-aps>

Figure 18: Stages of Underperformance Management



Agencies were unable to assess the impact of underperformance

4.11 In order to effectively understand the scale and impact of underperformance within their organisation, it is important agencies establish a monitoring regime to measure underperformance at an individual, team and organisational level.

4.12 Performance monitoring regimes of mature organisations frequently include features such as:

- metrics to assess individual, team and organisational performance
- consideration of metrics that measure both soft objectives (i.e. behaviours and values) and hard objectives
- objectives and metrics clearly linked to team and organisational strategies
- metrics that are easily understood and assessed
- metrics collected and evaluated regularly, tracked by HR and reported back to management
- strong governance and controls across the monitoring regime.

- 4.13 An effective performance monitoring regime can help organisations:
- identify where underperformance exists or where there is a risk of underperformance in the future
 - measure the impact of underperformance
 - assess the effectiveness of performance management activities
 - more effectively target training, support and other performance interventions.
- 4.14 A wide variety of information relating to underperformance can be collected, in a variety of formats. More mature organisations will typically gather data in a structured manner, allowing for increased analysis and insight gathering. This should include using performance management metrics with reference to organisational, team or individual objectives. The performance measurement regime should be separate to the collection of unstructured information such as scanned documents for compliance record-keeping or reference purposes.
- 4.15 Metrics that can be used to identify potential underperformance, the effectiveness of performance management activities or the impact of underperformance include:
- performance ratings (including changes in performance ratings over time)
 - 360 degree feedback (or similar) results for managers
 - operational metrics
 - employee satisfaction, commitment and engagement surveys
 - training days per employee
 - overtime rate
 - absenteeism rate
 - separation rate
 - internal movement rate
 - career path ratio (promotion rate).
- 4.16 As noted in the previous chapter, the use of formal performance ratings was not consistent across agencies. Beyond this information, where data did exist it was not systematically used to measure the impact of underperformance. For example, in discussions with HR and management we noted that while agencies are able to generate reports relating to overtime use and absenteeism, this data was not used proactively to identify and manage underperformance. We also noted data analysis was typically performed manually in Excel rather than using a tailored workforce management solution. We acknowledge that the ability for agencies to invest in contemporary workforce management technologies in the current budgetary environment is a factor limiting the adoption of more mature data-driven decision making practices.

4.17 As a result, management visibility of the impact of underperformance was limited to ad-hoc reporting and anecdotal conversations with managers. Agencies did not fully understand the scale or impact of underperformance in their organisation and may be missing opportunities to target interventions more effectively. Difficulty in collecting information in a format that allows for meaningful analysis decreases the ability of agencies to anticipate and respond to underperformance and other workforce issues.

Acronyms and abbreviations

The Act	<i>State Service Act 2000 (Tas)</i>
ANAO	Australian National Audit Office
APS	Australian Public Service
Audit Act	<i>Audit Act 2008 (Tas)</i>
DPIPWE	Department of Primary Industries, Parks, Water and Environment
ED	Employment Direction
HR	Human Resources
IR Act	<i>Industrial Relations Act 1984 (Tas)</i>
ME program	Manager Essentials program
PIP	Performance Improvement Plan
SSMO	State Service Management Office
TIC	Tasmanian Industrial Commission
TSS	Tasmanian State Service

Audit mandate and standards applied

Mandate

Section 23 of the *Audit Act 2008* states that:

- (1) The Auditor-General may at any time carry out an examination or investigation for one or more of the following purposes:
 - (a) examining the accounting and financial management information systems of the Treasurer, a State entity or a subsidiary of a State entity to determine their effectiveness in achieving or monitoring program results;
 - (b) investigating any matter relating to the accounts of the Treasurer, a State entity or a subsidiary of a State entity;
 - (c) investigating any matter relating to public money or other money, or to public property or other property;
 - (d) examining the compliance of a State entity or a subsidiary of a State entity with written laws or its own internal policies;
 - (e) examining the efficiency, effectiveness and economy of a State entity, a number of State entities, a part of a State entity or a subsidiary of a State entity;
 - (f) examining the efficiency, effectiveness and economy with which a related entity of a State entity performs functions –
 - (i) on behalf of the State entity; or
 - (ii) in partnership or jointly with the State entity; or
 - (iii) as the delegate or agent of the State entity;
 - (g) examining the performance and exercise of the Employer's functions and powers under the *State Service Act 2000*.
- (2) Any examination or investigation carried out by the Auditor-General under subsection (1) is to be carried out in accordance with the powers of this Act

Standards Applied

Section 31 specifies that:

'The Auditor-General is to perform the audits required by this or any other Act in such a manner as the Auditor-General thinks fit having regard to -

- (a) the character and effectiveness of the internal control and internal audit of the relevant State entity or audited subsidiary of a State entity; and
- (b) the Australian Auditing and Assurance Standards.'

The auditing standards referred to are Australian Auditing Standards as issued by the Australian Auditing and Assurance Standards Board.



Phone (03) 6173 0900
Fax (03) 6173 0999
Email admin@audit.tas.gov.au

Launceston Office

Phone (03) 6173 0971
Web www.audit.tas.gov.au

Address Level 8, 144 Macquarie Street
Hobart, 7000
Postal GPO Box 851, Hobart 7001

Address 4th Floor, Henty House
1 Civic Square, Launceston