



GUIDANCE FOR DEPUTY MINISTERS

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**GUIDANCE FOR
DEPUTY MINISTERS**

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MESSAGE FROM THE PRIME MINISTER

Public confidence in our government institutions is vital to democracy. Canada has been well served by its system of responsible government under which executive authority is exercised by Ministers drawn from, and accountable to, a democratically elected representative body. Canadians are also well served by a non-partisan public service, appointed on merit, whose excellence is recognized around the globe.

Public servants help make it possible for Canada to occupy the place it does on the world stage, for Canadians to enjoy social programs and respond to national emergencies and international crises. Their work in support of the government enables Parliament to put in place laws and policies that promote the economic well-being of the country. The timely and impartial advice of the public service is critical to the government's ability to serve Canadians' needs. As public service leaders and departmental managers, Deputy Ministers play an essential role in ensuring the quality of services offered to Canadians, in supporting good decision-making by Ministers, and in effecting due diligence in the expenditure of public funds. The commitment to excellence and the professionalism and dedication of these men and women who have chosen to serve Canada have contributed substantially to Canadians' unparalleled quality of life.

The *Guide for Ministers and Secretaries of State* sets out the principles of ministerial accountability and the Ministry's constitutional, legal and ethical responsibilities in support of good government in Canada. Complementing that document, *Guidance for Deputy Ministers* will help make clear the essential role that Deputy Ministers play in supporting Ministers and in providing leadership to the public service as it helps Canadians meet the challenges of today while preparing for those of tomorrow.


Jean Chrétien
Prime Minister of Canada

Introduction by the Clerk of the Privy Council and Secretary to the Cabinet

Accountability, Leadership and the Deputy Minister Community

Guidance for Deputy Ministers is intended to clarify how Deputy Ministers fulfill their role in the Government of Canada. This guidance builds on two publications of the Privy Council Office, namely *The Office of Deputy Minister* (1987) and *Responsibility in the Constitution* (1993). The present document sets out the key elements of responsible government as a backdrop for understanding the individual and collective responsibility and accountability of Ministers. It then sets out the responsibilities of Deputy Ministers, as well as their multiple accountabilities.

The challenges of the 21st century lie before Canadians and the public service. As Canada has evolved, so too have its government and its forms of public management. The ability of the public service to meet new challenges depends not only on the diligence with which Deputy Ministers discharge their responsibilities, but also on their leadership in creating a public service culture of management excellence and results for Canadians.

Deputy Ministers are expected to attach a special importance to leadership in people management, and to making public service values and ethics part of the day-to-day reality in the work of government. The Deputy Minister articulates a corporate vision for his or her department that is shared and lived throughout the organization. Deputy Ministers ensure they have the right people, work environment and capacity to ensure the department's success. They secure the policy capacity required to serve the Minister and support government-wide priorities effectively.

The Deputy Minister engenders trust within the department and promotes an organizational environment focussed on achieving results. The Deputy Minister puts in place the essential conditions – internal coherence, corporate discipline and alignment to strategic outcomes – for effective strategic direction and the delivery of results in support of the government's agenda. As a matter of course, information on results should be gathered and used to make departmental decisions, and public reporting should be

balanced, accurate, and easy to understand. The Deputy Minister assigns responsibilities and authorities for results consistent with resources and capabilities. In the management of public resources, the Deputy Minister ensures the departmental control regime is integrated and effective, and its underlying principles are clear to all staff.

By their actions, Deputy Ministers encourage initiative and innovation and promote organizational learning. With the executive team, the Deputy Minister defines the corporate context and practices for managing organizational risk proactively. The Deputy Minister must ensure that continuous improvement is central to the delivery of services to Canadians and that, in the development of policies and programs, the views of Canadians are actively considered.

More broadly, Deputy Ministers provide leadership and collaboration across the public service. They ensure that their department contributes to the achievement of government-wide priorities such as fostering the use of official languages in the workplace and promoting excellence by embracing diversity. They are collectively responsible for the development of the public service of today and tomorrow.

In managing their responsibilities, Deputy Ministers may delegate certain authorities, but the delegation of authority does not relieve the delegator of responsibility or accountability. Deputy Ministers are also charged with creating an environment that fosters continuous learning and openness as they address administrative problems which may arise. When errors occur, the Deputy Minister remains responsible to act quickly and openly in seeking out the causes and identifying appropriate measures to prevent recurrence and improve management practices.

By diligently fulfilling their obligations, Deputy Ministers help ensure that Ministers as a collectivity will be able to approach Parliament for the funds required to deliver programs and services to Canadians. Deputy Ministers help ensure that programs are executed in accordance with the purposes for which Parliament has appropriated money.

What is expected of Deputy Ministers by way of performance and accountability has been expressed and reinforced in different forms over the years, and bears repeating as public management and the challenges before the country evolve. Treasury Board Secretariat's Management Accountability Framework, illustrated in this guidance, reflects the priority that government attaches to accountability and management excellence. The Framework and the accountabilities of Deputy Ministers will be reviewed periodically to ensure ongoing alignment with the priorities of the government and Canadians.

Guidance for Deputy Ministers helps to explain the responsibilities and accountabilities Deputies assume when they agree to serve the country as Deputy Minister. It will assist them in fulfilling their commitment to the Prime Minister, to Ministers and to the Canadian public for the sound, effective and principled management of their organizations.

I Responsible Government in Canada

Responsible government in Canada is based on the individual and collective responsibilities of Ministers to the House of Commons. Parliament confers powers of the State on Ministers on the condition that they are accountable to the House for their actions. The constitutional responsibility of Ministers to the House of Commons serves to guarantee that executive power is exercised responsibly throughout our system of government.

Responsibility and accountability are essential elements in the functioning of Canadian government. They are also terms and concepts that have taken on increased importance as forms of administration have evolved in the past thirty to forty years. Sometimes these terms are used interchangeably, and can overlap with notions of “answerability”. This was noted by a Deputy Minister Task Force on Public Service Values and Ethics in 1996, which offered a useful way to look at the three terms.

1. Responsibility

Responsibility identifies the field within which a public office holder (whether elected or unelected) can act; it is defined by the specific authority given to an office holder (by law or delegation).

Deputy Minister Task Force on Public Service
Values and Ethics

Supporting and depending on the constitutional responsibility of Ministers, Parliament assigns powers and duties to individual Ministers under statute, prescribing areas for which a specific Minister is responsible. The Prime Minister, as architect and umpire of our system of Cabinet government, also assigns duties to Ministers. In this way, and intertwined with their constitutional responsibility to Parliament, the responsibility of Ministers can be seen to identify the field within which they are authorized to act. The assignment of powers in legislation to Ministers is a central building block of functional responsibility throughout the public service. A Deputy Minister is equally responsible for the authorities assigned to him or her by a person (for example, the Minister or the Prime

Minister), by a body (for example, the Treasury Board or the Public Service Commission), or by law, regulation or policy (for example, the *Financial Administration Act*, or the *Values and Ethics Code for the Public Service*).

Ministers of the Crown are responsible to the House of Commons and accountable to the Prime Minister and the House of Commons in two fundamental ways:

- collectively, in support of the Cabinet team and its decisions; and
- individually, for their performance in carrying out the responsibilities of the portfolio assigned to them.

Collective responsibility is the basis of stable Cabinet government. It requires that the policies of the government must be presented to Parliament as the agreed policies of the Ministry. The same applies to the funding of those policies and the funding of all government operations which Parliament must approve. Ministers collectively are politically accountable to the House of Commons for the conduct of the government. All members of the Ministry, including Ministers of State and Secretaries of State, are expected to work in close consultation with one another.

Ministers are also individually responsible for the authorities Parliament has conferred upon them through statutes that set out their specific duties and functions. In departmental legislation, Parliament has vested the “management and direction of the Department” in the Minister, and enumerated the Minister’s “powers, duties and functions”. In addition to these enabling statutes, there are unwritten conventions and precedents governing the ways in which Ministers fulfil their responsibilities and account for their actions in exercising their statutory authority. For example, departmental officials assist and support Ministers in their relationship with Parliament by answering questions and providing information on behalf of their Ministers before parliamentary committees. Ministers may also have other responsibilities assigned to them by the Prime Minister. Ministers are individually responsible for their personal acts, the general conduct of their department, acts done (or left undone) in their name by their departmental officials

whether or not the Minister had prior knowledge of any activity, and for departmental financial and administrative practices.

The constitutional responsibility of Ministers does not limit the obligation of officials to obey the law. Rather, it ensures that Parliament may focus responsibility for the conduct of government on those of its members who hold ministerial office, and who must ultimately answer personally to the House of Commons and to the electorate for their actions and the actions of their subordinates.

2. Accountability and Answerability

Accountability is the means of enforcing or explaining responsibility. It involves rendering an account of how responsibilities have been carried out and problems corrected and, depending on the circumstances, accepting personal consequences for problems the office holder caused or problems that could have been avoided or corrected if the office holder had acted appropriately.

Answerability is the duty to inform and explain, but does not include the personal consequences associated with accountability.

Deputy Minister Task Force on Public Service
Values and Ethics

Accountability is linked to the source of an authority, and can be thought of as enforcing or explaining responsibility, and its practice is linked to a judgment about an office holder's action. It involves rendering an account to someone on how responsibilities are fulfilled, on actions taken to correct problems and to ensure they do not recur. Ministers must be present in the House of Commons to account for the powers that have been assigned to them, to respond to questions, and to defend the way in which they or their officials have exercised power. Because they are constitutionally responsible, accountability for Ministers can even mean loss of office. In the case of public servants who must account to their Minister, accountability involves accepting personal consequences, such as discipline, for problems that could have been avoided had the official acted appropriately.

The term “answerability”, on the other hand, refers to the duty to inform and explain, but does not include the potential personal consequences that are part of accountability. A Minister can be answerable for any actions taken by bodies within his or her portfolio, but cannot be held accountable – i.e., cannot be expected to suffer consequences – for powers not vested in the Minister. In the case of non-departmental bodies and agencies, Parliament has directly assigned to these organizations certain duties, powers and functions, which are vested in a board of directors, commission, board of trustees or other management body established by legislation. Ministers have an obligation to provide answers in Parliament with respect to the activities of these organizations. Similarly, Ministers are answerable for independent tribunals, such as the Canadian Human Rights Tribunal. However, Ministers cannot be held accountable for the actions of an independent agency or the decisions a tribunal might make, for which Parliament has vested authority directly in the body.

Similarly, while public servants are answerable before parliamentary committees, which is to say they have a duty to explain and inform, they are not accountable to Parliament for the authorities they exercise on behalf of their Minister, and committees cannot discipline them or provide any sanction.

II Responsibilities of the Deputy Minister

The responsibilities of a Deputy Minister are best understood in the context of the support they provide Ministers, who are responsible to the elected House of Commons. The Deputy Minister is the principal source of support for a Minister in fulfilling his or her collective and individual responsibilities and respecting his or her accountability to Parliament. In providing this support, the Deputy Minister is responsible for ensuring:

- sound public service advice on policy development and implementation, both within the Minister's portfolio and with respect to the government's overall policy and legislative agenda;
- effective departmental management, as well as advice on management of the Minister's entire portfolio; and
- fulfilment of authorities that have been assigned to the Deputy Minister or other departmental officials either by the Minister or directly by virtue of legislation.

Deputy Ministers also have responsibilities related to the collective management of the government, which include responding to the policies of the Ministry as a whole and ensuring that appropriate interdepartmental consultation occurs on any matter that may touch upon broader ministerial responsibilities.

1. Supporting the Minister's Individual and Collective Responsibilities

The Deputy Minister supports both individual and collective ministerial responsibilities with respect to policy development and implementation. The Deputy Minister is counted on to provide the highest quality of advice on all relevant dimensions of a departmental issue, be they economic, social or administrative. Within the priorities, objectives and standards established by the government, the Deputy Minister must provide advice on the possible impact of initiatives on the public, the department, and the government. Advice must be timely and candid, presented fearlessly, and provide the best possible policy options based on impartial

review of the public good and the declared objectives of the Minister and the government. Advice must challenge, guide and clarify, and generate new possibilities for improving the lives of Canadians. It must also demonstrate policy coherence from the perspective of departmental and portfolio management.

In a democracy such as Canada's, elected representatives have the central role in bringing their constituents' perspectives to bear on matters of state policy, legislation and expenditure. Recognizing the primacy of elected representatives in this role, the increasing scope and complexity of departmental and governmental operations often require that public servants, at the direction of their Ministers, carry out consultations with Canadians, provincial governments and other parties implicated in policy matters. This supports the responsibility of Ministers to bring forward policies, programs and legislation that take into account Canadians' views, and such efforts must be designed to complement, and not to replace, the role of parliamentary representatives.

Deputy Ministers' policy advice must also be mindful of the Minister's collective responsibility and ensure that advice is drawn from an appreciation of the government-wide agenda and the impacts of a particular initiative. In preparing proposals for Cabinet consideration, other departments must be consulted so that the views of the Prime Minister and other Ministers are taken into account, and disagreements identified and resolved. The support and collaboration of other Ministers may also be necessary for the success of a proposal, and the need to coordinate the responsibilities of several Ministers in order to take certain initiatives is now the rule rather than the exception. This is done through inter-departmental working groups and consultation or negotiation with other Ministers or their officials. At each step in the policy development and implementation process, Deputy Ministers are required to support their Ministers.

Continuous improvement in service to Canadians depends on the capacity of departments to measure levels of satisfaction, to set improvement targets, to develop plans to meet those targets, to monitor implementation and to report back on progress. Deputy Ministers are expected to ensure that their departments perform these tasks and ensure attentiveness to citizens'

priorities for service improvement from a “whole of government” perspective.

2. Managing the Department

a) Statutory and Other Authorities

A departmental Act vests management and direction of the department in the presiding Minister. Under the authority of the departmental Act, the Minister is therefore responsible for the full range of policy formulation and program development. Departmental Acts generally include a standard declaration that the Governor in Council may appoint a Deputy Minister to hold office during pleasure, and identify the Deputy Minister as the “deputy head of the Department”. By law, Deputy Ministers act under the management and direction of their Minister. In order to fulfill their duties, Deputy Ministers require certain authorities.

The Deputy Minister’s authority to exercise the Minister’s powers flows from the *Interpretation Act*. Pursuant to subsection 24(2) of the Act, where a Minister is empowered or directed to carry out administrative, legislative or judicial acts, those acts may be carried out by the Minister’s Deputy Minister. In practice, however, there may be constitutional, legal or administrative limitations on the Deputy Minister’s capacity to exercise the Minister’s powers. For instance, subsection 24(3) of the *Interpretation Act* prevents the Deputy Minister from exercising a Minister’s legal authority to make regulations. Occasionally, legislation makes clear that a particular power must be exercised personally by the Minister. Also, the Deputy Minister, not being a Member of Parliament, cannot answer in the House of Commons on the Minister’s behalf. Furthermore, Treasury Board policy requires that submissions to the Board involving new money or new policies be signed by the Minister. Finally, Deputy Ministers cannot sign Memoranda to Cabinet in the place of their Minister.

Along with the relevant departmental Act and the *Interpretation Act*, more specific responsibilities are sometimes conferred upon Deputy Ministers, and enable them to carry out the duties required to support the Minister in managing the department. These specific responsibilities may originate with the Minister. For

example, the Treasury Board authorizes Ministers' access to funds that have been appropriated by Parliament, and the Minister delegates spending authority to the Deputy Minister and other departmental officials.

In addition, certain provisions in the *Financial Administration Act*, the *Public Service Employment Act*, and the *Official Languages Act* assign some powers directly to the deputy head. These are described more fully below. While the Minister cannot provide direction on specific activities in these areas, given the Minister's overall authority for the management and direction of the department, the Minister is responsible for ensuring that the Deputy Minister carries out his or her obligations under these Acts and may provide general direction to the Deputy Minister.

The Deputy Minister has a number of other direct authorities, including:

- specific obligations imposed on Deputy Ministers by policy or directive of the Treasury Board under the *Financial Administration Act* (e.g., occupational health and safety obligations under the *Canada Labour Code*);
- powers flowing from Orders in Council based on royal prerogative (e.g., the power to make *ex gratia* payments on behalf of the Crown); and
- powers, duties and functions of Deputy Ministers and other deputy heads at common law, that result from Deputy Ministers' managerial functions (e.g., the power to define qualifications requirements for any position in their department).

Finally, in a few instances, certain statutes explicitly assign power to a particular Deputy Minister for the independent exercise of authority in specified matters. These statutes generally relate to departments that have regulatory functions, and are to be found in such areas as customs, excise, and immigration, or in areas where it has been deemed appropriate to isolate a decision from political involvement. Furthermore, statutes can also assign powers

to departmental officers other than the Deputy Minister, for example, visa officers, fisheries officers, or health inspectors. Nevertheless, the Deputy Minister has a responsibility to balance the exercise of these authorities within the overall duty to administer the Minister's department and to support the Minister in a way that is consistent with the agenda and direction of the government.

(i) *Public Funds and Property*

Under the *Financial Administration Act* (FAA), the Treasury Board is authorized to establish policies, directives, and standards and guidelines, including regulations, on the management of public funds and public property. The policies of the Board are intended to facilitate the achievement of program objectives so as to comply with the law, satisfy the needs for parliamentary control and reporting, and ensure the efficient, economic, and prudent use of public resources. Under regulation, policy or directive issued pursuant to its FAA authorities, the Treasury Board has placed considerable duties and responsibilities for public funds and property with deputy heads, including Deputy Ministers.

In addition, the FAA itself assigns to the deputy head specific responsibilities for the prudent management of allocated resources, which are subject to compliance with certain policies, regulations, standards, and periodic audit. The specific responsibilities assigned to Deputy Ministers with respect to financial management under the FAA include:

- preparing a division of an appropriation or item included in the Estimates, at the commencement of each fiscal year, or at such times as the Treasury Board may direct (subsection 31(1));
- ensuring by an adequate system of internal control and audit that the allotments provided in a division of allotments approved by the Treasury Board are not exceeded (subsection 31(3));
- establishing procedures and maintaining records respecting the control of financial commitments

chargeable to each appropriation or item (subsection 32(2));

- providing the required certification to authorize any payment to be made (section 34); and
- maintaining adequate records in relation to public property for which the department is responsible and complying with regulations of the Treasury Board governing the custody and control of public property (section 62).

(ii) *Human Resources Management*

A major element of the Deputy Minister's job as departmental manager involves the management of human resources. With their combination of statutory and functional responsibilities, Deputy Ministers are uniquely positioned to lead the ongoing development of the public service as a non-partisan institution, appointed on merit, representative of the country's linguistic duality and diversity, and adapted to the needs of the present and the future.

Responsibilities relating to personnel management in the public service, including appointment, employer/employee relations, and the organization of departments, are assigned to the deputy head directly rather than through the Minister. Both the Treasury Board and the Public Service Commission delegate authorities related to human resources management to Deputy Ministers directly. A Deputy Minister must comply with policies, directives, reporting and review procedures, and other standards which may be established by the delegating authority. Delegated authority may be revised, rescinded, or reinstated. In addition to these delegated authorities, certain responsibilities related to personnel management are directly assigned to Deputy Ministers under the *Public Service Employment Act* (e.g., rejecting for cause an employee on probation (s. 28); lay-offs (s. 29); and, deployments (s. 34.1)).

Effective departmental management requires careful integration of human resources management planning with the planning of departmental activities. It also requires that employees be properly trained to carry out the duties of their position, including

in particular their financial responsibilities. In the same way that a Deputy Minister must ensure arrangements for proper delegation and accountability for financial authorities, he or she must promote responsibility and accountability for good human resources management in the department so that the necessary staff with an appropriate balance of skills is maintained.

Although many Deputy Ministers will not be involved in collective bargaining, they do play a leadership role in the day-to-day interpretation of collective agreements by managers in their departments, and they set the climate for labour-management relations, relations which can have a significant impact on the quality of the department's service to Canadians. For example, by establishing labour-management consultation committees and an appropriate informal conflict management system, Deputy Ministers are able to foster open dialogue and collaboration with respect to the department's activities.

(iii) *Official Languages*

The *Official Languages Act* and the *Canadian Charter of Rights and Freedoms* impose an obligation upon departments and agencies to provide service to the public in both official languages. Subsection 16(1) of the *Charter* guarantees that federal employees can work in the official language of their choice, subject to certain limitations. In addition, the 1973 Parliamentary Resolution on the Official Languages affirmed the principle of full participation of both official language groups in the public service.

In keeping with these obligations and principles, the Treasury Board has responsibility for the development of appropriate policies and procedures to achieve government objectives in this area. The *Official Languages Act* assigns a number of authorities to the Treasury Board, and provides for delegation of its powers to deputy heads of other federal institutions, including Deputy Ministers of departments. The Act also recognizes the need for the Commissioner of Official Languages to inform Deputy Ministers of complaints and investigations involving their departments, and the role that Deputy Ministers must play, as departmental managers, in finding remedies to problems. Deputy Ministers are expected, by example and deed, to foster a culture which reflects the government's commitment to the

use of both official languages in the workplace and in serving Canadians.

b) Values and Ethics

Canadians deserve to feel confidence in their public service, and promoting a shared set of values and ethics is of particular importance in supporting the public service's stewardship of public resources. In 1996, the Deputy Minister Task Force on Public Service Values and Ethics, led by the late John Tait, helped the public service understand the challenge that departments face in promoting values-based decisions and actions. The Task Force's report, *A Strong Foundation*, helped the public service rediscover the basic values that support its mission and drive its actions:

- Democratic values: Helping Ministers, under the law, to serve the public interest.
- Professional values: Serving Canadians with competence, efficiency, impartiality, and non-partisanship.
- Ethical values: Acting at all times in such a way as to hold the public trust.
- People values: Demonstrating respect, fairness and courtesy in their dealings with both citizens and fellow employees.

The leadership role of a Deputy Minister is never more important than in this context. Deputy Ministers must take the lead in ensuring that they, and the employees in their charge, uphold and demonstrate public service values and ethics. The preeminent role of Deputy Ministers in ensuring an appropriate foundation for values and ethics in the departments of the Government of Canada is underscored in policy, including the Treasury Board's *Values and Ethics Code for the Public Service* and the *Policy on the Internal Disclosure of Information Concerning Wrongdoing in the Workplace*. Deputy Ministers are uniquely responsible to exemplify, in their actions and behaviours, the best values of the public service, and to infuse those values into all aspects of the work of their department,

through actions appropriate to their own corporate requirements and culture. As they are appointed by the Governor in Council, Deputy Ministers are also personally subject to the *Conflict of Interest and Post-Employment Code for Public Office Holders* set out by the Prime Minister.

3. Portfolio Management

Each Minister is responsible for a portfolio consisting of all the organizations reporting to that Minister. The portfolio includes the department, which plays a role in shaping future policies and laws, and often delivers services to Canadians. It can also include:

- service agencies that provide services within the government's policy and legislative framework and on the basis of a Business Plan or Corporate Plan;
- administrative tribunals that make decisions and hear appeals at arm's length from the government and on an independent basis; and
- Crown corporations that provide specific services on a commercial basis.

Each organization is different. They have differing mandates, a variety of organizational structures, and differing relationships to the Minister. In accordance with the enabling legislation, Ministers exercise varying degrees of control and responsibility for the agencies in their portfolio. However, they all provide services to Canadians and report to Ministers and through Ministers, to Parliament.

Coherence in developing and implementing the government's policy and programs is important for the government to accomplish its objectives and effectively deliver services to Canadians. Building on existing statutory roles under a Minister's authority, portfolio management seeks to ensure that all organizations work together in the most effective fashion in support of the Minister and the government. The Deputy Minister is responsible for

providing advice to the Minister on the coherent policy development and management of his or her portfolio.

Depending on the portfolio, the Deputy Minister may also be assigned certain specific responsibilities by the Minister. In those cases, it is important that the Minister provide clear guidance to all agency heads on his or her expectation with respect to the role of the Deputy Minister. This role must not infringe upon the accountability of the agency head. All Agency heads are accountable to the Minister. As well, the arm's length relationship and the independent status of agencies, Crown corporations and tribunals must be respected.

Because of the nature of different portfolios, Deputy Ministers need to tailor different approaches to the various situations. Periodic meetings including the Minister, the Deputy Minister and agency heads can help develop a common sense of purpose, and maintain the communications necessary for ongoing, successful portfolio management.

4. Supporting Ministerial Accountability in Parliament

One of the Deputy Minister's fundamental responsibilities is to support the Minister's accountability in Parliament. Because Deputy Ministers are not primarily responsible for the exercise of the powers of the Crown, their relationship to Parliament is fundamentally different from that of Ministers. The Deputy Minister's duty is to support the Minister's responsibilities by providing information that assists the Minister in rendering account to Parliament for the use of executive powers (e.g., briefings for the daily Question Period of both Houses of Parliament, reports and other documents to be tabled).

Deputy Ministers and other public servants appear before parliamentary committees on behalf of their Ministers to answer questions or to provide information on departmental performance that Ministers could not be expected to provide personally due to the level of detail or complexity. They often appear before standing committees dealing with the portfolio of their Minister, as well as legislative or special committees looking at issues related to the portfolio. They may also appear before the

Senate Standing Committee on National Finance or other committees of the Senate.

The role of Deputy Ministers in supporting Ministers on Parliament's work on public spending may require them to explain to parliamentary committees departmental policies and actions. On such issues, an important distinction should be made between the role of Ministers and public servants in Parliament. Ministers are responsible for political, partisan matters and defending public policies before Parliament, while Deputy Ministers and officials support Ministers in providing explanations and detailed information on public policies. Public servants do not have a public voice, or identity, distinct from that of their Minister, nor do they share in their Minister's political accountability. Non-partisan public servants have no role in defending the policy decisions made by the government or in debating matters of political controversy. To operate otherwise would risk politicization of the professional, non-partisan public service which must serve the government of the day, and would shift responsibility and power from Ministers, who are elected democratically, to officials who are appointed.

The Deputy Minister and other officials also have a special obligation to describe the progress, activities and performance of the department in areas such as financial management, program and service delivery, and human resources management. Deputy Ministers should give careful attention to this dimension of their role and, when requested to do so, should personally appear before parliamentary committees to give an account of their stewardship of the department. They should ensure that their officials do likewise.

In this respect, two committees are especially important for the managerial and administrative aspects of the Deputy Minister's responsibilities: the Standing Committee on Public Accounts and the Standing Committee on Government Operations and Estimates. The Standing Committee on Public Accounts acts, broadly speaking, as Parliament's own auditor of the stewardship of funds granted by Parliament to the government. The Committee conducts an *ex post facto* examination of the Public Accounts, and great care is taken not to become involved in current administration. Importantly, the Standing Committee on Public Accounts reviews the findings and recommendations contained in the Auditor General's

reports to Parliament, including the department's response to recommendations. Since 1958, the chairperson of the Committee has been a member of the Opposition. The mandate of the Standing Committee on Government Operations and Estimates includes reviewing and reporting on the effectiveness, management and operation of central departments and agencies, as well as on specific operational and expenditure items across all departments and agencies, and programs delivered by more than one department or agency. Deputy Ministers and officials should ensure that their involvement with these and other committees is coordinated by their Minister's Office, which is responsible for overall relations with Parliament.

When appearing before committees of the Senate or of the House of Commons, Deputy Ministers and public servants have a general duty, as well as a specific legal responsibility, to hold in confidence certain kinds of information that may come into their possession in the course of their duties, so that they may continue to offer frank and impartial advice to their Minister. This duty and responsibility are exercised within the framework of the law, including in particular any obligations of the government to disclose information to the public under the *Access to Information Act*, or to protect it from disclosure under other statutes such as the *Privacy Act*. For their part, and by longstanding parliamentary tradition, Parliament and its committees recognize that the provision of information to committees beyond that normally accessible to the public must be a matter of ministerial decision and must be consistent with statutory obligations.

While parliamentary committees are empowered to examine witnesses on oath, it has not been customary for public servants to be sworn. Should this situation arise, guidance on the proper response, applicable to all public servants, may be found in *Notes on the Responsibilities of Public Servants in Relation to Parliamentary Committees*, available from the Privy Council Office.

a) Parliamentary Caucuses and Individual Parliamentarians

It is recognized that party caucuses or groups of parliamentarians may meet to discuss matters of government policy,

programs or activities. Such meetings are not recognized as formal meetings of Parliament, and do not have the privileges and powers of Parliament. Occasionally, a Deputy Minister and other departmental officials may be requested, under the authority of the Minister, to meet with the representatives of a parliamentary caucus or a caucus committee, or an informal group of parliamentarians other than a parliamentary committee. The purpose of the appearance before a caucus is to provide a non-partisan explanation of government programs and policies, and it is done in support of ministerial responsibility. Deputy Ministers and departmental officials may also be contacted directly by the caucus representatives of a party for a briefing on a policy or program issue. Deputy Ministers and officials should ensure coordination with their Minister's office with respect to such requests.

It is not appropriate for the Deputy Minister or departmental officials to act in a partisan manner, or to limit briefings to the caucus of a particular party. As in appearances before parliamentary committees, any questions of a political nature or expressions of disagreement with government policy should be referred to the Minister, and the Deputy Minister would not be expected to express opinions or conclusions on government policy or to discuss policy options that are under consideration unless the Minister has authorized him or her to do so.

Although such meetings are usually held on an informal basis and are not subject to media reporting, Deputy Ministers and officials should recognize that parliamentarians cannot be required to keep information private, and accordingly parliamentarians should only be provided with information that can be made public. In this regard, material which cannot be provided under the *Access to Information Act* or the *Privacy Act* cannot be divulged.

Technical briefings on government legislation are often offered as part of the legislative process following introduction of bills. Such briefings should be organized by the Minister's office, and should always be offered to all party caucuses at the same time and before or concurrently with media briefings. Further guidance on this process is provided in the *Guide to Making Federal Acts and Regulations* from the Privy Council Office.

Recognizing the context of both ministerial responsibility and public service impartiality, Deputy Ministers should, in cooperation with Ministers and their offices, endeavour to respond to requests for information from Senators and Members of Parliament. This supports transparency in government, and respects the essential role of parliamentarians in representing their constituents with respect to legislation and government policy.

5. Bodies Making Reports to Parliament

Deputy Ministers must be prepared to provide information on the administration of programs and policies to several bodies that make reports to Parliament on the activities of the Government of Canada. These include agents of Parliament who function independently from the rest of the Government of Canada and whose principal role is to assist the House of Commons in holding the government to account. Deputy Ministers must ensure that their departments establish a respectful and constructive working relationship with these bodies, and make sure that information required to fulfill their legislative mandate is supplied as appropriate. The mandate and work of the following bodies are of particular importance to Deputies in their role as departmental managers:

- the Canadian Human Rights Commission, which audits employers under the *Employment Equity Act*;
- the Auditor General, who is the auditor of Canada's accounts and conducts independent audits that provide Parliament with objective advice and assurance;
- the Commissioner of Official Languages, whose mandate is to ensure recognition of the equal status of French and English as Canada's official languages, and to ensure compliance with the spirit and intent of the *Official Languages Act* in all institutions of Parliament and of the Government of Canada; and
- the Information and Privacy Commissioners who review the decisions of government institutions on

disclosing information under the *Access to Information Act* and the *Privacy Act*.

III Accountabilities of the Deputy Minister

1. Multiple Accountabilities

Deputy Ministers are required to manage a complex set of multiple accountabilities which arise out of the various powers, authorities and responsibilities attached to the position. Deputy Ministers are appointed by the Governor in Council on the recommendation of the Prime Minister to support a Minister in his or her individual and collective responsibilities. As a result, the accountability of Deputy Ministers corresponds to the roles and responsibilities that stem from their relationships with their respective Minister, the Prime Minister and the Ministry as a whole. A Deputy's job is to make each of those relationships effective and harmonious. The Deputy is accountable to his or her Minister in relation to both individual and collective responsibilities. At the same time, Deputy Ministers are also accountable to the Prime Minister, through the Clerk of the Privy Council.

As noted in *Responsibility in the Constitution*, the triangular relationship between the Prime Minister, Minister and Deputy Minister defies precise dissection:

The Prime Minister orchestrates the individual responsibilities of Ministers, drawing forth the harmony essential to stable government ... the appointment of deputies by the Prime Minister provides a reminder to them of their need for a perspective encompassing the whole range of government and emphasizes the collective interest of ministers and the special interest of the Prime Minister in the effectiveness of management in the Public Service.

Deputy Ministers also have accountabilities to the Public Service Commission and the Treasury Board for specific authorities directly delegated or assigned to them relating to financial and human resource management. Finally, and as noted under "Responsibilities of the Deputy Minister", in a limited number of cases, some Deputy Ministers may be assigned specific powers

through legislation for the independent exercise of authority in certain matters, such as customs or immigration.

The Deputy Minister's many accountabilities are interconnected and often overlap. It is the job of a Deputy Minister to balance the accountabilities inherent in the many roles required to support individual and collective responsibilities. This must be done in way that is consistent with the Deputy Minister's position as a professional, non-partisan public servant, and consistent with their obligation to provide expert, objective and non-partisan advice to the Minister and to the government as a whole.

In a situation where the Deputy Minister is not able to achieve the required balance, the Deputy Minister should consult the Clerk of the Privy Council. This is similarly the case with any matter the Deputy Minister considers significant enough to affect their accountabilities, those of their Minister, or the agenda and direction of the government.

2. Accountability to the Prime Minister

The Prime Minister is responsible for the unity and direction of the Ministry and the government's policies. Thus, while *Responsibility in the Constitution* notes that a Deputy Minister's "supreme loyalty" is to the Minister, Deputy Ministers in the Government of Canada are also accountable to the Prime Minister, through the Clerk, to support the Minister in a way that is consistent with the agenda and direction of the government as whole. In this way, Deputy Ministers contribute to the unity of the government they serve.

a) Clerk of the Privy Council

The Clerk of the Privy Council, as the senior public service advisor to the Prime Minister and in his or her capacity as the Secretary to the Cabinet, is the Prime Minister's chief source of public service advice on policy and management issues. The Clerk plays a key role within government in building consensus and supporting Deputies in carrying out their multiple accountabilities.

Instances may arise, for example, in which the Deputy Minister's view of the correct exercise of his or her explicitly assigned powers may be inconsistent with the Minister's views. In such circumstances, it is of the highest importance that the Deputy Minister give due weight to his or her own specific and directly assigned responsibilities under legislation. The Deputy Minister exercises his or her accountability to provide the Minister with impartial, professional and candid advice on policy and program matters and on the proper and prudent expenditure of public funds, as well as to support the collective responsibility of the Ministry. If a disagreement affecting the operations of the department cannot be resolved between the Minister and the Deputy Minister, the Deputy Minister will want to discuss the matter with the Clerk of the Privy Council.

A Minister may also choose to discuss a concern with the Clerk of the Privy Council before seeking the consideration of the Prime Minister. Ultimately, a matter which results in an apparently irreconcilable difference becomes a matter for resolution by the Prime Minister, with advice from the Clerk. Deputy Ministers should also consult the Clerk in cases where problems have occurred in the management of the department or the Minister's portfolio, and which may have an impact on the Ministry's ability as a collectivity to maintain the confidence of the House of Commons and move forward its legislative and policy agenda. In such instances, the Deputy Minister may also want to consult the Secretary of the Treasury Board.

b) Performance Management Program

Related to the accountability of Deputy Ministers is the assessment of their work carried out in the context of the Performance Management Program, which is administered by the Clerk of the Privy Council. The objectives of the Performance Management Program are:

- to encourage excellent performance by recognizing and rewarding the achievement of results that are linked to business plans and government objectives, and the demonstration of leadership competencies, values and ethics; and

- to provide a framework within which a consistent and equitable approach to performance management can be applied.

A performance agreement is established as a mutual understanding between the Deputy Minister and the Clerk of the Privy Council as to what is expected of the Deputy Minister for the annual performance cycle. The agreement is normally comprised of key commitments related to business plans and government objectives and specific performance measures. In addition, Deputy Ministers are accountable for ongoing responsibilities such as the provision of the highest quality support to the Minister, Prime Minister and Cabinet, effective and timely development and implementation of strategies consistent with the government agenda, the demonstration of leadership in the management of human and financial resources and the contribution to corporate-wide goals.

At the end of the cycle, performance is reviewed against the achievement of agreed commitments. The Clerk seeks input on the performance of Deputy Ministers from a variety of sources including Ministers, the Committee of Senior Officials, the Treasury Board Secretariat and senior management of the Privy Council Office. Ultimately, a performance rating is assigned and a performance award is approved by the Governor in Council.

3. Accountability to the Minister

On a day-to-day basis, a Deputy Minister's accountability is to his or her Minister. The deputy's accountability cannot be exercised without reference to the responsibility of Ministers to Parliament. Deputies act on behalf of their Ministers, exercising their Minister's statutory powers on the Minister's behalf, and playing a role in ensuring the control and supervision of the financial, personnel and other resources at the department's disposal. They are, therefore, accountable to their Ministers, although they may be required to answer before parliamentary committees, as noted above in the section entitled "Supporting Ministerial Accountability in Parliament".

This accountability has both legal and administrative aspects, but is also part of a very personal and professional

relationship. Given the need for the Minister and Deputy Minister to work as an inseparable team, this accountability relationship can be manifested in something as immediate as a telephone call, or information provided on the way to a Cabinet meeting or Question Period in the House of Commons. In the same way that Members of Parliament will hold a Minister to account for any of the activities of the department, the Minister has to be able to depend on his or her Deputy Minister to provide timely advice appropriate to the circumstances.

Because Deputy Ministers support the individual responsibilities of Ministers and also play a special role in helping Ministers to maintain the collective responsibility of the Ministry, this accountability of Deputies to Ministers reflects:

- their responsibility to the Minister for the authority that Deputy Ministers exercise on the Minister's behalf;
- their support for the exercise of collective responsibility by ensuring that the Minister's policy positions on departmental and other governmental issues are adequately supported, and that policies and programs complement the overall objectives of the Ministry; and
- their responsibility to ensure that government-wide management practices are observed in their departments in order to support the Ministry's ability to approach Parliament as a collectivity for supply, and to maintain the confidence of the House of Commons in the Ministry.

The Deputy Minister needs to be attentive to maintaining good working relations with the Minister's office in providing complementary support to the Minister. It is important to remember, however, that exempt staff of a Minister do not have the authority to give direction to public servants. When they ask for information or convey a Minister's instructions, it is normally done through the Deputy Minister.

4. Accountability for Addressing Errors in Administration

Ministers must be present in Parliament to account for the use of powers vested in them, including for any errors committed in administration. However, ministerial responsibility does not mean that a Minister will be required to resign whenever an error is made. Taking action to remedy shortcomings and setting in place procedures to prevent a recurrence are of critical importance. If a departmental official makes a mistake, the requirements of ministerial responsibility are satisfied when the Minister answers in Parliament for the mistake and implements the necessary remedial action. This may result, for example, in disciplinary action and changes in reporting and approval processes.

What happens, then, at the level of the Deputy Minister when something goes wrong in departmental administration? The accountability of a Deputy Minister is not, and should not be, subject to the political considerations that apply to Ministers.

As noted above, the Minister is accountable, in the sense that the Minister deals with the issue in Parliament and accepts responsibility. The Minister will tell Parliament that an error was made, that he or she has investigated the circumstances and initiated measures to see that it does not recur.

The Deputy Minister is responsible for the effective management of his or her department, and must account to the Minister for what went wrong. He or she must support the Minister by seeking out the causes, taking appropriate corrective action and fixing any systemic problems that come to light. It is the Deputy Minister's duty to confront problems openly and directly, and to improve the management practices within his or her department by creating the conditions which will foster an environment of continuous learning in which public servants strive for excellence in management.

In supporting the Minister's accountability, the Deputy Minister may well find himself or herself before a parliamentary committee to explain what went wrong. He or she

might say for example: “Yes, an error was made. I am accountable to the Minister of the department, and, with the support of the Minister, I have fixed the problem.” This could include informing a committee that disciplinary action has been taken, but it would not extend to naming those concerned even if their identity had somehow been disclosed through the media or otherwise. It is important to note, however, that in the case of illegal activities, such as fraud, sanctions would be more severe than simple discipline.

The appointment of Deputy Ministers on the recommendation of the Prime Minister reflects the Prime Minister’s responsibility for the government’s overall performance. In the end, the Prime Minister, with the advice of the Clerk of the Privy Council, will determine what, if any, action is appropriate, with respect to the Deputy Minister’s accountability.

5. Accountability to the Treasury Board and the Public Service Commission

The Treasury Board is the government’s management board. Under the *Financial Administration Act*, the Treasury Board acts for the Queen’s Privy Council for Canada on all matters relating to administrative policy, financial management, expenditure plans, programs and priorities of departments, personnel management and other matters related to the prudent and effective use of public resources in support of government objectives. The Treasury Board may make regulations and require reports for these purposes.

The Deputy Minister has corresponding accountabilities to the Treasury Board, as well as to his or her Minister, for their delegated responsibilities and those which are assigned to them directly through legislation (e.g., the *Financial Administration Act* and the *Official Languages Act*). The general accountability of Deputy Ministers to the Treasury Board is to ensure and to demonstrate, as required, that the resources allocated to departments by the Board are well managed and are being used to achieve the results and priorities identified by the Minister, by the government as a whole, or by legislation, and that these results are in fact being achieved for Canadians. The specific accountabilities of Deputy Ministers to the Treasury Board range from the concrete means to achieve general objectives, to specific obligations arising

from legislation or from Treasury Board policies. In practice, the Deputy Minister's accountability to the Treasury Board is often carried out through the Secretary of the Treasury Board, and through providing reports and working with its Secretariat. In addition to these specific accountabilities to the Treasury Board, the Deputy Minister remains accountable to his or her Minister for the general management of the department.

Similarly, the Deputy Minister must account to the Public Service Commission for the exercise of the powers and duties which the Commission has assigned them, as well as those powers and duties conferred pursuant to the *Public Service Employment Act*.

The Deputy Minister carries a general obligation of accountability to the government's management board and to the Secretary of the Treasury Board for the overall management capacity and performance of the department. In order to assist in managing this accountability and to scrutinize general management results and performance more effectively, the Treasury Board Secretariat employs a modern Management Accountability Framework for the Public Service. This Framework, illustrated by figures 1 and 2, includes management capacity and indicators of performance.

Management Accountability Framework

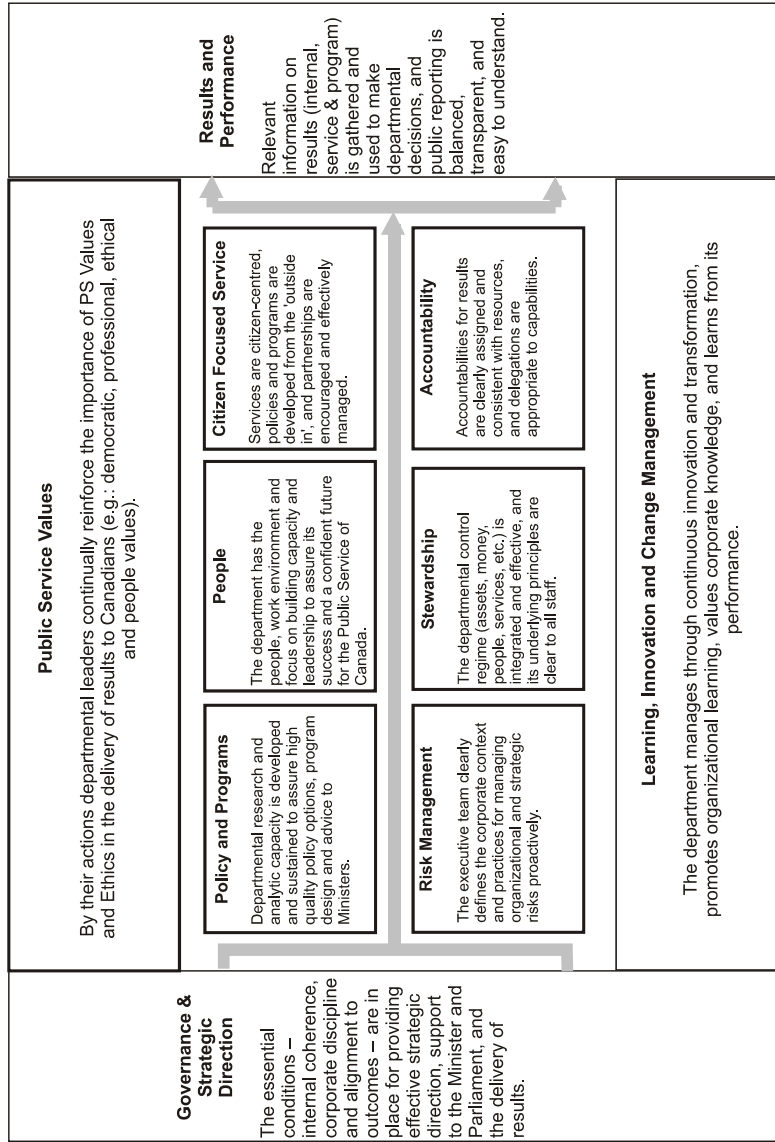


Figure 1

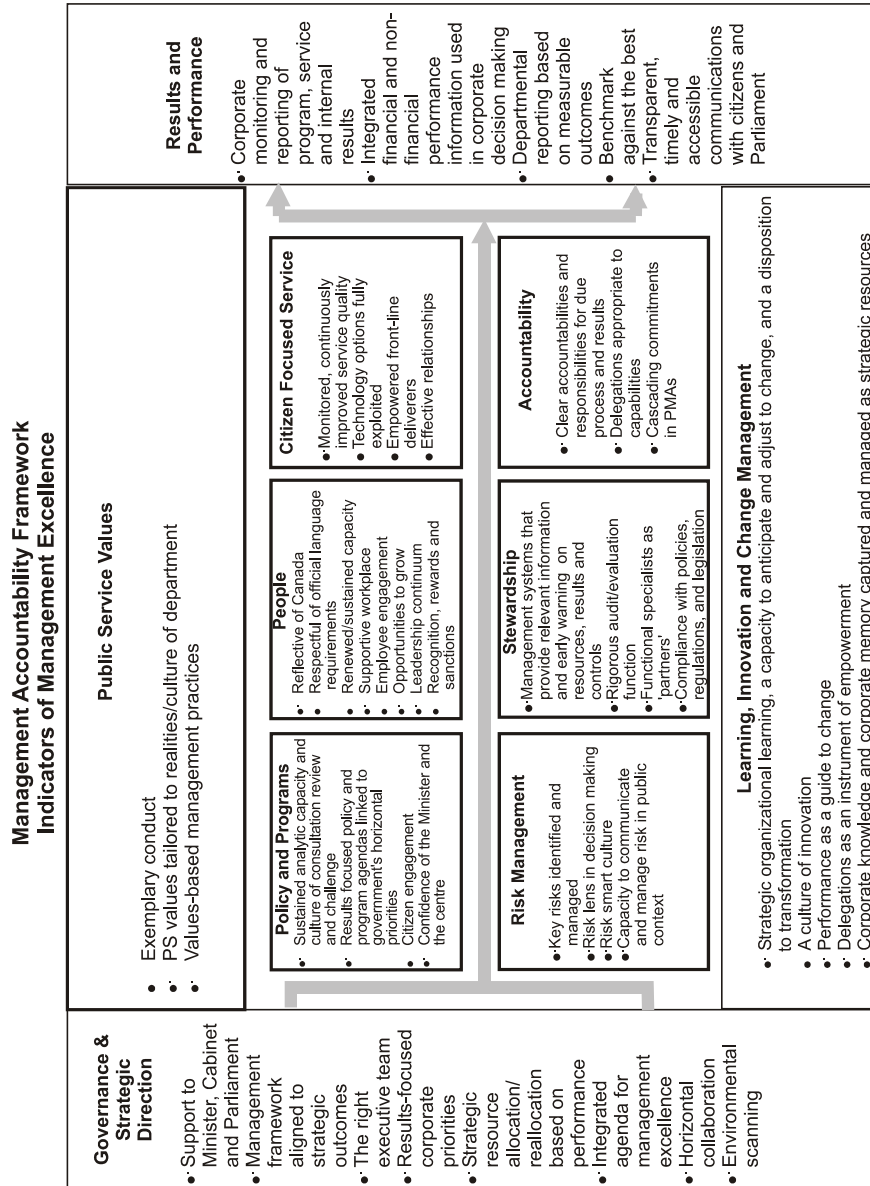


Figure 2

Management Accountability Framework (Treasury Board)
http://www.tbs-sct.gc.ca/maf-crg/maf-crg_e.asp