



Public Sector Governance

STRENGTHENING PERFORMANCE
THROUGH GOOD GOVERNANCE



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Effective governance can make a real difference to the performance of public sector entities and to the outcomes sought by government. This is a compelling reason for all public sector entities to periodically review and refine their approaches to governance. Reflecting the public sector environment, governance arrangements need to position entities to achieve the best results for the government and Australian community, consistent with legislative and policy requirements. At the same time, they must focus each public sector entity on its performance to encompass the efficient and effective delivery of its responsibilities in a sustainable manner.

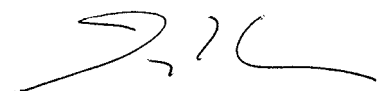
Achieving effective governance depends on developing and maintaining appropriate and accepted governance structures and frameworks; it also depends heavily on the application of appropriate governance choices and a commitment to making them work. It is the positive interaction between the 'hard' and 'soft' elements of governance—the structural and people elements—that leads to improved performance. In this respect, strong leadership is a critical driver for success; it can ensure appropriate governance arrangements are in place and foster ownership of the entity's goals and strategies by its staff.

This guide consolidates a range of material to assist public sector entities to achieve better practice governance. The guide's key focus areas can help to enhance public sector governance capability, promote organisational cultures that can respond readily and resourcefully to changing priorities, and strengthen skills at the individual employee level.

This guide replaces the Australian National Audit Office's (ANAO's) 2003 *Public Sector Governance Better Practice Guide*. Public sector governance has matured since the ANAO's earlier guide; this guide's substantially revised content reinforces the fundamental elements required for good governance and builds on them to address contemporary governance issues and challenges. In particular, greater attention is given in this guide to the importance of leadership, engaging in beneficial stakeholder relationships, and working collaboratively across entity, jurisdictional and sector boundaries to enhance policy outcomes. The guide emphasises the importance of a highly performing public sector, particularly in the light of fiscal constraints and public expectations for continuous improvements to public sector services, more transparent processes and increasing levels of engagement with citizens and other stakeholders. The release of the revised guide has been timed to align with the implementation of the substantive provisions of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act) in 2014–15.

This is not a prescriptive guide and has no legislative status. However, in today's complex and challenging environment, the guide offers tangible governance approaches for consideration by public sector leaders and their staff. The material presented is relevant to all Australian Government entities.

The ANAO appreciates the assistance provided by many individuals and entities in revising the guide.



Ian McPhee
Auditor-General
June 2014

Foreword.....	i
Part 1 Public sector governance fundamentals.....	1
1 Introduction.....	3
1.1 Purpose of the guide.....	3
1.2 Focus of the guide	3
1.3 Using the guide.....	4
1.4 Structure of the guide	5
2 Fundamentals of governance	7
2.1 Introduction.....	7
2.2 The objectives of good governance	7
2.3 Legal and policy framework.....	8
2.4 Fundamentals of governance	10
2.5 Strong leadership is essential.....	10
2.6 Focus on governance that is fit for purpose	13
2.7 Adjust governance arrangements to meet changing needs.....	16
2.8 Key focus areas to achieve good governance outcomes	17
Part 2 Achieving good governance in practice.....	19
3 Performance orientation.....	21
3.1 Introduction.....	21
3.2 Plan for high performance.....	23
3.3 Engage with risk.....	26
3.4 Foster innovation and adaptation.....	32
3.5 Effectively monitor performance	33
3.6 Facilitate evaluation and review.....	35
3.7 Drive continuous improvement by implementing agreed recommendations from reviews.....	37
4 Openness, transparency and integrity.....	41
4.1 Introduction.....	41
4.2 Understand the interests and expectations of stakeholders	42
4.3 Strengthen the contribution of stakeholders	43
4.4 Engage effectively with stakeholders.....	43
4.5 Facilitate information sharing.....	47
4.6 Actively manage conflicts of interest.....	49
4.7 Report clearly on performance and operations.....	52

5	Effective collaboration.....	57
5.1	Introduction.....	57
5.2	Understand the cross-entity environment.....	59
5.3	Promote cross-entity performance and accountability.....	60
5.4	Establish clear roles, responsibilities and governance arrangements.....	61
5.5	Work towards a shared objective or outcome.....	61
5.6	Manage shared risks.....	62
5.7	Facilitate good governance through written agreements.....	63
5.8	Consider forming partnerships outside of government.....	67

Tables

Table 2.1:	In pursuit of good governance: key focus areas.....	17
Table 3.1:	Common types of risk.....	29
Table 3.2:	Examples of risk analysis.....	30
Table 3.3:	Example of a risk register template.....	31
Table 3.4:	Criteria for evaluating the appropriateness of key performance indicators.....	34
Table 3.5:	Elements of better practice in implementing recommendations.....	37
Table 4.1:	Financial and non-financial sources of conflicts of interest.....	50
Table 4.2:	Criteria for evaluating the completeness and accuracy of key performance indicators reporting.....	53
Table 5.1:	Types of cross-entity agreements often used in the APS.....	65

Figures

Figure 1.1:	Structure of the guide.....	5
Figure 2.1:	Performance with accountability.....	8
Figure 2.2:	Key focus areas contributing to overall good governance outcomes.....	18
Figure 3.1:	Behaviours which enable sustained performance success.....	22
Figure 3.2:	Potential sources of information.....	25
Figure 3.3:	Elements that contribute to a positive risk management culture.....	27
Figure 3.4:	The risk management process.....	28
Figure 4.1:	Identifying stakeholders.....	45
Figure 4.2:	Levels of stakeholder engagement.....	46
Figure 5.1:	Managing shared risks.....	63

Better Practice Guide

Part 1
Public sector governance
fundamentals



1 Introduction

Public sector entities deal with a range of complex challenges in delivering programs and services under their charters to achieve the intended outcomes for government. Contemporary challenges include the need to innovate and effectively manage risks in a period of fiscal constraint, engage constructively with stakeholders and citizens in the design and delivery of programs and services, and collaborate successfully across entity, jurisdictional and sectoral boundaries to address complex issues. Within this context, effective governance arrangements and practices contribute to strong, sustainable and accountable entity performance, while building confidence in the entity and its capacity to adapt in a changing world.

Public sector governance encompasses many facets, including how an entity is managed, its corporate and other structures, its culture, its policies and strategies and the way it deals with its various stakeholders. Good governance necessarily involves the establishment of fit-for-purpose structures, frameworks and processes to achieve expected outcomes, consistent with legal and policy requirements. However, these ‘hard’ governance arrangements are not by themselves sufficient to support high performance. Achieving that also requires the ‘soft’ elements—including leadership, the right behaviours and the nurturing of relationships within and across entities.

This guide consolidates a range of material to assist public sector entities to achieve better practice governance. It promotes governance arrangements and practices which are designed and operate to shape the entity’s overall results, including the successful delivery of government programs and services, and which provide accountability for results, decisions and actions to the entity’s leadership, the Australian Government, the Parliament and the community.

1.1 Purpose of the guide

This guide, which updates and replaces the ANAO’s 2003 *Public Sector Governance Better Practice Guide*, has been prepared to assist public sector leaders and their staff to recognise and implement better practice in governance. Public sector governance has matured since the ANAO’s earlier guide, and this guide’s substantially revised content reinforces the fundamental elements required for good governance and builds on them to address contemporary governance issues and challenges. It is intended to:

- ▶ reinforce awareness of better practice in the more established facets of governance
- ▶ introduce new governance perspectives and practices
- ▶ emphasise where the application of better practice can strengthen public sector performance at the individual, entity and overall sector levels.

The release of the revised guide has been timed to align with the implementation of the substantive provisions of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act) in 2014–15. The principles and practices discussed in the guide are consistent with and reinforce the governance provisions of the PGPA Act.

1.2 Focus of the guide

Part 1 of the guide provides an overview of public sector governance, including the fundamental aspects involved in establishing better practice governance structures and promoting high performance. Part 2 of the guide focuses on practical aspects of governance. Building on the fundamentals of good governance identified in Part 1, it discusses a range of interrelated contemporary governance issues and challenges,

and how they can be managed through better governance practices to strengthen overall performance and accountability. These issues are discussed in the context of three broad but interconnected domains of governance: performance orientation; openness, transparency and integrity; and effective collaboration.

The guide is informed by current literature, ANAO audit reports and information provided during consultations with departmental Secretaries, entity chief executives and senior officers across the public sector. Specifically, the guide has been updated to include additional information on:

- ▶ facets of public sector governance which facilitate a strong focus on entity performance—including performance measurement
- ▶ aspects of governance of increasing prominence—including building constructive engagements with stakeholders, and collaborative approaches to governance across entity boundaries
- ▶ some important elements of governance that generally require extra clarity and guidance to help reinforce better practice—including managing risk and conflicts of interest.

Checklists are included in some areas as a means of self-assessment and to aid the selection of better practice governance options.

Given the breadth and complexity of public sector governance, the guide is not exhaustive, and entities will still need to consult specific guidance on aspects of governance prepared by other bodies.¹ It does, however, endeavour to cover a wide range of issues common to most, if not all, Australian Government entities. This guide is supported by other ANAO Better Practice Guides which provide more detail on a range of key public sector management issues. These include *Administering Regulation*, *Successful Implementation of Policy Initiatives*², *Innovation in the Public Sector*, *Preparation of Financial Statements by Public Sector Entities* and *Developing and Managing Internal Budgets*.³

1.3 Using the guide

The guide's primary focus is Australian Government entities. It is designed for use by:

- ▶ **accountable authorities**⁴, **chief executives**, **board members** and **senior executives** in establishing and maintaining effective governance arrangements and promoting better practice governance within their entities
- ▶ **corporate governance practitioners** in providing practical guidance on implementing better practice governance
- ▶ **other management and personnel** in understanding the concepts and practicalities of public sector governance and in meeting their legislative and other responsibilities in discharging their duties.

1 For example, this guide does not replicate the guidance prepared by the Department of Finance to support operations under the *Public Governance, Performance and Accountability Act 2013* (the PGPA Act).

2 An updated version of this guide is in development and is planned for publication in 2014.

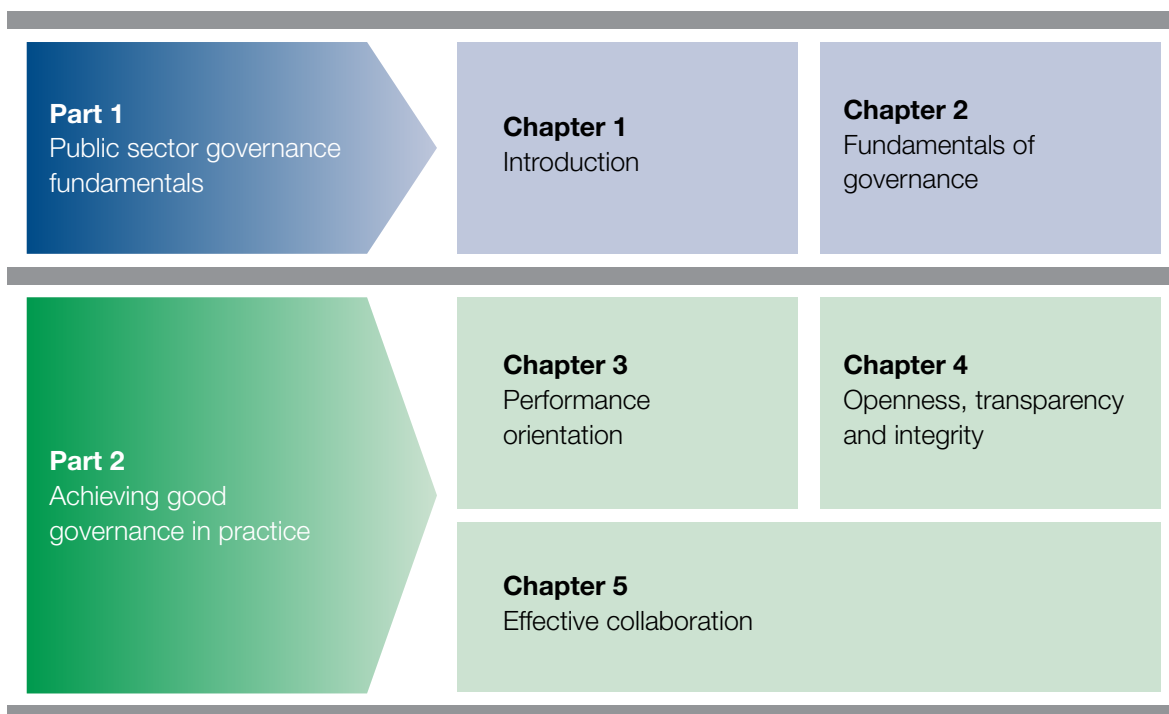
3 These and other ANAO Better Practice Guides are available on the ANAO website (www.anao.gov.au).

4 Under the PGPA Act, 'accountable authorities' include Secretaries of departments and governing bodies of an entity, unless otherwise prescribed by the PGPA rules.

1.4 Structure of the guide

The structure of the guide is shown in Figure 1.1.

Figure 1.1: Structure of the guide



Part 1: Public sector governance fundamentals

Part 1 provides an overview of the main aspects of public sector governance.

Chapter 1. Introduction

Chapter 1 (this chapter) sets out the purpose, focus and structure of the guide.

Chapter 2. Fundamentals of governance

Chapter 2 outlines the fundamental considerations involved in establishing and maintaining better practice governance structures and practices.

Part 2: Achieving good governance in practice

Part 2 focuses on achieving good governance in practice. Building on the governance fundamentals identified in Part 1, it addresses in more detail a range of contemporary governance issues and challenges, and how they can be managed through good governance practices to strengthen the overall performance and accountability of public sector entities.

Chapter 3. Performance orientation

Chapter 3 discusses the importance of managing resources efficiently to deliver outcomes effectively, with a focus on planning for high performance, engaging with risk and innovation. It also outlines practices that provide for effective measurement of performance, including evaluation and review processes.

Chapter 4. Openness, transparency and integrity

Chapter 4 outlines practices that entities can use to engage constructively and purposefully with stakeholders, focusing on information sharing with stakeholders external to the entity and strengthening the contribution of stakeholders and citizens. It also discusses the importance of maintaining entity reputation through measures such as the active management of issues which may give rise to conflicts of interest, and clear public reporting on performance and operations.

Chapter 5. Effective collaboration

Chapter 5 acknowledges the potential benefits to be gained from engaging in collaborative partnerships to deliver policy and program outcomes but also the challenges that arise, particularly in terms of accountability. It outlines practices that provide for good whole-of-government and cross-entity governance, as well as partnering outside of government.

2 Fundamentals of governance

2.1 Introduction

Public sector governance refers to the arrangements and practices which enable a public sector entity to set its direction and manage its operations to achieve expected outcomes and discharge its accountability obligations.

Public sector governance encompasses leadership, direction, control and accountability, and assists an entity to achieve its outcomes in such a way as to enhance confidence in the entity, its decisions and its actions. Good public sector governance is about getting the right things done in the best possible way, and delivering this standard of performance on a sustainable basis.

“Governance is the way things get done, rather than just the things that are done.”⁵

Julie Garland McLellan, 2011

A public sector which is diverse and dynamic needs to combine tested administrative practices to ensure reliable delivery of services, the flexibility to achieve outcomes most efficiently, and an accent on innovation to take advantage of new and better ways to achieve outcomes. To enable this, chief executives, directors and senior executives should establish fit-for-purpose governance arrangements and be willing to adjust them to meet changing needs. Effective governance arrangements contribute to a highly performing public sector, particularly in the light of fiscal constraints and public expectations for public sector services.

While having the right governance structures and processes in place is important, it is an entity’s people who achieve excellence and drive change. A vital role for senior executives is to set the right ‘tone at the top’ to reinforce entity values, enthusiasm for good governance and a focus on performance and accountability.

An entity which applies these key considerations through suitable governance arrangements and in the practices and conduct of individuals at all levels demonstrates the features of better practice governance. Such an entity is well positioned to achieve strong performance with accountability and overall to establish an expectation and an environment where each individual understands and accepts their personal responsibilities in relation to good governance.

2.2 The objectives of good governance

Most public sector entities receive public funding to achieve outcomes for government through the delivery of programs and services under their charters. In this context, good governance generally focuses on two key requirements of public sector entities (Figure 2.1):

- ▶ **performance**—governance arrangements and practices are designed and operate to shape the entity’s overall results, including the successful delivery of government programs and services
- ▶ **accountability**—governance arrangements and practices are designed and operate to provide visibility of results, to the entity’s leadership, the government, the Parliament and the community and conform with applicable legislative and policy requirements as well as public expectations of openness, transparency and integrity.

⁵ Julie Garland McLellan, *All Above Board—Great Governance for the Government Sector*, 2nd edition, Australian Institute of Company Directors, Sydney, October 2011, p. 2.

Good governance considers both performance and accountability within a risk management framework rather than trading one off against the other.

Figure 2.1: Performance with accountability



Source: ANAO.

2.3 Legal and policy framework

The governance of Australian Government entities is shaped by various legislative and policy arrangements which regulate their governance, management, resource use and accountability and specify their functions.

In addition to entity-specific legislation, two overarching Acts determine a range of governance matters for most entities. The *Public Governance, Performance and Accountability Act 2013* (the PGPA Act) encapsulates core elements of contemporary governance with its focus on performance, accountability, engaging with risk and collaborating effectively in pursuit of outcomes. It provides two broad governance structures for public sector entities.⁶ A key difference between the two concerns executive-level accountability:

- ▶ In one group of entities, the emphasis is on accountability residing with the chief executive.⁷ While chief executives can choose to appoint an advisory committee to help with management, ultimate accountability for decisions still resides with the chief executive.⁸

6 The PGPA Act is the key piece of legislation enacted following the establishment of the Commonwealth Financial Accountability Review and the subsequent Public Management Reform Agenda. The objective of the reform agenda is to improve performance, accountability and risk management across government through a framework that is simple, easy to use and valued by all stakeholders. The PGPA Act establishes arrangements and requirements for the governance, performance and accountability of the Commonwealth, Commonwealth entities and Commonwealth companies and their use and management of public resources. The substantive provisions of the Act are due to come into effect during 2014–15, replacing the *Financial Management and Accountability Act 1997* and the *Commonwealth Authorities and Companies Act 1997*.

7 These entities include departments of state, parliamentary departments and certain listed entities. Chief executives are also referred to as entity heads. In departments, the chief executive is the Secretary.

8 The PGPA Act requires an audit committee, being a key governance committee, to be established by each Commonwealth entity and Commonwealth company. Additionally, in some cases public sector entities are required by their enabling legislation to establish advisory boards. In those instances, it is important to clearly define accountability and reporting arrangements. A listed entity may also encompass a number of statutory office holders, comprising a commission, who make collective decisions, often with a level of statutory independence. Commission members can have statutory powers but may not have any direct role in governance.

- ▶ In the other group of entities, a board of directors (or similar) generally governs the entity.⁹ Boards have wide-ranging powers, which can extend to the appointment and removal of the chief executive, setting strategic direction, supervising management, defining the values and culture of the entity, managing and overseeing risk issues, monitoring the performance of the entity and holding management accountable for its performance.

The PGPA Act establishes general duties for accountable authorities (the chief executive or governing body) and officials. The general duties of an accountable authority include governing the entity in a way that promotes the proper use and management of public resources for which the authority is responsible, the achievement of the purposes of the entity and the financial sustainability of the entity. The general duties of officials include acting with care and diligence, and in good faith and for a proper purpose, in exercising powers, performing functions and discharging duties.

The *Public Service Act 1999* (the Public Service Act) applies to departments of state, many listed entities and some corporate Commonwealth entities. It sets out expectations in respect of the following key public sector governance matters:

- ▶ the roles and responsibilities of the Secretary of a department
- ▶ the role of the Senior Executive Service
- ▶ the APS Values and Code of Conduct, which apply to all members of the APS
- ▶ the APS Employment Principles.

The Public Service Act provides for a public service which has a strong performance orientation and is ethical in its approach to governance and program and service delivery. For example, under this Act:

- ▶ the responsibilities of the Secretary of a department include providing leadership, strategic direction and a focus on results for the department
- ▶ the APS Values include a statement that the APS is professional, objective, innovative and efficient, and works collaboratively to achieve the best results for the Australian community and the government
- ▶ the APS Employment Principles include the principle that decisions relating to engagement and promotion are based on merit, and the APS recognises the diversity of the Australian community and fosters diversity in the workplace.

It is important that public sector officials have appropriate knowledge of overarching legislation, any entity-specific or relevant policy-specific legislation, and government policies and administrative frameworks that are applicable to the entity's mandate and governance framework. It is also important to consider and understand any interrelationships between legislation affecting the entity. This knowledge better positions individuals and the entity generally for the effective planning and implementation of programs and services. It also allows entities to advise government on a sound basis, drawing attention to any significant legislative or policy matters which may affect government decisions.

⁹ These entities include bodies corporate established by a law of the Commonwealth and certain listed entities.

Because legal and policy frameworks are subject to change, well-governed entities work to ensure that their understanding of legislation and government policies remains current, comprehensive and properly reflected in their systems and processes. This includes keeping in communication with the entities responsible for developing the legislation and policies and seeking specialist advice about obligations where necessary. Entities should, as a minimum, identify and review periodically, the legislative and policy requirements which it must meet. Better practice entities also implement appropriate educational and learning and development programs aimed at providing relevant staff with sufficient knowledge and understanding of their specific responsibilities.

2.4 Fundamentals of governance

Within the overall legal and policy framework, entities will have different mandates and operating circumstances. However, there are fundamental elements that underpin the achievement of good public sector governance. These include:

- ▶ developing strong leadership at all levels of the entity, with a focus on ethical behaviour and continuous improvement (discussed in section 2.5 of this chapter)
- ▶ maintaining governance systems and processes that are fit for purpose (discussed in section 2.6 of this chapter)
- ▶ optimising performance through planning, engaging with risk, innovation, and performance monitoring, evaluation and review (discussed in Chapter 3, **Performance orientation**)
- ▶ focusing on openness, transparency and integrity, engaging constructively with stakeholders and promoting accountability through clear reporting on performance and operations (discussed in Chapter 4, **Openness, transparency and integrity**)
- ▶ where appropriate, participating in collaborative partnerships to more effectively deliver programs and services, including partnerships outside government (discussed in Chapter 5, **Effective collaboration**).

2.5 Strong leadership is essential

Strong leadership at all levels of the entity is essential in order to achieve outcomes and maintain a high standard of conduct consistent with legal and policy requirements, and government and public expectations. The effectiveness of an entity's governance framework, and the controls it provides, is supported by the values and conduct of the entity's leaders in operationalising the entity's governance framework. Effective leaders set the right 'tone at the top', establish and promote clear objectives and focus on achieving high performance with accountability. They promote a culture that is amenable to good governance and help to assimilate better practice into all facets of governance. Leaders have an important stewardship role in exercising their powers and using public resources, and it is important for leaders to govern public sector entities in a way that sustains strong capacity to serve government and the community over time.

Leadership support is also essential to ensuring the integration of acceptable behavioural standards and values into an entity's approaches, processes and procedures.¹⁰ Leaders need to make an active and visible commitment to the core principles of public sector governance and promote them consistently—both internally and externally—to encourage good governance practice in the pursuit of a high level of performance with accountability.

¹⁰ APSC, *State of the Service 2012-13*, Canberra, p. 37.

Create a positive and ethical culture

As noted by the Australian Public Service Commission (APSC), a ‘...values-based culture is at the heart of a high performing and trustworthy public service.’¹¹ By modelling ethical conduct and behaviours consistent with agreed public sector values, leaders contribute to a positive workplace culture and the effective achievement of outcomes in a manner consistent with expectations. The workplace culture should encourage all members of the organisation to accept a personal responsibility to identify and manage risk, be alert to issues that need to be addressed, contribute to innovative approaches to achieve outcomes and escalate issues as appropriate in the organisation.

Leaders in public sector entities need to ensure the implementation, evaluation and improvement of good governance structures and processes; and enact good governance through their own performance and behaviours. To fulfil these responsibilities, it is important that leaders:

- ▶ clearly set out the entity’s core values
- ▶ set the right tone and lead by example
- ▶ make an active and visible commitment to sound public sector governance and a high performing entity
- ▶ communicate consistent and appropriate messages—both internally and externally—to encourage good governance practice in the pursuit of a high level of performance with accountability.

As noted earlier, the Public Service Act establishes a formal set of values for APS officials. The APSC released a revised set of values (referred to as ICARE) in 2013 that promote an APS that is:

- ▶ **Impartial** (apolitical and provides advice that is frank, honest and timely)
- ▶ **Committed to Service** (professional, objective, innovative, efficient and works collaboratively)
- ▶ **Accountable** (open and accountable to the Australian community)
- ▶ **Respectful** (respects all people including their rights and heritage)
- ▶ **Ethical** (demonstrates leadership and trustworthiness, and acts with integrity)

Promote a learning culture

Well-governed entities exhibit an openness to learn and a willingness to consider external perspectives. Leadership that models this behaviour is central to developing a learning culture within an entity. Innovation is the application of new ideas to produce better outcomes. In the public sector context, it has been defined as the ‘creation and implementation of new processes, products, services and methods of delivery which result in significant improvements in the efficiency, effectiveness or quality of outcomes’.¹²

The fostering of innovation and how it is dealt with in relation to leadership styles, organisational culture and risk management are important considerations for chief executives, directors and senior executives.

Similarly, evaluation and review enable an entity to identify strengths, learn lessons, and maintain and improve its capacity to serve government and the community over time. A key focus of evaluation and review is to assess the impact of government policies and activities, which assists government decision-making and priority setting and contributes to improved accountability for results. Entities should ensure that consideration is given to the evaluation of significant programs over time to assess whether the intended objectives are being achieved and to identify any opportunities for improvement in policy design or service delivery.

¹¹ APSC, *State of the Service 2012-13*, Canberra, p. 49.

¹² ANAO, *Better Practice Guide—Innovation in the Public Sector: Enabling Better Performance, Driving New Directions*, December 2009, Canberra.

‘...the APS—like all organisations—needs regular review and reassessment, and incremental change and improvement to keep it in top condition, among the very best in the world.’

Dr Ian Watt, Secretary, Department of Prime Minister and Cabinet, 2012¹³

Evaluation and review activities may be internally or externally driven. Prominent examples of entity-led activities are internal audits and program evaluations. Examples of external assessments are parliamentary committee inquiries, the Auditor-General’s financial and performance audits, and the Commonwealth Ombudsman’s investigations into complaints made by people who consider they have been treated unfairly or unreasonably by an Australian Government entity. The government also instigates evaluations, reviews and inquiries to address specific issues of concern and inform major changes in program design and delivery.

For cross-entity, whole-of-government and cross-sectoral initiatives, appropriate evaluation, review and audit mechanisms are of particular importance.¹⁴ In such situations, multiple entities may be seeking to address a complex problem through a range of strategies. Evaluation and review are likely to be necessary to ascertain the quality of government interactions and the impact of government activities and to inform policy advice. In this respect, the leadership of all participating entities needs to demonstrate a positive position in relation to learning from reviews.

Facilitate and respond constructively to evaluation and review

The general approach taken by entity leadership to evaluation and review strongly influences the conduct and outcome of those activities. Key governance considerations include:

- ▶ planning for evaluation from the outset of major programs, projects and activities, including by identifying timeframes, resources, baseline data and performance information
- ▶ aligning internal review activities with external requirements to reduce reworking of similar material, and establishing internal arrangements on the basis of broader standards and expectations¹⁵
- ▶ treating and preparing for external scrutiny as integral to the entity performing its role as part of government, rather than as something that happens ‘to’ the entity¹⁶
- ▶ assigning responsibility for implementing the recommendations of evaluations and reviews to the appropriate business area of the entity, including identifying the responsible senior executive and establishing an agreed timeframe within which action should be taken
- ▶ ensuring an appropriate role for governance boards or advisory committees in monitoring the implementation of recommendations and their impact on performance and outcomes.

13 Dr Ian Watt, ‘Reflections on my first year as Secretary of the Department of Prime Minister and Cabinet and thoughts on the future’, 5 October 2012, Parliament House, Canberra.

14 M Edwards, “‘Shared Accountability’ in service delivery: concepts, principles and the Australian experience” in *A UN/INTOSAI Joint Project: Collection of Important Literature on Strengthening Capacities of Supreme Audit Institutions on the Fight Against Corruption*, United Nations, 2013, pp. 328–329.

15 A well-governed organisation will, for example, ensure that its internal audit plans and activities are coordinated with the requirements and plans of the external auditor, including through inviting a representative of the ANAO to participate on the audit committee as an observer. ANAO, *Better Practice Guide—Public Sector Audit Committees: Independent Assurance and Advice for Chief Executives and Boards*, August 2011, Canberra.

16 In practical terms, this means that well-governed organisations seek to ensure that parliamentary scrutiny, for example, is aided by the way programs are designed, managed and monitored.

2.6 Focus on governance that is fit for purpose

Integrity, transparency and accountability remain at the centre of sound public sector governance and it is important for public sector entities to make appropriate investments in systems and processes that support effective management. Governance arrangements should be fit for purpose. Tailoring governance structures and processes to suit the type, maturity, size and business of an entity is a particularly important consideration when establishing the entity, designing new programs or services, or responding to changes in functions or risk profile.

While there are many facets of governance that must be addressed, unclear delineation of roles and responsibilities, and the creation of unnecessary layers of governance or excessive ‘red tape’, hinder effective program administration and service delivery.¹⁷ Chief executives have a key role in shaping governance arrangements to best meet specific legislative and program requirements and circumstances. Scale is an important consideration—approaches that may be appropriate in a large department could be unnecessary and unwieldy in a relatively small entity.

A tailored governance structure, which is nevertheless consistent with whole-of-government governance policy¹⁸, lays a solid foundation for management oversight by focusing capability and effort to efficiently and effectively implement programs and services. The structure should also be sufficiently flexible to enable timely responses to new responsibilities and challenges.

Governance structures, together with its policies, strategic and operational planning, shape the way the entity implements government programs and services, achieves results and complies with requirements. Key governance structures include the entity’s divisions, branches and teams, internal audit and other assurance activities, committees, including audit committees, control systems, and financial and performance reporting regimes.

The precise nature of governance structures and arrangements will be a matter for the entity’s accountable authority to determine. However, the structures and arrangements selected need to facilitate effective strategic planning, risk management and performance monitoring, including of financial performance.

Strategic planning

Planning is integral to the establishment of the organisation’s strategic priorities, its management of budgets and its program and service delivery approach. In this respect, a well-governed entity will develop effective corporate and business planning approaches, a clear and robust internal budgeting system and a structured and regular system of performance reporting. This is particularly relevant in periods of fiscal restraint.

The planning process provides an opportunity to review current data and trends, consider stakeholder needs and budgets, and set priorities. Corporate plans should give a high-level view of the organisation’s objectives, major strategies and key activities to be undertaken in the short and longer terms. Strategies and activities need to be developed with appropriate regard to the prevailing budgetary environment, and their delivery needs to be underpinned by strong approaches to budget management and the ability to adjust strategies and activities when policy and/or budget priorities change.

¹⁷ Management Advisory Committee 7, *Reducing Red Tape in the Australian Public Service*, Canberra, March 2007; Department of Finance and Deregulation, *Reducing Red Tape: Dispelling some Myths in Australian Government Administration*, Canberra, 2007.

¹⁸ Whole-of-government governance policy is set out in: Department of Finance and Administration, *Governance Arrangements for Australian Government Bodies*, Canberra, August 2005. At the time of publication, the Department of Finance was leading a review of this policy, with a view to ensuring consistency with the overall objectives of the PGPA Act.

Well-governed entities typically demonstrate the alignment of their corporate plan with business and operational plans, risk plans and individual performance agreements. Entities are better positioned to meet their objectives where resources are deployed consistent with organisational priorities. Closely aligning internal budget processes with strategic planning processes will help achieve this and assist the entity to more readily identify and respond to changes in government policies and the operating environment.¹⁹ Supported by relevant performance information, such alignment also aids performance monitoring and reporting by providing visible links between planned outcomes and actual performance.

From 1 July 2015, all Commonwealth entities and Commonwealth companies will be required to prepare a corporate plan. The preparation of an annual performance statement, and its inclusion in an entity's annual report to Parliament, will also be required under the PGPA Act, commencing in respect of the 2015-16 financial year. This is intended to provide a clear line of sight between planned and actual performance and enable an assessment of an entity's achievements.

Planning is also an essential component of program implementation. Many problems encountered during the implementation of programs can be alleviated through planning processes that include:

- ▶ adequate stakeholder involvement, to assist policy development and program design
- ▶ proper analysis, consideration and communication of risks
- ▶ early identification of key goals, milestones, resources and specific deliverables
- ▶ consideration of the degree of executive oversight required, including the use of steering committees or other regular monitoring mechanisms for major programs, projects and activities
- ▶ careful design of performance information to measure program effectiveness and efficiency.

Risk management

Risk management often encourages a more outward-looking examination of the role of the entity, increasing stakeholder focus and placing a greater emphasis on outcomes, resourcing priorities and performance assessment in management decision-making. The approach an entity takes to risk management and innovation can significantly affect its planning and priority setting, program implementation and overall results. Entity-wide understanding of the risk management framework and the risk environment will facilitate the sound management of governance arrangements, programs and services. Risk awareness and support for innovation are also necessary to design and implement significant improvements in program and service delivery.

Risk management establishes a process of identifying, analysing, treating, monitoring and communicating risks. Such risks could either prevent the entity from achieving its business objectives or provide the opportunity for extra benefits to be realised.²⁰

Formal responsibility for risk management ultimately lies with the chief executive or board of directors and s16 of the PGPA Act creates an explicit duty of accountable authorities to establish and maintain systems relating to risk and control. However, all managers and staff have a responsibility to manage risk, and better results are more likely to be achieved where ownership of risk identification and treatments is strong.²¹

¹⁹ For further information on internal budgeting see ANAO Better Practice Guide, *Developing and Managing Internal Budgets*, June 2008.

²⁰ Standards Australia, AS/NZS ISO 31000:2009 Risk Management—*Principles and Guidelines*, 16 October 2009.

²¹ The Department of Finance is developing a risk management policy to assist entities meet their obligations under the PGPA Act.

Good risk management practice includes:

- ▶ governing boards and executive committees including in their deliberations the consideration of significant risks facing major programs, projects and activities and the entity as a whole²²
- ▶ the establishment of appropriate processes and practices to monitor and manage risks associated with the entity's programs, projects and activities
- ▶ regular analysis and review of risk management approaches and controls
- ▶ the active involvement of all staff in the entity in adopting a true risk management culture.

Risk management should be part of the entity's strategy and planning processes and be seen as a preventive measure, rather than as a back-end control. Preparing risk plans is an important part of the entity's suite of planning activities. Such activities should be undertaken at the same time as an initiative is designed but also continue past the initial implementation stage so as to inform a continuous improvement approach to delivery. It is also important to link risk plans with other governance documents and procedures, such as strategic or corporate planning, audit programs, human resources planning and communication strategies to promote an enterprise-wide approach to risk.

The entity's management of risk can not be isolated from its strategies for innovation and these two facets of governance are not mutually exclusive. By its nature, innovation necessarily involves taking risks because it changes the *status quo* or contributes towards an alternative future. As such, an appetite for risk and risk management is essential; and risk avoidance is an impediment to innovation.²³

Performance monitoring

Early consideration of performance information needs, particularly in relation to program effectiveness, positions an organisation to assess the impact of policy measures, adjust management approaches as required, and provide advice to government on the success, shortcomings and/or future directions of programs. This information also allows for informed decisions to be made on the allocation and use of public resources. The work of the ANAO highlights that more attention is required to develop better performance information to effectively assess the extent to which expected policy outcomes are being achieved. This matter is discussed further in Chapter 3, Performance orientation.

'Measuring government performance has long been recognised as necessary for improving the effectiveness and efficiency of the public sector. Following the fiscal and economic crisis that began in 2008, however, accurate and timely data are needed more than ever to help governments make informed decisions about how and where to prioritise spending, reduce costs and promote innovation in public administration.'

OECD, 2011²⁴

22 Where agreed by the board or chief executive, an entity's audit committee may determine whether a sound and effective approach has been followed in managing the entity's major risks, including those associated with program implementation, projects and activities.

23 ANAO Better Practice Guide, *Innovation in the Public Sector: enabling better performance, driving new directions*, December 2009, p. iii.

24 Organisation for Economic Co-operation and Development (OECD), Directorate for Public Governance and Territorial Development, *Government at a Glance, 2011*.

Performance monitoring also includes overseeing the financial performance of an entity, and meeting the requirements of the Australian Government's resource management framework. Entities should have in place a range of delegations, policies, instructions and procedures that outline in a clear and consistent manner the responsibilities and accountabilities within the entity for resource management.

While day-to-day financial management is the province of CFOs and their staff, senior management are responsible for reviewing and approving the entity's internal annual budget, major financial plans and strategies and significant investments, that should be directed at ensuring the entity's longer term financial sustainability²⁵. Once budgets are in place, regular monitoring of actual performance against approved budgets is an important responsibility of those governing the entity to ensure that actual expenditure and revenue is in line with budget estimates.

Similarly, while day-to-day management of internal controls is the responsibility of entity staff, those governing an entity are responsible for the entity's overall control environment, including controls to manage organisational risks, including financial risks, and controls aimed at ensuring compliance with legal and policy requirements. These controls should be reviewed periodically in light of changes to organisational arrangements or the risk profile of the entity.

Appropriate delegation of decision making is central to an entity's governance arrangements. A key consideration for entities, having regard to their risk profile, is ensuring that decision-making is delegated to the most appropriate level in the entity and that there are sufficient controls and reporting requirements in place for entity management to have sufficient visibility of decisions being made.

Effective financial performance also has an external focus. Arrangements should be in place that enable an entity to meet its financial reporting responsibilities to government, the Parliament and the public.²⁶

2.7 Adjust governance arrangements to meet changing needs

Program design and service delivery approaches evolve in response to government priorities, changing needs and public expectations, as well as in response to innovation and government entities' improved understanding of the issues they are seeking to address.

For example, program delivery has commonly been the responsibility of individual government entities, working within the applicable financial and reporting frameworks to pursue the efficient and effective achievement of desired outcomes. Increasingly, however, the outcomes sought by government for the community depend on the contribution of multiple parties, including public sector entities, other governments and entities, and citizens.

Good public sector governance therefore facilitates engagement with stakeholders, collaboration with partners (where appropriate) and innovation in the pursuit of better outcomes, consistent with government policies. Public sector entities which elicit the active participation of stakeholders harness capability and build ownership, responsiveness and resilience in individuals and the community.

Against this evolving background, governance arrangements in individual entities and across the public sector should be regularly reviewed, and adjusted as required, to allow public sector entities to continue to operate efficiently and effectively.

²⁵ Sub-section 15(1)(c) of the Public Governance, Performance and Accountability Act requires the accountable authority of a commonwealth entity to govern in a way that promotes the financial sustainability of the entity.

²⁶ See ANAO, *Better Practice Guide—Preparation of Financial Statements by Public Sector Entities*, June 2013, Canberra.

‘[Corporate] governance is not static and, like all disciplines, needs to be refined in the light of developments in the environment, and developments directly affecting entities.’

Auditor-General for Australia, 2008

Strategies to achieve well-attuned governance arrangements include:

- ▶ regular horizon scanning as part of executive management discussions and corporate planning activities, in order to identify important developments and emerging risks and opportunities, and gauge their potential influence on the entity and its performance
- ▶ the establishment of timelines and mechanisms for the review of the terms of reference of the board and major committees, and for the review of corporate and risk plans
- ▶ communication with other entities to identify and share successful governance strategies and refine current approaches.

2.8 Key focus areas to achieve good governance outcomes

While differing circumstances influence entities’ operations, strong leaders can shape an entity for success by focusing their attention in three interrelated areas: performance orientation; openness, transparency and integrity; and effective collaboration (Table 2.1).

Table 2.1: In pursuit of good governance: key focus areas

<p>Performance orientation</p>	<p>Efficient and effective program and service delivery are central to the performance of public sector entities. Efficiency is the best use of resources to further the aims of the entity, with a commitment to evidence-based strategies for improvement. Effectiveness is the extent to which the entity’s activities and deliverables make positive contributions to specified government outcomes.</p> <p>Efficiency and effectiveness require a clear understanding of objectives, a willingness to engage with risk to foster innovation, a clear understanding of how outcomes and achievements will be measured and assessed, and a willingness to tailor governance arrangements and program and service delivery approaches to achieve better outcomes.</p>
<p>Openness, transparency and integrity</p>	<p>Accountability is the process by which public sector entities, and the individuals within them, are held responsible for their overall results, decisions and actions and are subject to appropriate external scrutiny. Appropriate levels of openness, transparency and integrity are required to ensure that stakeholders have confidence in public sector decision-making processes and actions.</p> <p>Openness and transparency involve meaningful consultation with stakeholders and the consistent communication of reliable information, having regard to charter responsibilities, privacy obligations and other legal and policy requirements. They are supported by good information and records management practices.</p>
<p>Effective collaboration</p>	<p>Collaboration is about engaging effectively with others to achieve mutual benefits and to build entity and community resilience. It allows entities to exchange information, make the best use of resources and consolidate knowledge for the benefit of more effective governance, and ultimately program development and service delivery. Successful collaboration requires an appreciation of the responsibilities of other parties. It benefits from clear purpose, defined outcomes, and the recognition of shared risks and accountabilities.</p>

Commitment to these key areas will aid in developing entity cultures and systems that consistently deliver good governance, enabling strong performance with accountability and enhancing stakeholder confidence in the public sector (see Figure 2.2).

Figure 2.2: Key focus areas contributing to overall good governance outcomes



Better Practice Guide

Part 2
**Achieving good
governance in practice**



3 Performance orientation

The following key steps will assist an entity in achieving sustained high performance:

- ▶ Plan for high performance
- ▶ Engage with risk
- ▶ Foster innovation
- ▶ Effectively monitor performance
- ▶ Facilitate evaluation and review
- ▶ Drive continuous improvement by implementing agreed recommendations from reviews

3.1 Introduction

High performing public sector entities adopt governance, program and service delivery approaches that best support the achievement of intended outcomes. To achieve performance objectives, entities need to be outward looking, proactive and innovative in their approach to governance and use issues raised in performance reviews and project evaluations as leverage for positive change.

Strategies for achieving high performance include:

- ▶ thinking about and planning systematically for the future—including by gathering high quality information, and using mechanisms such as horizon scanning, scenario planning and trend analysis to help identify and manage risks and take advantage of opportunities
- ▶ establishing a risk-aware culture in which innovative policies and practices are encouraged, suitable risk mitigation strategies are supported and promoted at the highest level of management and government, and individuals are accountable for managing risks
- ▶ developing a clear and well-informed understanding of entity performance over time, through robust ongoing monitoring and review, in order to identify and act on areas for improvement in a timely fashion
- ▶ focusing on citizens as the beneficiaries of government activity, including by engaging with citizens to inform them about the provision of tailored, high-quality services and seeking their feedback on how well programs and services meet their needs, as part of continuous improvement (see Chapter 4)
- ▶ maintaining awareness of changing public expectations so that the design and delivery of programs and services evolves when necessary to continue to meet those expectations
- ▶ encouraging the active participation of stakeholders in the design, delivery and oversight of programs and services while maintaining a strong performance focus in service delivery arrangements (this harnesses collective capabilities and builds ownership, responsiveness and resilience, and is discussed further in Chapters 4 and 5).

Numerous studies of entity performance have sought to identify the key facets of entity leadership, strategy, culture and management practice that contribute to high performance.²⁷ While each entity has different circumstances, many of the studies identify similar behaviours as driving sustained success (see Figure 3.1). These behaviours ('soft governance') are also central to the good governance of the entity when combined with appropriate structured arrangements and processes ('hard governance'). Accordingly, they may usefully inform senior managers in designing governance arrangements and pursuing management practices that support high performance. They also highlight the importance of relationships to staff motivation and empowerment, and to entity performance.

Figure 3.1: Behaviours which enable sustained performance success



Source: ANAO

27 For example, Blackman et al. (2013) argue that better integration of an entity’s human resources function into an entity’s performance management system can enhance the effectiveness of overall entity performance. D. Blackman, F. Buick, M. O’Donnell, J. O’Flynn and D. West, *The Role of Capability in Effective Performance Management*, Institute of Public Administration Australia (IPAA) 2013 National Conference, Canberra, 2013.

3.2 Plan for high performance

An entity that regularly and systematically addresses performance-related factors is more likely to be seen by staff, management and stakeholders as actively pursuing the achievement of government outcomes, and being credible and transparent. Such an entity also reinforces its governance structures and accountabilities through appropriate oversight of performance.

The essential features when planning for high performance are:

Effective corporate and business planning. Effective planning identifies key performance objectives and information for subsequent monitoring and reporting. It is particularly important that plans—down to and including each staff member’s performance agreement—are aligned and mutually supportive. This assists in generating a strong focus on the achievement of key objectives and reduces the scope for gaps in performance monitoring.

A clear and robust budgeting and financial planning system. Budgeting and financial planning should be overseen by an appropriately constituted and resourced finance committee or equivalent, or by the board of directors or executive committee itself. Both the financial and the non-financial aspects of the entity’s specified outcomes and programs should be addressed.

A structured and regular system of performance monitoring and reporting. Monitoring and reporting systems should be aligned with the entity’s outcomes and programs structure, and generate information that is appropriate for both internal performance management needs and external reporting requirements. The system should be capable of evolving to suit changing priorities when required. Performance monitoring and reporting should also provide assurance that relevant legislative, policy and ethical requirements are being met by the entity. As such, performance information should be signed off at a high level within an entity.

Consideration of whole-of-government and cross-entity issues in policy development and program delivery. Entities should ensure that sufficient focus is given to work undertaken with other government entities as part of the deliberations of key governance bodies, including through cross-entity committees. A balanced approach to assessing and reporting the entity’s overall performance considers its broad contributions in supporting government objectives and develops associated performance information.

Establish clear priorities and strong budget management approaches

At the entity level, the corporate planning process provides an opportunity to set priorities and to consider stakeholder needs and budgets. The corporate plan should give a high-level view of the entity’s objectives, major strategies and key activities to be undertaken in the short and longer terms.

Strategies and activities need to be developed with appropriate regard to the prevailing budgetary environment, and their delivery needs to be underpinned by strong budget management and the ability to adjust strategies and activities when policy and/or budget priorities change. By integrating the budget process with planning processes, entities are better positioned to determine budgets and allocate resources based on operational needs and consistent with approved strategies and priorities.

The PGPA Act will require all Commonwealth entities and Commonwealth companies, from 1 July 2015, to prepare a corporate plan.

Plan for effective program implementation

The essential preconditions for successful implementation include:

- ▶ considering implementation at every stage of policy development, program design and program delivery
- ▶ strong and ongoing leadership
- ▶ an inclusive and consultative approach
- ▶ sound processes and effective use of resources.²⁸

Many problems encountered during the implementation of programs can be alleviated through planning processes that include:

- ▶ inclusive engagement approaches designed to harness relevant skills and expertise from within the entity, the wider public sector and external stakeholders, as necessary to assist policy development and program design
- ▶ proper analysis, consideration and communication of risks
- ▶ early identification of key goals, milestones, resources and specific deliverables
- ▶ consideration of the degree of executive oversight required, including the use of steering committees or other regular monitoring mechanisms for major programs, projects and activities
- ▶ careful design of performance information to measure program effectiveness.

'Suitable performance management systems and processes require a significant investment in resources to establish and maintain quality data that supports effective measurement and reporting of performance information.'

Auditor-General for Australia, 2013²⁹

Early consideration of performance information needs, particularly in relation to program effectiveness, positions an entity to assess the impact of policy measures, adjust management approaches as required, and provide advice to government on the success, shortcomings and/or future directions of programs. This information also allows for informed decisions to be made on the allocation and use of public resources. The work of the ANAO has highlighted that more attention is required to develop performance information to effectively assess the extent to which expected policy outcomes are being achieved.

Well-governed entities typically demonstrate the alignment of their corporate plan and performance information with business and operational plans, risk plans and individual performance agreements. Such alignment aids performance monitoring and reporting by providing visible links between planned outcomes and actual performance, and will also contribute to the successful production of annual performance statements required under the PGPA Act.³⁰

28 For detailed guidance on the successful implementation of government initiatives, see ANAO Better Practice Guide—*Implementation of Programme and Policy Initiatives*. First released in 2006, an updated version is in development and is planned for publication in 2014. It will be made available on the ANAO website (www.anao.gov.au) in due course. See also ANAO Better Practice Guide—*Planning and Approving Projects – an Executive Perspective*, June 2010.

29 ANAO, Audit Report No.28, 2012–13, *The Australian Government Performance Measurement and Reporting Framework, Pilot Project to Audit Key Performance Indicators*.

30 Section 39 of the PGPA Act provides that the accountable authority of each government entity must prepare an annual performance statement as soon as practicable after the end of each reporting period and include a copy in the entity's annual report that is tabled in Parliament. The first performance statements will be required in respect of the 2015-16 financial year.

Effective performance monitoring is discussed in section 3.5 below, and performance reporting is discussed further in Chapter 4.

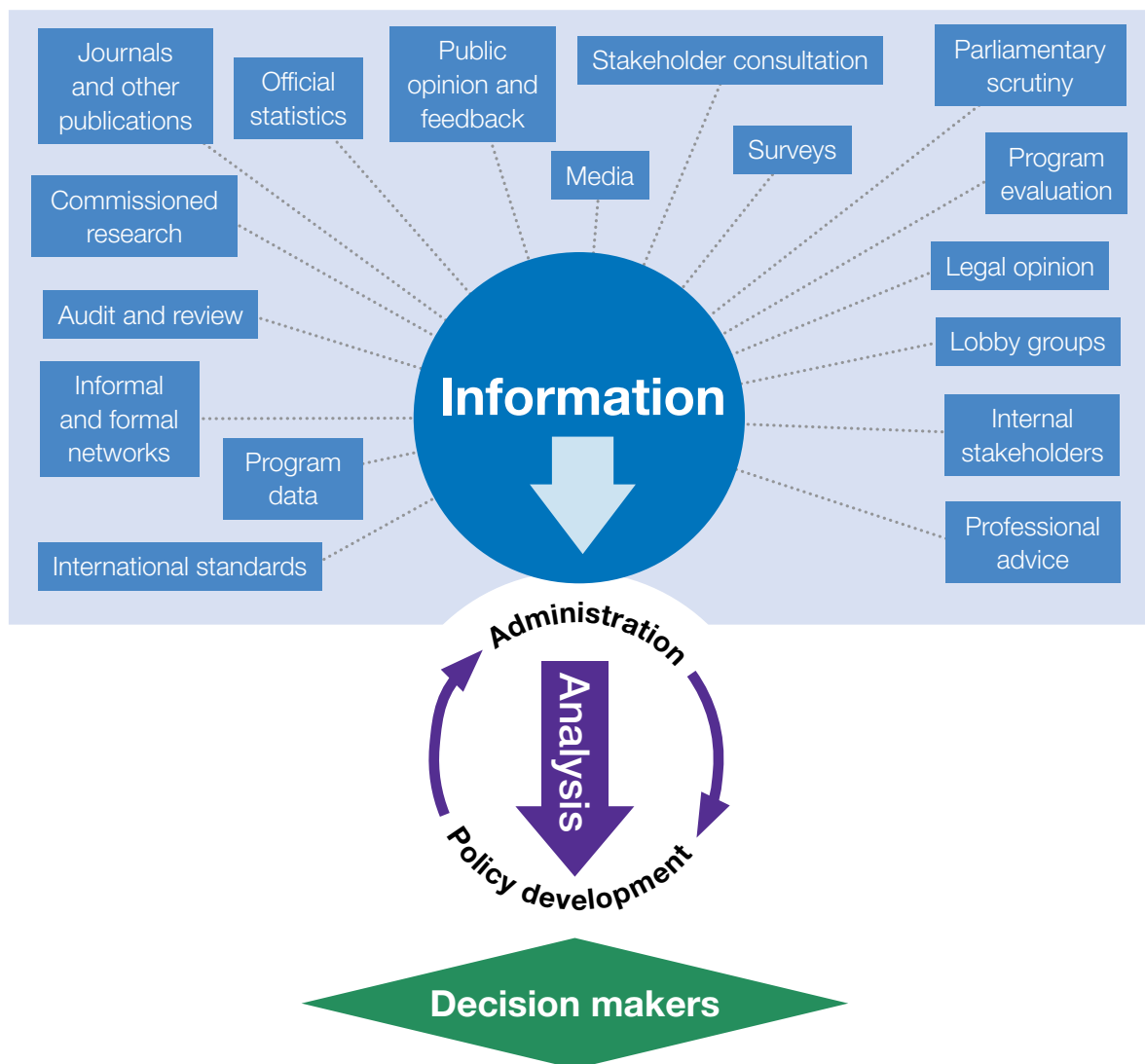
Use information and analysis to support design and decision-making

Information and analysis support the decision-making process, making it possible for officials to make well-informed, sound and defensible decisions. Information and analysis also inform entities about how best to effectively design programs and strategies; allocate scarce resources to mitigate program and service delivery risks; and provide assurance that key requirements are being met.

Information can be obtained from a wide range of sources, and access to the right information supports good decision-making. A strong understanding of available sources of information, and the quality of that information, can also shape interactions with stakeholders. Potential sources of information are illustrated in Figure 3.2. Analysis of useful information and intelligence can assist public sector entities to better understand risks, and differentiate treatment strategies according to the risk profile of different customers or clients.

Public access to, and analysis of, government-held data can also promote transparency and accountability, and opens up opportunities for new policy insights. This is discussed further in Chapter 4.

Figure 3.2: Potential sources of information



Source: ANAO.

3.3 Engage with risk

Public sector entities that successfully engage with, and strategically manage, risks are better able to respond to implementation challenges, and achieve more efficient and effective program and service delivery. Risks can present a mixture of uncertainty and opportunity; prudent risk taking can facilitate innovation and drive improvements in delivery.

Risk management often encourages a more outward-looking examination of the role of the entity, increasing stakeholder focus and placing a greater emphasis on outcomes, resourcing priorities and performance assessment in management decision-making. The approach an entity takes to risk management and innovation can significantly affect its planning and priority setting, program implementation and overall results, and is influenced by its context and mandate. Entity-wide understanding of the entity's risk posture, its risk management framework and the risk environment will facilitate the sound management of governance arrangements, programs and services. Risk awareness and support for innovation are also necessary to design and implement significant improvements in program and service delivery.

Accepting and managing risks

Risk management is the culture, processes and structures that are directed towards realising potential opportunities while managing potential adverse effects.³¹ The effective management of risks is central to public sector entities' achievement of government outcomes. Risk management informs entity strategy, program design and delivery, the allocation of scarce resources to areas of need, and responses to changes in government priorities and the environment. It also positions public sector entities to play their part in managing whole-of-government risks.

Formal responsibility for risk management ultimately lies with the accountable authority. However, all managers and staff have a responsibility to identify and manage risk, and better results are more likely to be achieved where ownership of risk identification and treatments is strong.

Good risk management practice includes:

- ▶ developing and communicating the entity's risk posture (that is, its appetite for risk) and its risk management culture
- ▶ governing boards and executive committees including in their deliberations the consideration of significant risks facing major programs, projects and activities and the entity as a whole
- ▶ the establishment by management of appropriate processes and practices to monitor and manage risks associated with the entity's programs, projects and activities
- ▶ regular analysis and review of risk management approaches.

For risk management to be effective, there should be an emphasis on ongoing actions and outcomes. Risk management is not just a paper-based exercise that occurs once a year; rather, it needs to be actively implemented, monitored and adjusted if required. This is because experience shows that changes to the severity of risks and the emergence of significant new risks are not always well managed by public sector entities.

Consideration of and engagement with risk is part of the entity's strategy and planning processes, and needs to be closely linked to its objectives. It is important to link risk plans with other governance documents and procedures, such as strategic or corporate planning, audit programs, human resources planning and communication strategies.

³¹ ASX Corporate Governance Council, *Corporate Governance Principles and Recommendations*, 2nd edition with 2010 amendments, 2010, p. 33.

Importantly, a purposeful engagement with risk ideally occurs at the same time as an initiative is designed so that there is greater connection between, and understanding, of the objectives of an initiative or program; the key risks to achieving those objectives; which risks will be accepted; and the steps that will be required to engage appropriately with risks identified as needing to be managed.

Develop the entity's risk posture and risk management culture

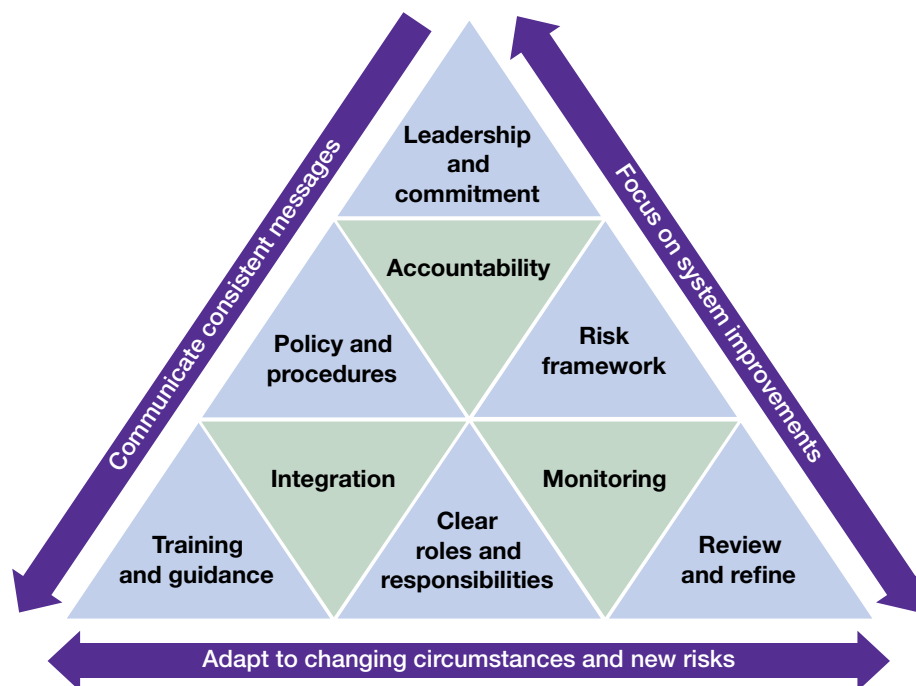
A fundamental, and often challenging, role for public sector leaders is to establish a strong risk management culture within their entities. Such a culture can be encouraged by communicating consistent messages about the importance of engaging with risk, incorporating risk management into all facets of the entity's governance and business practices, and taking actions that clearly demonstrate the entity's approach to managing risk. To position the entity for success, the entity's leaders need to articulate their risk appetite within the context of their operating environment. Each entity should develop its own risk tolerance based on its particular circumstances; a clearly communicated risk appetite, alongside and consistent with the entity's values, informs decisionmaking at all levels of the entity.

'For an institution's risk management framework, including its risk governance, to be effective, there must be a strong risk culture, which is consistent with the company's espoused values and its risk appetite.'

Ian Laughlin, member, Australian Prudential Regulatory Authority, 2013

Elements that contribute to a positive risk management culture are illustrated in Figure 3.3. Collectively, these elements establish an approach to risk management that allows for adaptation to changing circumstances and systematic improvement.

Figure 3.3: Elements that contribute to a positive risk management culture



Source: ANAO.

Assigning responsibility for each significant business risk to the most relevant senior managers reinforces the entity’s risk management culture and builds accountability for results. Giving risk management an explicit focus and maintaining up-to-date risk information can assist the consistent application of risk management across the entity, enable regular monitoring and review of risks, and contribute to corporate knowledge and broader understanding of the entity’s risks.³²

Involve governance bodies in risk management processes and practices

Managing risk is an explicit requirement under section 16 of the PGPA Act. The accountable authority (the chief executive or board of directors) has a duty to establish and maintain systems relating to risk oversight and control. This includes an appropriate system of risk oversight and management and an appropriate system of internal controls for the entity, which are likely to include:

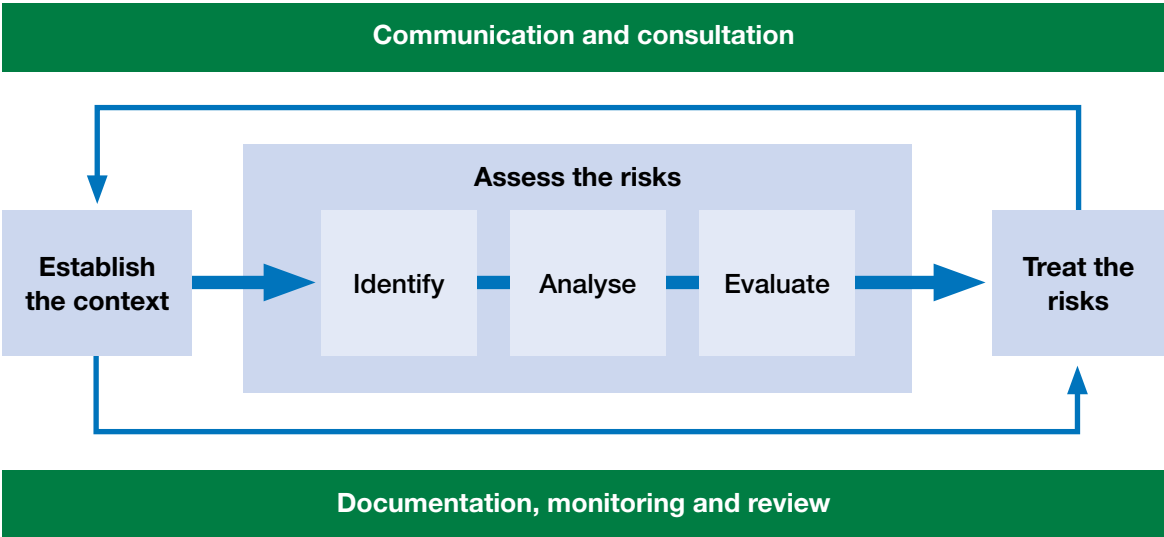
- ▶ the governing board and executive committees incorporating in their deliberations consideration of the risks facing the entity as a whole, and for major programs, projects and activities
- ▶ senior management support of appropriate processes and practices to manage risks associated with the entity’s operations.

Monitor and manage risks effectively

The Australian Standards for risk management provide principles and guidelines which can assist public sector entities to develop good risk management practices (Figure 3.4).³³

Public sector managers need to adapt or tailor risk management processes to their specific business situations, being cognisant that risk management is not a linear process. After considering internal and external priorities and risks, it is important to adjust the risk management effort according to the likelihood, consequences and nature of risks identified.

Figure 3.4: The risk management process



Source: Adapted from Australian Standards, AS/NZS/ISO 3100:2009 *Risk Management: Principles and Guidelines*, 2009.

32 Comcover, *Risk Management Better Practice Guide*, Department of Finance and Deregulation, Canberra, June 2008, p. 5. Note that, at the time of publication, this guide was under review.

33 Australian Standards, AS/NZS/ISO 3100:2009 *Risk Management: Principles and Guidelines*, 2009.

Ideally, risk management occurs across all levels of the entity and entails:

- ▶ managing existing risks
- ▶ monitoring for new risks
- ▶ reviewing the performance of all parts of the risk management process to facilitate continuous improvement.

In most cases, risk management will also require internal and external stakeholder consultation. Effective engagement with stakeholders is discussed further in Chapter 4.

Risk assessment can be approached as a three-step process of identifying, analysing and evaluating risks. Its ultimate aim is to focus the entity on significant risks and enable informed decisions to accept or mitigate risks, and to monitor and manage ongoing and emerging risks.

Identifying risks involves generating a list of risks that could have an impact on the entity's objectives, regardless of their source and whether the risk is within the control of the entity. This often requires thinking 'outside of the box' to avoid missing potential threats or opportunities. Identifying whether risks are immediate, medium or long term can assist in planning appropriate treatment, setting priorities and allocating resources. Recognition (and regular review) of longer term risks is important, even if the entity does not yet have the capability to address them.

To focus the assessment, it is helpful to categorise risks according to common types (Table 3.1). This may allow similar risk areas to be considered simultaneously and similar treatments or monitoring to be developed, as a means of consolidating resources and effort.

Table 3.1: Common types of risk

Type of risk	Description
Commercial	risks arising from commercial and contractual relationships
Compliance	risks to meeting legal and regulatory obligations
Financial and systems	risks with financial controls and systems
Operational	risks to core business activities
Delivery	risks to program, service and/or activity delivery
Outcome	risks to the achievement of an entity's government outcome/s
Reputational	risks to the entity's reputation, or to the reputation of the Australian Government as a whole
Strategic	risks to the entity's direction, external environment and the achievement of its plan
Technical	risks of managing assets

Note: This is not a definitive list. Common types of risk will vary between entities.

Source: Adapted by the ANAO from Auditor-General Victoria, *Managing Risk Across the Public Sector*, Melbourne, 2004, p. 3.

Examples of different risk analysis approaches are illustrated in Table 3.2.

Table 3.2: Examples of risk analysis

Examples of analysis approach	Examples of when the approach may be used
Historical review	May be useful in determining whether similar risks have led to problems in the past.
Past performance	Where data is retained, for example on the performance of contractors, it may be used to determine which firms have delivered sound value for money and therefore pose a lesser risk.
Financial assessment	To determine the financial viability of a project or business venture.
Stakeholder consultation or survey	May assist in understanding the potential impact or significance of a risk for the community.
International comparisons or benchmarking	May be used to gauge the success or failure experienced by other governments facing similar risks.
Client feedback	Official records of complaints are often used to determine areas of deficiency or risk in services to the community. At the same time, compliments can point to sound approaches.
Media search/alerts	A way of gauging public or political sensitivity to particular issues, and how it may affect programs or the public perception of government entities.

Source: ANAO.

Information obtained through risk analysis provides a basis for risk evaluation and subsequent decision-making about which risks can be accepted, which cannot be accepted and which risks can be accepted with risk treatments. Overlooking the significance of a particular risk can have severe consequences for an entity. Equally, over engineering a response to a low-level risk can be inefficient, add to regulatory burden and stifle innovation. Balance is important, and the proper level of executive oversight can be essential at this stage of the risk management process, particularly when the entity’s strategic risks and high-level planning are being considered.

Analysing the likelihood and consequences of risks enables managers to make informed decisions about which risks need treatment and their relative priorities. In many situations, a risk can fluctuate from a low to a higher risk profile as it is influenced by different environmental factors and events, which highlights the importance of the ongoing monitoring and evaluation of risks. Risk plans ideally link appropriate treatments (risk mitigation actions) to each situation and level of risk. As a matter of practicality, responses should be proportional to the risks they address. Every treatment has a cost, and the response should, wherever possible, offer value for money having regard to the risk it is mitigating.

It is important to consider risk management strategies early in the planning process. The strategies should reflect the characteristics of the specific program or activity and its desired outcome. It is essential to consider implementation timeframes and available skills and resources in this context. Where more than one entity is involved in program implementation, the interdependencies of each entity’s risks need to be carefully considered through an appropriate consultative process. Joint risk plans and strategies can be instrumental in avoiding costly mishaps.

Business continuity management is another important component of public sector governance and the entity’s overall approach to risk management.³⁴ For business continuity management to be effective it is important that entities design and implement controls that mitigate the likelihood that disruptive events will occur, along with controls that will operate once such an event has occurred.³⁵

Review and refine risk management approaches

Ongoing monitoring of current and emerging risks is an essential part of risk management. Risks can be transient or long term and may vary in significance and relevance in relation to other environmental factors over time. Entities can be better prepared to respond to changes in their risk profile and level of exposure by reviewing risk plans and strategies at regular intervals and when major events occur. Various audits undertaken by the ANAO have shown that this aspect of risk management requires closer attention by entities.

Keeping adequate records of risks supports monitoring activities, and also enables trend analysis and comparisons of risks over time. By regularly updating risk plans and risk protocols, all employees can be kept up to date on key risks facing the entity and any priority areas that the executive has defined.

A risk register can be a useful way to document actual or anticipated risks, including information about the likelihood, priorities and potential impacts of risks (Table 3.3). The information contained in registers may be particularly beneficial when considering the development of new programs and for strategic or contingency planning purposes.

Table 3.3: Example of a risk register template

Identified risk	Likelihood rating	Consequences rating	Potential impact	Level of risk (calculated from risk impact matrix)	Risk mitigation (risk reduction) measures and/or controls	Level of risk after mitigation	Risk owner/s	Priority rating	Date of last review

Source: ANAO.

34 For more guidance on business continuity management, refer to ANAO, *Better Practice Guide—Business Continuity Management: Building Resilience in Public Sector Entities*, June 2009, Canberra.

35 ANAO, *Better Practice Guide—Business Continuity Management*, June 2009, Canberra, pp. 1, 5.

3.4 Foster innovation and adaptation

Innovation is the application of new ideas to produce better outcomes. In the public sector context, it has been defined as the 'creation and implementation of new processes, products, services and methods of delivery which result in significant improvements in the efficiency, effectiveness or quality of outcomes'.³⁶ In many cases, the benefits of innovation can come from the wider application of a new approach beyond the entity in which it was developed, following adaptation for use elsewhere.

The fostering of innovation and adaptation, and how they are dealt with in relation to leadership styles, entity culture and risk management, are important considerations for chief executives, directors and senior executives. Risk management is fundamental to the innovation process as innovation necessarily involves a degree of risk taking. In this respect, risk avoidance is an impediment to innovation and to moving from the present to the future. Consideration of a range of options beyond a default or safe approach may increase the scope and range of risks but also increases the potential beneficial outcomes.

Innovation can only flourish and be sustained in the context of a culture that encourages, recognises and rewards new ideas and gives authority to translate those ideas into practice. An entity's leadership team has primary responsibility for setting the philosophy and culture of an organisation and putting in place the policies and procedures to facilitate innovation.³⁷ Avenues for staff to raise issues and suggest improvements should be accessible, and appropriate methods for assessing risks, costs and benefits need to be in place. Importantly, an outward-looking entity will be well positioned to identify opportunities for adopting and adapting developments from other fields into their own approach.

A program management approach may also be used to drive innovation, with specific oversight and coordination activities undertaken by a dedicated area or team.

The APSC identified perceived barriers to innovation as part of the 2013 APS employee census. These included resistance to change by leaders, perceived poor communication and lack of access to leaders, time and resource constraints, and red tape.³⁸ These perceptions reinforce the importance of entities encouraging innovation through risk awareness (rather than risk aversion) by responding constructively to difficulties that arise when implementing new approaches, and in the way they appraise and recognise the performance of individual staff members. Along these lines, some entities periodically request that staff bring forward innovative ideas or concepts, in order to select and implement the best of them and recognise and reward the staff who suggested them.

The ANAO's Better Practice Guide *Innovation in the Public Sector: Enabling better performance, driving new directions* is designed to encourage and facilitate an innovative culture in the APS and the public sector more generally. It provides a framework for understanding the processes that underpin innovation in the public sector, contains practical insights and resources for practitioners, and discusses how to best pursue innovation alongside risk awareness.

36 Mulgan, G, and Albury, D, *Innovation in the Public Sector*, Cabinet Office Strategy Unit, United Kingdom Cabinet Office, 2003, cited in ANAO, *Better Practice Guide—Innovation in the Public Sector: Enabling Better Performance, Driving New Directions*, December 2009, Canberra, p.1.

37 ANAO, *Better Practice Guide—Innovation in the Public Sector: Enabling Better Performance, Driving New Directions*, December 2009, Canberra. p.9.

38 APSC, *State of the Service 2012-13*, Canberra, pp. 220-222.

3.5 Effectively monitor performance

Ongoing performance monitoring and reporting provide visibility of public sector activities so that an entity's executive and stakeholders can view performance against planned outcomes, as well as against legal, policy and ethical requirements. A clear understanding of entity performance underpins continuous improvement and can inform beneficial changes in the design and delivery of programs and services.

Achieving such an understanding relies on clear delineation of responsibilities and roles, and on having robust structures in place as part of the entity's governance arrangements to measure and assess outcomes and report on these. Regular evaluation and review of the effectiveness of governance, programs and services also assists entities to make the best use of resources and provides assurance to stakeholders.

Develop appropriate performance information

Performance information informs entities and government about the performance of programs, including their impact and cost-effectiveness, and signal opportunities for improvements. The PGPA Act requires entities to prepare an annual performance statement, which outlines the entity's progress in achieving its purposes, and include this in the entity's annual report to Parliament.³⁹

Focused and clear statements of expected outcomes and well-defined program objectives are important for measuring program effectiveness. Many outcomes, particularly in social or health policy, can only be achieved over the longer term. In such circumstances, it may be necessary to develop intermediate objectives that demonstrate progress towards the program's overall objective.

'An example of a long-term outcome would be improvement in the overall health of the population. To report against this long-term outcome, multi-year targets that focus on the achievement of intermediate objectives, such as implementation of programs encouraging healthier lifestyle choices, may be used. These intermediate objectives collectively contribute to the achievement of the overall outcome over the longer-term.'

Auditor-General for Australia, 2013⁴⁰

In many cases it will not be efficient or effective to develop indicators for all aspects of performance; in these situations a smaller set of key performance indicators should be developed to enable cost-effective program monitoring and the production of relevant management information. The principles and approaches underpinning the development of key performance indicators for parliamentary reporting can also be applied to most aspects of an entity's internal operations.

³⁹ This requirement commences for reporting in respect of the 2015-16 financial year.

⁴⁰ ANAO, Audit Report No.28, 2012-13, *The Australian Government Performance Measurement and Reporting Framework, Pilot Project to Audit Key Performance Indicators*, p. 44.

Criteria for evaluating key performance indicators

As part of a pilot project conducted over the period 2011-12 and 2012-13, the ANAO developed criteria to evaluate the appropriateness of key performance indicators used by entities to report to Parliament (Table 3.4). The principles underlying these criteria can be applied by entities to strengthen performance information, report transparently on performance and identify areas for improvement.

Table 3.4: Criteria for evaluating the appropriateness of key performance indicators

	Criteria	Characteristics ^a	Explanation
Individual assessment ^b	Relevant <i>Relevant KPIs contribute to conclusions that assist users' decision-making.</i>	Focused <i>The KPI should address a significant facet/s of the program objective.</i>	The KPI should assist significantly in informing whether the program objective is being achieved.
		Understandable <i>The KPI should provide sufficient information in a clear and concise manner.</i>	The KPI should be stated in plain English and signal the impacts of program activities to inform users.
	Reliable <i>Reliable KPIs allow for reasonably consistent assessment of a program.</i>	Measurable <i>The KPI should be quantified (allowing for results to show trends when measured over time).</i>	The KPI should be capable of being measured to demonstrate the performance of the program.
		Free from bias <i>The KPI should be free from bias and, where possible, benchmarked against similar activities.</i>	The KPI should allow for clear interpretation of results.
Overall assessment	Complete <i>A set of KPIs allows for the overall assessment of a program to inform users' decision-making.</i>	Balanced <i>The set of KPIs should provide a balanced examination of the overall performance story, both quantitatively and qualitatively.^c</i>	The set of KPIs should provide an overall picture of the impact of a program on the target group/s.
		Collective <i>The set of KPIs should be representative of the program objective.</i>	The set of KPIs should demonstrate the extent of achievement against the program objective.

a The table design reflects the relationship between the criteria and the primary characteristics; however, these characteristics may be attributable to more than one criterion.

b Entities should include, for KPIs, an indication of the desired level of achievement (the target) and an expected timeframe.

c Quantitative data expresses a certain quantity, amount or range, and is usually associated with some form of measurement unit. Qualitative data describes attributes or properties, which may be categorised into classes and assigned numeric values. For example, as a measure of the effectiveness of a program in achieving its objectives, where the program objective is to find and retain jobs for unemployed Australians, a quantitative measure could be the number of job seekers who are employed following participation in an employment service; a qualitative measure could be the number, or percentage, of job seekers satisfied with the service provided.

Source: ANAO Audit Report No.28, 2012-13, *The Australian Government Performance Measurement and Reporting Framework*, Pilot Project to Audit Key Performance Indicators, p. 63.

3.6 Facilitate evaluation and review

Evaluation and review enable an entity to identify strengths, learn lessons, and maintain and improve its capacity to serve government and the community over time. A key focus of evaluation and review is to assess the impact of government policies and activities, which assists government decision-making and priority setting and contributes to improved accountability for results.

Evaluation and review activities may be internally or externally driven. Prominent examples of entity-led activities are internal audits and program evaluations.

‘Program evaluation . . . is of considerable value to entity managers, external decision-makers and other stakeholders. It is also a critical tool in assessing performance and in this way contributes to sound management practice.’

Secretary of the Department of Finance and Deregulation, 2011

Examples of external reviews are parliamentary committee inquiries, the Auditor-General’s financial and performance audits, and the Commonwealth Ombudsman’s investigations into complaints made by people who consider they have been treated unfairly or unreasonably by an Australian Government entity. The government also instigates evaluations, reviews and inquiries to address specific issues of concern and inform major changes in program design and delivery.

For cross-entity, whole-of-government and cross-sectoral initiatives, appropriate review, program evaluation and audit mechanisms are of particular importance.⁴¹ In such situations, multiple entities may be seeking to address a complex problem through a range of strategies. Thorough evaluation and review are likely to be necessary to ascertain the quality of government interactions and the impact of government activities and to inform policy advice. Well-governed entities exhibit an openness to learn and a willingness to consider external perspectives.

Plan for program evaluation and review

The general approach taken by the entity to evaluation and review strongly influences the conduct and outcome of those activities. Key governance considerations include:

- ▶ planning for evaluation from the outset of major programs, projects and activities, including by identifying objectives, timeframes, resources, baseline data and required performance information (or proxy data where necessary)
- ▶ aligning internal review activities with external requirements to reduce reworking of similar material, and establishing internal arrangements on the basis of broader standards and expectations⁴²
- ▶ treating and preparing for external scrutiny as integral to the entity performing its role as part of government, rather than as something that happens ‘to’ the entity⁴³

41 M Edwards, “‘Shared Accountability’ in service delivery: concepts, principles and the Australian experience” in *A UN/INTOSAI Joint Project: Collection of Important Literature on Strengthening Capacities of Supreme Audit Institutions on the Fight Against Corruption*, United Nations, 2013.

42 A well-governed entity will, for example, ensure that its internal audit plans and activities are coordinated with the requirements and plans of the external auditor, including through inviting a representative of the ANAO to participate in the audit committee as an observer. ANAO, *Better Practice Guide—Public Sector Audit Committees: Independent Assurance and Advice for Chief Executives and Boards*, August 2011, Canberra.

43 In practical terms, this means that well-governed entities seek to ensure that parliamentary scrutiny, for example, is aided by the way programs are designed, managed and monitored.

- ▶ assigning responsibility for implementing the recommendations of evaluations and reviews to the appropriate business area of the entity, including identifying the responsible senior executive and establishing an agreed timeframe within which action should be taken.

The entity should also closely monitor the status of management's implementation of recommendations made in reviews, as discussed further in section 3.7.

Evaluate governance arrangements and practices

It is also important for entities to periodically evaluate and review governance arrangements and practices and performance. This can aid the learning process, leading to improvements and adjustments to changed circumstances that allow the entity and its board and/or committees to meet new challenges successfully.

Governance evaluations or reviews may be scheduled well in advance, such as the review of a committee's membership after a specified time, or may need to happen quickly in response to machinery of government changes or a change in policy priorities.

Planning for evaluation or review of governance arrangements should consider the following points:

Timing: As a general rule, ongoing monitoring can help to maintain governance arrangements and practices that are fit for purpose, supported by periodic detailed review. Such a review can be scheduled or can also occur whenever there is a significant event affecting the entity's responsibilities (for example, major changes in legislation or relevant recommendations from an external body such as a parliamentary committee or the Auditor-General).

Internal versus external review: An internal review, in which the board of directors and/or senior executives initiate an assessment of the entity's governance arrangements and practices, may be sufficient, keeping in mind the need for adequate separation of duties and any risk of conflict of interest. More formal, externally facilitated reviews, such as the Australian Public Service Commission's capability reviews can provide benchmark information for comparisons over time, other entities and incorporate a stakeholder perspective. While external reviews can offer an independent and impartial view, they can be costly and should be entered into after sufficient planning and consideration of expected benefits and costs.

Scope: A governance review can extend across the full range of an entity's committees, consultative forums and their relationships. It may be limited to a regular performance assessment of the board of directors or executive committee, or it may involve multiple entities responsible for a program or programs. It is important, in these instances, to cover both performance issues (such as the quality of decision-making, the conduct of meetings and the effectiveness of communications of decisions) and accountability aspects (such as adherence to legal requirements).

Evaluations, reviews and audits of governance arrangements, programs and administration often identify areas where improvements can be made.⁴⁴ Incorporating review as a normal management approach can assist an entity in achieving a performance orientation.

⁴⁴ Review activities may be internal or external. Examples include internal audits, program evaluations, ANAO performance audits and parliamentary committee reviews, including reviews by the Joint Committee of Public Accounts and Audit.

3.7 Drive continuous improvement by implementing agreed recommendations from reviews

Responsibility for implementing review recommendations should be clearly assigned to the relevant business or program management area of the entity. The entity should also document intended implementation actions, timelines and associated responsibilities to guide subsequent reporting on implementation.

A better practice approach in implementing recommendations also recognises that the general principles applying to the implementation of program and policy initiatives—such as planning, stakeholder management, monitoring and review—have direct relevance to the implementation of recommendations. ANAO performance audits have shown that not all entities have had effective approaches in place to implement audit recommendations. Where implementation has been more successful, key factors have included having a higher level of management sign off on the implementation approach, expectations on timeliness and whether satisfactory implementation has occurred, as well as well-developed systems for monitoring implementation.⁴⁵ The key elements of a better practice approach to implementing recommendations are outlined in Table 3.5.

Table 3.5: Elements of better practice in implementing recommendations

Process considerations	Roles and responsibilities ^a
<p>A clear process for:</p> <ul style="list-style-type: none"> ▶ assigning responsibility ▶ monitoring progress against timelines ▶ reporting ▶ follow-up and escalation ▶ closure. 	<p>A clear allocation of roles and responsibilities at each stage in the process between the:</p> <ul style="list-style-type: none"> ▶ senior responsible officer ▶ group/line area leadership ▶ audit committee^b ▶ internal audit unit^b ▶ chief executive.
Key features of effective implementation	
<ul style="list-style-type: none"> ▶ Identification of challenges ▶ Governance ▶ Risk management ▶ Planning 	<ul style="list-style-type: none"> ▶ Stakeholder management ▶ Resourcing ▶ Communication ▶ Monitoring and review

a The roles and responsibilities of stakeholders may vary depending on the stage in the implementation process.

b Governance and oversight of an entity's response to audit recommendations will generally involve the entity's audit committee, supported by the entity's internal audit function.

Source: ANAO Audit Report No.25, 2012–13, *Defence's Implementation of Audit Recommendations*, pp. 9, 10; ANAO Audit Report No. 53, 2012–13, *Agencies' Implementation of Performance Audit Recommendations*.

⁴⁵ The key principles are drawn from the ANAO and the Department of the Prime Minister and Cabinet, *Better Practice Guide—Implementation of Programme and Policy Initiatives: Making Implementation Matter*, October 2006, Canberra. The better practice guide emphasises the importance of leadership and effective support in the implementation process, and contains a number of checklists to assess chief executives. The checklists have more general applicability for implementation activities. See also ANAO Audit Report No.25, 2012–13, *Defence's Implementation of Audit Recommendations*, pp. 9, 10; ANAO Audit Report No. 53, 2012–13, *Agencies' Implementation of Performance Audit Recommendations*.

In addition to evaluation, review and audit activity specific to a single entity, recommendations made in the ANAO's cross-entity performance audits are often applicable to entities not subject to the audit. Many of these audits involve a commonly performed function, such as procurement. While entities not subject to cross-entity audits do not explicitly agree to implement the relevant recommendations, it is sound practice to consider the recommendations and implement them as appropriate. In this respect there is value in developing procedures for assessing the relevance of recommendations from ANAO cross-entity audits and for subsequent monitoring of their implementation.

Similarly, capability reviews, such as those conducted by the APSC, are another opportunity for public sector entities to review their capability in key areas of leadership, strategy and delivery, and to identify opportunities for improvements to better meet future objectives and challenges. In capability reviews conducted between 2011 and 2013, the APSC has highlighted strong leadership capacity as being central to entity performance, but has also found that translating entity strategy into actions and outcomes remains an area for improvement.⁴⁶

Self-assessment checklist: optimising entity performance

This self-assessment checklist has been designed to guide entities in achieving better practice when striving to optimise performance. The list is principles based and is not exhaustive, but provides a foundation from which to strengthen an entity's performance orientation.

Performance orientation: self-assessment		In place
Performance optimisation		
1	The entity's leaders model and promote behaviours which contribute to sustained performance success, including ethical behaviour, an action orientation, superior client focus, and a commitment to quality outcomes.	<input type="checkbox"/>
2	The strategic (or corporate) plan gives a high-level view of the organisation's objectives, major strategies and key activities to be undertaken in the short and longer terms.	<input type="checkbox"/>
3	The corporate plan is aligned with business and operational plans, risk plans and individual performance agreements and incorporates relevant performance information.	<input type="checkbox"/>
4	The entity makes use of a wide variety of information sources and analysis to support decision-making and strategic planning.	<input type="checkbox"/>
5	Responsibilities and delegations are clearly articulated, with individual staff appropriately informed about the authority they have to make and enact decisions.	<input type="checkbox"/>

⁴⁶ APSC, *State of the Service 2012–13*, Canberra, 2013, pp. 206 – 211.

Performance orientation: self-assessment		In place
Risk management and innovation		
6	The entity's leadership has articulated the entity's risk posture—that is, its appetite for risk in light of its operating context—and communicated this to officials who are responsible for developing and actioning specific risk monitoring and management strategies.	<input type="checkbox"/>
7	The governing board or executive committee includes in its deliberations consideration of significant risks facing major programs, projects and activities and the organisation as a whole and actively considers how the entity will engage with risk.	<input type="checkbox"/>
8	Strategic and operational risks are identified, analysed, treated, monitored and communicated, with an emphasis on ongoing actions and outcomes.	<input type="checkbox"/>
9	Innovation is fostered through avenues for staff to suggest improvements, with appropriate methods in place to assess the risks, costs and benefits of these suggestions.	<input type="checkbox"/>
Performance monitoring		
10	A structured and regular system of performance monitoring and reporting is in place, is aligned with the entity's outcomes and programs structure, and generates information that is appropriate for internal performance management and external reporting.	<input type="checkbox"/>
11	The entity invests in performance measurement to build its capacity to identify implementation issues, respond to challenges and changing circumstances, and pursue improvements in program and service delivery.	<input type="checkbox"/>
Evaluation, review and continuous improvement		
12	An evaluation of significant programs is conducted over time, to assess whether the intended objectives are being achieved and to identify any opportunities for improvement in policy design and service delivery.	<input type="checkbox"/>
13	Responsibility for the implementation of the recommendations of evaluations and reviews is assigned to the appropriate business area of the organisation, and arrangements are in place to monitor the status of management's implementation of the recommendations.	<input type="checkbox"/>
14	The chief executive, governing board and/or committees periodically evaluate and review governance arrangements and practices, including their own roles and performance.	<input type="checkbox"/>

4 Openness, transparency and integrity

The following key steps will assist an entity in achieving appropriate openness, transparency and integrity in their operations:

- ▶ Understand the interests and expectations of stakeholders
- ▶ Strengthen the contribution of stakeholders
- ▶ Engage effectively with stakeholders
- ▶ Facilitate information sharing
- ▶ Actively manage conflicts of interest
- ▶ Report clearly on performance and operations

4.1 Introduction

Appropriate levels of openness and transparency are important elements of contemporary governance approaches which enable stakeholders to have confidence in public sector decisionmaking processes and actions. Engaging proactively with citizens helps public sector entities to prioritise and focus their activities and build a genuine understanding of how their performance is viewed. Appropriate levels of transparency and openness also encourage behaviours that stand up to public scrutiny and help to ensure community confidence in public sector decision-making processes and actions. Building this confidence requires meaningful consultation with stakeholders and consistent communication of reliable information, having regard to charter responsibilities, privacy obligations and other legal and policy requirements. It also requires sound information and records management practices.

Constructive stakeholder relationships, together with suitable information and analysis to support decision-making and resource allocation, position an entity to set appropriate priorities, make informed decisions and develop well-targeted programs and services. Many stakeholders are willing to contribute expertise and resources in providing advice to assist the design and delivery of programs and services.

The nature and quality of relationships between a public sector entity and its stakeholders strongly influence the impact of government activities on the community. A public sector entity should be outward looking and interactive. It should make the best use of the expertise of stakeholders to inform policy development and implementation approaches and to improve governance and operational aspects of the entity. An entity which elicits the active participation of stakeholders in government activities also harnesses collective capabilities and builds ownership, responsiveness and resilience in the community.

A strong focus on integrity and accountability also assists an entity to build government and community trust. Accountability is the process by which public sector entities, and the individuals within them, are held responsible for their overall results, decisions and actions and how they are subject to external scrutiny. Accountability is supported by all parties having a clear understanding of responsibilities and roles and by the entity having robust structures in place to report on responsibilities and results—extending beyond the efficient and effective implementation of programs and services to include integrity, probity and ethics.

4.2 Understand the interests and expectations of stakeholders

By their very nature, the operations of public sector entities attract the interest of a wide range of stakeholders—those individuals or groups who influence, or are affected by, public sector policies and decisions. There are also increasing expectations for the wider engagement and contribution of citizens in developing public policy, which can assist in the design of programs and in building resilience in communities.

A key function of public sector governance is to identify and engage with stakeholders through appropriate information, consultation and engagement mechanisms. The establishment of suitable links with stakeholders is often vital to inform the development, ongoing suitability and performance of public sector policies, programs and services, and to facilitate potential contributions by stakeholders.

In many circumstances, different individuals or groups have disparate interests and expectations. Managing these situations is important; governance practice should ensure that the legitimate interests of all relevant stakeholders are duly considered to inform policy design and enable better outcomes for the community.

Stakeholders include external stakeholders (those outside the entity) and internal stakeholders (within the entity). This chapter focuses primarily on external stakeholders, who can include other public sector entities, state or territory governments, the private sector and industry bodies, the not-for-profit sector, professional societies, educational institutions, consumer and lobby groups, and all those who have a relevant interest in the activity of the entity—including private citizens.

‘Australia needs to rebuild and rearticulate the structures of democratic governance, recognising that it requires greater collaboration between the public sector (on the one hand) and the private and community sectors (on the other). New forms of partnership are required to provide public benefit in unexpected ways and, in the process, to revitalize participatory engagement of citizens in the life of the nation.’

Professor Peter Shergold, 2012⁴⁷

Interaction with external stakeholders can occur regularly through a consultative forum with membership from across a spectrum of stakeholders. Other common and useful mechanisms to elicit stakeholder views include focus groups, surveys and public comment on draft government policies and processes. In all cases, the method used to inform, consult or engage stakeholders should fit the particular circumstances and need, and provide a genuine opportunity for stakeholders to exert influence.

Ultimately, it is the responsibility of an entity’s executive to foster a culture of consultation and engagement with stakeholders. The enabling legislation of some entities includes requirements to interact with stakeholders.

⁴⁷ P Shergold, ‘My Hopes for a Public Service for the Future’, *Australian Journal of Public Administration*, 72(1), p. 9, April 2013.

4.3 Strengthen the contribution of stakeholders

Relationships between public sector entities and stakeholders have traditionally involved consultation in developing programs and services and obtaining stakeholder feedback on performance. In the pursuit of greater efficiency, there has also been substantial growth in the delivery of government programs and services by third parties (including the not-for-profit sector) under contractual arrangements. More recently, many government programs have been delivered through whole-of-government or cross-entity arrangements and in partnership with other governments and entities.

Building on these developments, there is growing recognition among public sector entities of the benefits in expanding the service options available to citizens, better enabling stakeholders to contribute ideas and innovate, and devolving decision-making to levels closer to the beneficiaries of programs and services.

Governance strategies to strengthen the contribution of stakeholders and improve outcomes include:

- ▶ more expansive cross-sectoral collaboration to enhance diversity in service delivery and provide greater choice for citizens
- ▶ placing emphasis on the results achieved by third-party service providers, with a corresponding reduction in emphasis on their processes (contractual and performance monitoring arrangements directed towards third parties accruing benefits and bearing costs based on their level of performance create a greater incentive for those entities to innovate)
- ▶ greater transparency in the presentation of information on different service options and their performance to enable citizens to make well-informed choices about the services they need
- ▶ governance arrangements which allow external service delivery entities and local communities to have a greater say in the design, delivery and oversight of government programs and services.

Benefits of stronger stakeholder contributions

Such approaches to governance and stakeholder relationships enable an entity, and government, to stay in tune with changing public expectations, with positive consequences. The active participation of stakeholders in the development, implementation and oversight of government programs also builds the capacity of government to anticipate and respond to emerging issues and to develop practical and emergent solutions to complex problems.

A further benefit is that it builds resilience in the community and individuals by encouraging self-reliance and adaptation in changing circumstances, with government facilitating stronger outcomes for communities.

4.4 Engage effectively with stakeholders

Effective leadership and the application of good relationship management skills are necessary to develop beneficial relationships with stakeholders. The leaders of a public sector entity have a pivotal role in promoting and supporting relationships with external and internal stakeholders. Leaders should encourage a culture of genuine engagement and collaboration and establish the right systems, procedures and guidance for stakeholder interaction—consistent with the PGPA Act requirement for the accountable authority of an entity to encourage entity officials to work cooperatively with others in the pursuit of common objectives.⁴⁸

⁴⁸ PGPA Act Section 17.

If carried out effectively, stakeholder interaction will usefully contribute to the following:

- ▶ **Forecasting significant issues.** Stakeholder interaction helps to identify emerging trends and major issues that inform policy and program design, corporate planning and priority setting.
- ▶ **Managing risks and opportunities.** Gaining an external perspective can alert the entity to the existence and relative importance of risks and identify opportunities for governance, program or system refinements.
- ▶ **Setting goals.** Stakeholder consultation is essential for identifying and assessing needs, so that goals are more meaningful and appropriately targeted and timed.
- ▶ **Monitoring and assessing performance.** An awareness of the perspectives and experiences of customers, other public sector entities or other service providers can strengthen performance monitoring and assessment.
- ▶ **Informing decision-making.** Stakeholders, particularly professional, industry or advocacy groups, can contribute to the knowledge base which supports decisions and practices within a public sector entity.
- ▶ **Increasing operational effectiveness.** The analysis of stakeholder feedback (for example, surveys and help-lines) on government programs and processes can facilitate policy and operational improvements.
- ▶ **Developing a culture of innovation and learning.** Collaborating with stakeholders can foster a culture of innovation in which new perspectives and ideas are valued.
- ▶ **Facilitating mutually beneficial relationships.** Directly interacting with stakeholders can improve community services and encourage buy-in. It can also reduce costs (for example, stakeholders may help to identify program risks or inefficiencies).
- ▶ **Simplifying conflict resolution.** Building trust and clearly outlining for stakeholders what can and cannot be achieved should minimise the frequency and severity of problems and simplify conflict resolution.

Public sector leaders should also ensure that managers and staff are provided with appropriate training and opportunities to develop the skills needed to build and maintain stakeholder relationships. While policy advice, service provision and contract management remain important skills for many public servants, there is also growing emphasis on facilitation, coordination and negotiation skills.

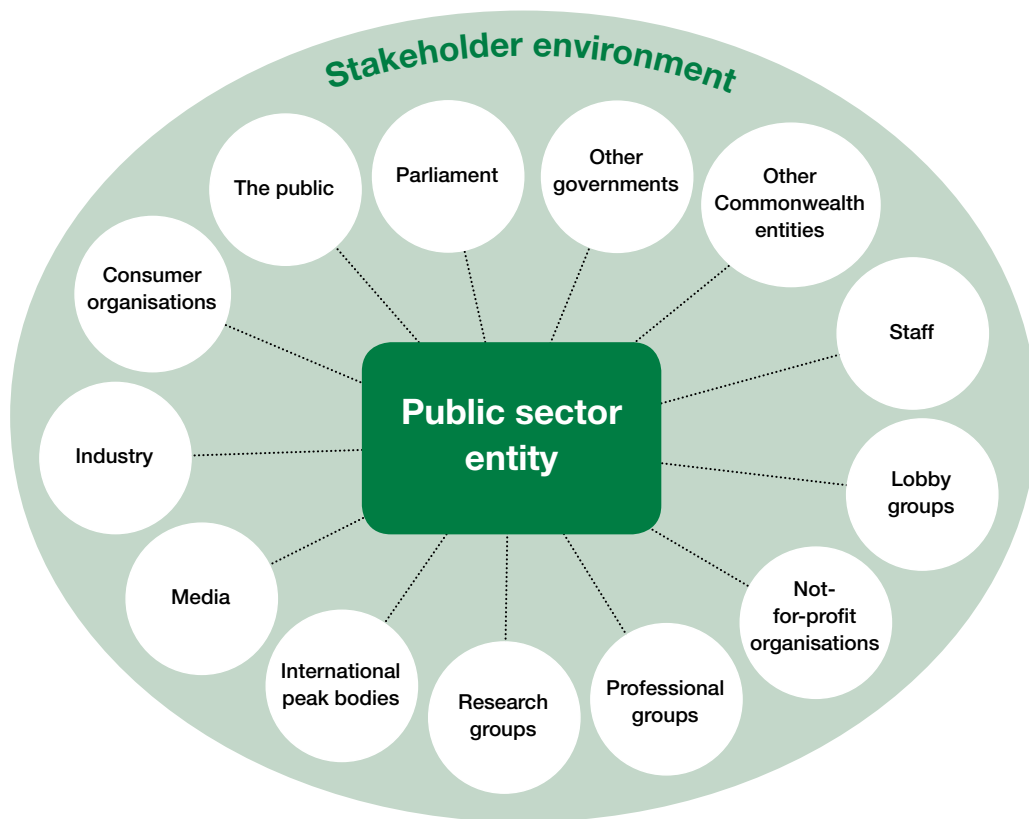
A structured approach to stakeholder engagement identifies different stakeholders and their relationship to the entity and the programs it administers, develops appropriate strategies to interact with the stakeholders and makes use of available technologies.

49 Adapted from S Smith, 'Navigating the Stakeholder Relations Continuum', in *Leading Perspectives*, Business for Social Responsibility, San Francisco, USA, 2004, p. 7.

Identify stakeholders and their relationship to the entity

Stakeholder engagement should be well planned and conducted in a respectful manner. Importantly, the most vocal individuals or groups might not represent the majority view or be focused on the most significant issues. To achieve a balanced process, it is essential that relevant key stakeholders are properly identified and fairly represented. As a first step, each entity must determine the best way to identify its key stakeholders and ascertain the nature and extent of the engagement required (Figure 4.1).

Figure 4.1: Identifying stakeholders



Source: ANAO

Up-to-date information about key stakeholders (including their main interests or expertise and relevant issues or sensitivities) can greatly assist in shaping communication and stakeholder interaction activities, and is an important factor in corporate, business and risk planning.

A structured approach to stakeholder relationships is more likely to realise benefits, mitigate risks and sustain relationships. For key stakeholders, a planned approach with clear objectives, issues analysis, milestones and performance measures may be developed to aid coordination and oversight. It is also important that stakeholders are given sufficient time to be able to consider the matters subject to consultation and for the responsible entity to devote the time required to analyse responses received.

Develop strategies for stakeholder engagement

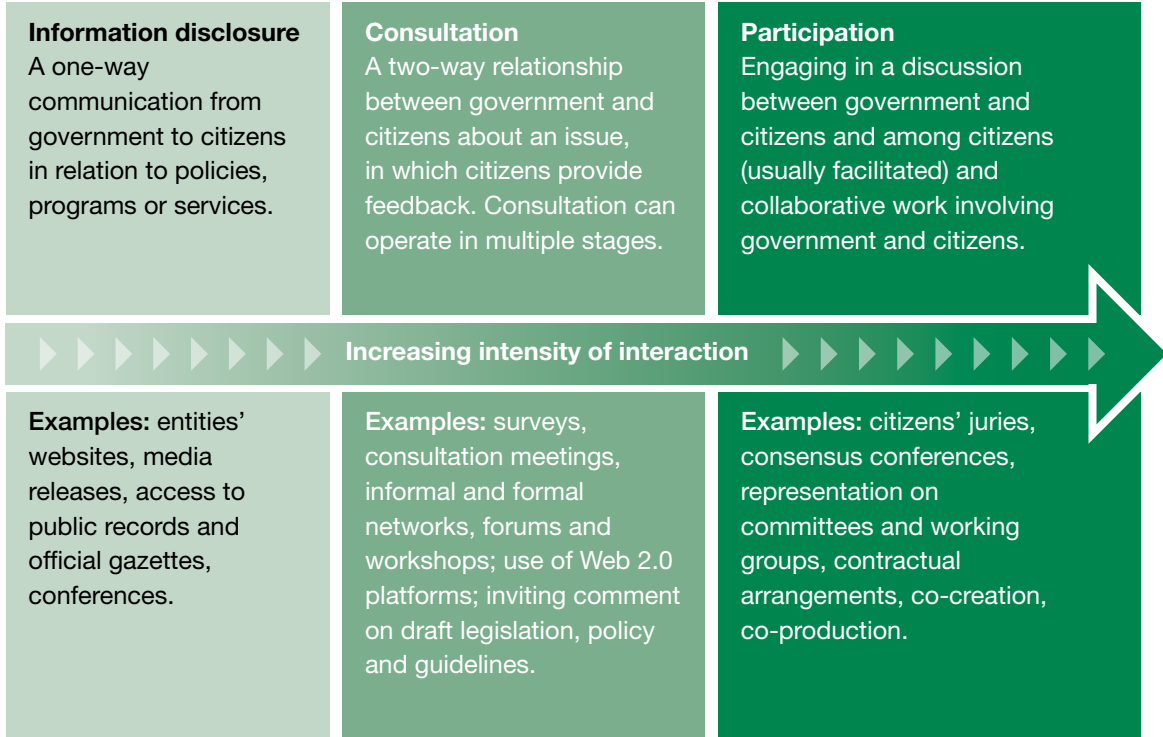
As individuals or groups, stakeholders can take different approaches in order to present diverse, and sometimes conflicting, interests and concerns. Reflecting their interests, many stakeholders are willing to actively collaborate with public sector entities. Consequently, governance arrangements and practices that incorporate an appropriate range of mechanisms will better position the entity to engage with key stakeholders effectively.

For most public sector entities, stakeholder engagement is likely to occur on different levels, depending on the circumstances (Figure 4.2). The approach taken should be tailored to the purpose of the exercise, the resources and time available, and the type of participants involved.

Risk management perspectives can also inform the nature and extent of stakeholder engagement and guide ongoing stakeholder relationships. Risk planning applies a systematic approach in considering the risks and benefits of stakeholder involvement, as well as the risks associated with inadequate engagement. Important parameters to guide analysis and decision-making are:

- ▶ the reason for stakeholder engagement
- ▶ the stage/s in the policy or delivery process when engagement should occur
- ▶ with whom the engagement should occur
- ▶ the level and method of engagement required.

Figure 4.2: Levels of stakeholder engagement



Source: Developed by ANAO, informed by D. Golubovic, 'An enabling framework for citizen participation in public policy: an outline of some of the major issues involved', *The International Journal of Not-for-Profit Law*, 12(4), 2010, and based on OECD, *Citizens as Partners: Information, Consultation and Public Participation in Policy-Making*, OECD, Paris, 2001, pp. 23–24, 28.

In recent times, with the growing recognition of the benefits of stakeholder participation, greater emphasis has been placed on effectively involving stakeholders in the design of services (co-design or co-creation) and co-production. Co-creation between public sector entities and stakeholders 'involves a methodological process of working directly with people in designing, developing, testing and experimenting with potential solutions'.⁵⁰ Co-production involves 'the shared and reciprocal activities of people and public entities to produce results of public value'.⁵¹

50 Bourgon, J, *A New Synthesis of Public Administration*, p. 110.

51 *ibid* p. 114; For further discussion of related matters, see L Briggs, 'Co-design: Toward a New Service Vision of Australia?', *Public Administration Today*, January–March 2011, pp. 35–47.

4.5 Facilitate information sharing

In 2010, the Australian Government declared that ‘it is committed to open government based on a culture of engagement, built on better access to and use of government held information, and sustained by the innovative use of technology.’⁵²

Communication technologies open up new opportunities for information sharing, consultation and collaboration between governments and stakeholders, while presenting a challenge to governments to use them effectively. Many Australian Government entities are using Web 2.0⁵³ tools in communicating, consulting and engaging with stakeholders, including social media applications, web-based seminars (webinars) and online forums.

Governance considerations for the use of such technology include:

- ▶ leaders promoting the use of the technologies and an innovative culture
- ▶ determining the right span of control over online interactions (approaches may include accrediting or authorising entity representatives or using centrally based online forums to improve monitoring and control)
- ▶ applying the expertise of legal, privacy and ICT security areas in guiding the use of the technology by business areas
- ▶ the development of a social media policy to guide employees on how to behave appropriately online⁵⁴ (in participating in online discussions, whether in a work capacity or as private citizens, APS employees need to be mindful of the APS Values and Code of Conduct⁵⁵)
- ▶ reviewing the cost-effectiveness of the approaches adopted, together with the degree of success in reaching the target audience and the resource implications of supporting this engagement, to guide future online interactions (circumstances are important, and there will be certain groups for whom this is not a preferred or appropriate form of interaction).

Making data collections available on the internet for analytical purposes can provide a stronger evidentiary basis for individuals and entities to contribute to policy and program development. For example, access to relevant de-identified data sets on the use of income support and transitions between welfare and work would facilitate independent analysis and potentially increase the general understanding of cycles of disadvantage.⁵⁶ Accordingly, where there is likely to be benefit, public sector entities should seek to facilitate public access to and analysis of government-held data, unless there is a sound reason to protect certain information.

52 Australian Government, *Declaration of open government*, Department of Finance and Deregulation 2010.

53 Web 2.0 describes the use of technology that allows users to interact and collaborate with each other in a social media dialogue as creators of user-generated content in a virtual community. Examples of Web 2.0 include social networking sites, blogs, wikis, video sharing sites, hosted services and web applications.

54 APSC, *State of the Service 2010–11*, Canberra, 2011, pp. 79–80.

55 See also APSC, Circular 2012/1: Revisions to the Commission’s guidance on making public comment and participating online.

56 Productivity Commission, ‘Accessing administrative data to improve policy outcomes’, *PC Update*, February 2014, pp.19–20.

The *Freedom of Information Act 1982* establishes the Information Publication Scheme, which promotes a pro-disclosure approach to information management. Under the Information Publication Scheme, government entities are required to publish nine categories of information (subject to certain restrictions), as well as a plan describing how they will comply with the scheme's requirements. Entities may also voluntarily publish other information which falls outside the specified categories. The information is to be published on the entity's website.

The Office of the Australian Information Commissioner (OAIC) developed the *Principles on open public sector information* to guide effective information management by Australian Government entities. The principles are: open access to information (a default position); engaging the community; effective information governance; robust information asset management; discoverable and usable information; clear reuse rights; appropriate charging for access; and transparent enquiry and complaints processes.

Recognise the importance of sound information and records management

Good records management ensures that decisions and the processes that lead to them can stand up to scrutiny. It is particularly important that accurate and relevant records are accessed and used when making decisions. An entity's records also reinforce the transparency and accountability of its activities, strengthening stakeholders' confidence in the entity. Effective records management practices can also strengthen an entity's ability to comply with obligations to respond to requests for information under the *Freedom of Information Act 1982* and to manage personal information in accordance with the *Privacy Act 1988*.

To meet transparency and accountability obligations under the *Public Service Act 1999*, officials need to create records that document key decisions and actions in support of their entity's legal and business needs. For most Australian Government entities, requirements for the retention of public records are established under the *Archives Act 1983*. Each entity should establish robust systems and procedures to support good records management practices.

Transitioning to digital records management

Over the past 10 years, many entities have moved towards the 'paperless office', with mixed success. While there is no doubt that today's technology offers considerable opportunity to store a huge amount of information, a sizeable challenge for many entities is to ensure that the information is of good quality, relevant and accessible (or retrievable). The government's Digital Transition Policy aims to move Australian Government entities to digital records management for efficiency purposes.

The use of a large number of electronic business systems, while having many benefits, can present particular issues involving the reliability, integrity, accessibility, security, disposal and preservation of records. Transitioning to digital records management requires a coherent strategy and the sustained investment of time and resources to strengthen systems and refine practices. As part of the strategy, it is necessary to address records management needs when selecting, developing and upgrading electronic business systems that contain records.

For further information, see ANAO Audit Report No.53, 2011–12, *Records Management in the Australian Public Service*.

4.6 Actively manage conflicts of interest

The Australian Government and citizens expect high standards of probity from entities and officials who expend public funds. A sound governance framework and controls will help position an entity to meet these expectations, but a high standard of conduct is also required of all involved.

Strong entity leadership plays a vital role in affirming entity-wide commitment and adherence to expected ethical standards and good governance practices. This includes proactive and visible leadership responses to instances where these standards and practices are at risk of not being met. For example, leaders' attitudes and commitment are critical to appropriately managing conflicts of interest.

Public officials have an obligation to perform their duties in a fair and unbiased way. Decisions made in the public interest must not be affected by self-interest, private affiliations, or the likelihood that the official, or those close to them, will gain any personal or financial advantage.⁵⁷

Provisions concerning conflicts of personal interest for public officials can be found in core legislation, such as the Public Service Act⁵⁸ and the PGPA Act⁵⁹; individual statutes that establish entities; and the governance protocols of government entities. Codes of conduct, such as the APS Code of Conduct discussed above, also set out responsibilities which public sector employees are required to meet.

The APS Code of Conduct stipulates the responsibilities of APS employees in relation to conflicts of interest in the following way:

- | | |
|--------------------|---|
| Clause (7) | An APS employee must disclose, and take reasonable steps to avoid, any conflict of interest (real or apparent) in connection with APS employment. |
| Clause (10) | An APS employee must not make improper use of: <ul style="list-style-type: none">• inside information, or• the employee's duties, status, power or authority in order to gain, or seek to gain, a benefit or advantage for the employee or any other person. |
| Clause (11) | An APS employee must at all times behave in a way that upholds the APS Values and the integrity and good reputation of the APS. |

Public officials, particularly decision-makers and those advising or reporting to decision-makers, should be aware of situations that constitute, or could give rise to, conflicts of interest. Prompt disclosure (declaration) of material personal interests by officials is required by legislation and government policy, and will better position an entity to execute appropriate mitigation strategies before a misunderstanding, a misrepresentation or misconduct occurs.

Conflicts of interest can occur across a broad range of public sector operations and, if not appropriately dealt with, have the potential to diminish the effectiveness of governance arrangements, undermine fair

⁵⁷ Sections 27 and 28 of the PGPA Act.

⁵⁸ Especially section 10, which includes duties to act ethically and impartially, and section 13, which includes the Code of Conduct duties tabled above.

⁵⁹ Especially sections 27, 28 and 29. Sections 27 and 28 require that officials do not use either their position or information obtained to gain advantage or cause detriment. Section 29 imposes a duty to disclose material personal interests that relate to the affairs of the entity.

process and bias decision-making. Conflicts of interest can pose significant business and reputational risk. Even the perception that a conflict has influenced an outcome may undermine public confidence in the integrity of an entity or an individual.⁶⁰

Dealing effectively with conflict situations requires a systematic approach, with sufficient controls to provide an appropriate level of assurance that decision making will not be, nor be perceived to be, compromised by a lack of impartiality. Individuals are responsible for declaring their conflicts of interest, but entities need to foster an environment which encourages and assists individuals in doing so. Important considerations for entities in identifying and managing conflicts of personal interest and role include the following:

- ▶ Conflicts need to be considered within an ethical framework that requires officers to act with integrity and impartiality, as well as in good faith and in the best interests of the entity they serve.
- ▶ Transparency is fundamental—officials should be responsible for disclosing personal interests that could give rise to conflicts of interest in all decision-making situations.
- ▶ Accountability complements responsibility—adherence to the requirements for the disclosure and management of conflicts needs to be monitored and enforced. Consistently requiring all manner of conflicts to be identified and dealt with appropriately is an essential part of building an ethical entity culture. This can be assisted by incorporating conflict of interest provisions into key governance procedures and ensuring access to appropriate guidelines.⁶¹

Establish a suitable conflicts of interest policy and procedures

Regardless of their size or the nature of their business, government entities can benefit from having in place a conflicts of interest policy and supporting procedures. The policy should outline disclosure principles, risk mitigation and ongoing management and review requirements for conflicts of interest. Ideally, it will also contain definitions of the different types and sources of conflicts of interest (Table 4.1) and a method for grading the nature and severity of conflicts.

Table 4.1: Financial and non-financial sources of conflicts of interest

Possible conflicts of interest ⁶²
<ul style="list-style-type: none"> ▶ financial and economic interests, such as debt and assets ▶ family or private businesses ▶ secondary employment commitments ▶ affiliations with for-profit or not-for-profit entities, political, trade union or professional organisations and other personal interests ▶ obligations to professional, community, ethnic, family or religious groups in a personal or professional capacity ▶ enmity towards or competition with another individual or group ▶ significant family or other relationships with clients, contractors or other staff working in the same (or a related) entity ▶ highly specialised skills in an area where demand for the skills frequently exceeds supply ▶ specific future employment prospects or plans.

60 Independent Commission Against Corruption, New South Wales, *Identifying and Managing Conflicts of Interest in the Public Sector*, July 2009.

61 See also ANAO Audit Report No.46, 2013–14, *Managing Conflicts of Interest in FMA Agencies*.

62 Independent Commission Against Corruption, New South Wales, *Identifying and Managing Conflicts of Interest in the Public Sector*, July 2009.

The entity's conflicts of interest policy should be widely accessible, easy to understand and well supported by arrangements that encourage awareness of the requirements. Communicating consistent messages about the expectations of the entity as a whole will assist managers to integrate the entity's expectations into operational situations, such as determining provisions for staff, procedures for grants processes, and processes for committee and board members.

Encourage declarations of conflicts of interest

To a large degree, the identification and management of conflicts of interest rely on the ethical behaviour of individuals and their commitment to an open and frank declaration process. Disclosure is encouraged by promoting understanding of public sector expectations and individual responsibilities, the benefits of early disclosure and, importantly, the consequences of not disclosing significant private interests.

The frequency and timing of declarations can be important for some business processes. Chief executives and Senior Executive Service officers are generally required to make annual declarations of private interests. Committee members may be required to declare significant interests prior to appointment, prior to meetings and at the start of or during each meeting. While this may sometimes seem excessive, such controls can be vital in maintaining the integrity and probity of a decision process.

Given the personal nature of a declaration of private interest, entities must be conscious of privacy requirements and ensure that such documents are stored securely. Templates which set out the different types and sources of personal/private interests can be useful tools in prompting full disclosure.

Apply strategies to manage conflicts of interest

When a conflict of interest is evident or has been declared, a range of management strategies can be used depending on the level of mitigation necessary to avoid the particular conflict or to effectively control the situation. The appropriate action to take in response to a conflict of interest or material personal interest can be nuanced and complex and depends on the circumstances and nature and extent of the conflict. In some cases, the course of action to be taken may be explicit in legislation specific to the entity. In general, actions may include withdrawing from particular discussions, restricting the flow of information, abstaining from decisions, relinquishing the interest or the position.

Public officials, including board or committee members and contractors, should be informed prior to appointment of their obligations and situations in which remedial action will be necessary. A useful approach is to include options for addressing conflicts of interest in board and committee protocols.

An important aspect of these strategies is identifying where responsibility for their activation lies. For example, while it is the responsibility of an individual board or committee member to properly declare a conflict of interest, it is generally the responsibility of the chair to ensure that an appropriate level of exclusion from discussions or decision-making is implemented. Conflict of interest protocols should clearly define lines of accountability and, where necessary, identify the authority for any action pertaining to actual instances of undeclared conflict of interest. As early as possible in the appointment of individuals to committees or positions with decision-making responsibilities, provisions for escalating conflicts of interest should be in place.

Where a conflict of interest is declared, remedial action may include the development of a management plan. The committee chair or senior manager should invoke the plan when the declared conflict becomes significant to the impartiality of the process. The appointment of an independent probity adviser can also provide additional assurance in procurement and grant selection processes, particularly when engaging external specialist panel members.

Monitor and review management strategies

Public sector entities should monitor and review their approach to identifying and managing conflicts of interest, both at the policy level and for significant decision-making processes. As part of monitoring and review, a readily accessible complaints mechanism may provide valuable stakeholder feedback on conflict of interest procedures and the entity's approach to implementing them.

Conflicts of interest and their actual or potential impact on public duties can change over time. It is therefore worthwhile for entities to regularly call upon officials to update their disclosures of personal interest and establish mechanisms to encourage ongoing declarations to be made. Registers can be a useful means of keeping track of an individual's interests and conflict issues, although their benefits can diminish if declarations are not kept up to date.

Manage stakeholder conflicts of interest

It is common practice for public sector boards and committees to include as members individuals who also belong to stakeholder groups, such as people from client groups and private sector entities or advisers from specialist groups. When including stakeholders on a board or committee, it is important for the entity and the stakeholders to carefully consider the potential for conflicts of interest.

Avoiding conflicts of interest is not always possible, particularly as those stakeholders with the most to offer the entity are often those with the greatest interest in the outcome. Key steps in managing such situations include:

- ▶ considering the nature and extent of the conflict of interest
- ▶ making this known to the parties involved (including other board or committee members)
- ▶ putting protocols and probity arrangements in place to minimise the likelihood of such conflicts affecting decision-making.

4.7 Report clearly on performance and operations

Maintaining accountability through clear reporting on performance and operations is a critical factor in building and retaining the trust of both the government and the community. Timely and transparent public reporting of expenditure, activities and outcomes allows parliamentarians and members of the public to scrutinise and make informed judgements about the performance and contributions of public sector entities.

Performance reporting framework

The Australian Government requires Commonwealth entities to measure results, impacts on the Australian community and consequences of actions by the government. Key elements of sound performance reporting include:

- ▶ the specification of the outcomes that the government is seeking to achieve
- ▶ the identification of government programs and associated deliverables
- ▶ the establishment of a performance management regime that enables the measurement and assessment of the impact of a program and its contribution to the broader outcome
- ▶ annual performance information on the delivery of programs and achievement against a set of performance indicators and targets through each entity's annual report. Under the PGPA Act, each annual report must include an annual performance statement that provide information about the entity's achievement of its purposes.

As discussed previously in Chapter 3, an entity that invests in performance measurement builds its capacity to identify implementation issues, respond to challenges and changing circumstances, and pursue improvements in program and service delivery. Importantly, investing in performance measurement also improves the quality of external reporting over time, which strengthens external feedback and accountability.

Performance reporting is most effective in informing the government, the Parliament and the public when it is based on clearly expressed outcome statements, program objectives, deliverables and performance indicators. Well-developed indicators provide useful information about the effectiveness—and, potentially, the efficiency—of government programs, and signal opportunities for improvements. Key elements of sound performance indicators are set out in Table 4.2.

Table 4.2: Criteria for evaluating the completeness and accuracy of key performance indicators reporting

Criteria	Explanation
Data completeness and accuracy	KPIs should be reported on the basis of data and information that reflects accurately and completely all events that should have been recorded.
Disclosures completeness and accuracy	All disclosures relating to KPIs that should have been included in the annual report have been included, and all KPIs and information relating to them in the annual report is disclosed fairly and, where applicable, at the appropriate amounts.

Source: Adapted from Australian Auditing Standard (ASA) 315—Identifying and Assessing the Risk of Material Misstatement through Understanding the Entity and its Environment.

Effective financial management is critical to public sector entities being able to meet their policy and service delivery responsibilities. An important aspect of financial management and stewardship, and the primary mechanism by which entities meet their financial accountability obligations, is the preparation and publication of annual audited financial statements in entity annual reports. It is generally acknowledged that the timely finalisation of an entity’s financial statements, accompanied by an unmodified audit opinion, is an important indicator of the effectiveness of an entity’s financial management performance. Agreed procedures should be in place to ensure accountable authority sign-off on the entity’s financial reports, and that the financial reports present fairly the entity’s financial position, financial performance and cash flows and accord with the accounting standards and the rules under the PGPA Act.

Self-assessment checklist: improving openness, transparency and integrity

This is a self-assessment checklist to guide entities in better practice procedures and protocols that contribute to appropriate levels of openness, transparency and integrity.

Openness, transparency & integrity: self-assessment		In place
Understand the interests and expectations of stakeholders		
1	Leaders promote and support effective relationships with external and internal stakeholders and encourage a culture of genuine engagement and consultation.	<input type="checkbox"/>
2	Information is actively sought from stakeholders to ascertain the level and nature of their interest and what they hope to achieve or contribute through any interactions.	<input type="checkbox"/>
Strengthen the contribution of stakeholders		
3	Potential for stakeholder contribution is built into policy and program planning from the outset, with a focus on developing governance arrangements which allow external parties to have a say in design, delivery and oversight of government programs and services.	<input type="checkbox"/>
4	Policy and program design allow for ongoing contribution from stakeholders, rather than only facilitating feedback at the end of a delivery process.	<input type="checkbox"/>
5	Interaction processes are tailored to the purpose of the exercise, the resources and time available and the type of participants involved, and is responsive to participant feedback.	<input type="checkbox"/>
Interact effectively with stakeholders		
6	Key stakeholders are identified, and up-to-date information about them, including relevant issues and sensitivities, is documented.	<input type="checkbox"/>
7	Managers and staff are provided with training, resources and opportunities to develop the skills needed to build and maintain stakeholder relationships, including facilitation, coordination and negotiation skills.	<input type="checkbox"/>
8	A range of mechanisms are in place to interact with stakeholders effectively, including the use of technology (subject to appropriate controls and guidance for staff interacting online)	<input type="checkbox"/>

Openness, transparency & integrity: self-assessment		In place
Facilitate information sharing		
9	The public is able to access and analyse government-held data, unless there is a sound reason to protect certain information.	<input type="checkbox"/>
Actively manage conflicts of interest		
10	The entity has a well developed and communicated conflict of interest policy that is endorsed at the appropriate level, includes a pro form for declarations of conflicts of interest, and provides guidance material to inform officers of their obligations.	<input type="checkbox"/>
11	The entity actively identifies individuals or decision-makers who may need to make a statement of personal interest and/or who may be subject to conflicts of role.	<input type="checkbox"/>
12	On an ongoing basis, the entity has taken steps to obtain appropriate assurances from individuals/decision-makers that they have made relevant and up-to-date disclosures.	<input type="checkbox"/>
13	Officers have been trained to recognise conflicts of interest and to understand their obligations under law and policy.	<input type="checkbox"/>
14	The entity has a clear policy for managing different conflicts of interest based on their severity.	<input type="checkbox"/>
15	The entity regularly reviews its procedures for handling conflicts of interest for both internal and external stakeholders.	<input type="checkbox"/>
Respond appropriately to public interest disclosures		
16	The entity has appointed and identified authorised officers to receive public interest disclosures under the <i>Public Interest Disclosure Act 2013</i> and has established protocols for investigating and responding appropriately to any such disclosures.	<input type="checkbox"/>
Report clearly on performance and operations		
17	The entity meets all legislative performance reporting requirements, including through the provision of an annual report to the Parliament that has been prepared in accordance with relevant requirements and guidance.	<input type="checkbox"/>
18	The entity has invested appropriate time and effort into establishing performance information to measure the effectiveness (and ideally the efficiency) of their performance.	<input type="checkbox"/>

5 Effective collaboration

The following key steps will assist an entity in developing effective collaboration:

- ▶ Understand the cross-entity environment
- ▶ Promote cross-entity performance and accountability
- ▶ Establish clear roles, responsibilities and governance arrangements
- ▶ Work towards a shared objective or outcome
- ▶ Manage shared risks
- ▶ Facilitate good governance through written agreements
- ▶ Where appropriate, develop partnerships outside of government

5.1 Introduction

Effective collaboration can often more effectively facilitate outcomes than by working alone.⁶³ Increasingly, public sector entities are seeking to enhance the design and delivery of programs and services by collaborating between two or more government entities in a whole-of-government or cross-entity response, rather than a single entity approach. Significantly, collaboration also occurs across jurisdictional boundaries, requiring partnerships between Australian Government and state entities.⁶⁴ Over time, collaboration outside of government has also become more common.

‘The role of government extends beyond what it can do on its own and incorporates what it can do with others to serve the collective interest. Its role extends to leveraging the power of others across all facets of society and enabling synergies by working across boundaries inside and outside of government.’

*Jocelyne Bourgon, 2011*⁶⁵

Interdepartmental committees, taskforces and joint working parties are common mechanisms to facilitate and/or govern collaborative efforts. Non-legally binding agreements, usually in the form of a memorandum of understanding (MoU), are also used extensively to define essential requirements for cross-entity initiatives. Where there is genuine commitment by each signatory, a wellconstructed and well-managed agreement can provide a sound basis for a productive working relationship. It also provides a formal record of the governance arrangements. In the case of collaboration across jurisdictional boundaries, such agreements often fall under the arrangements of the Council of Australian Governments (COAG)

63 Section 17 of the PGPA Act recognises the duty of accountable authorities to encourage entity officials to cooperate with others to achieve common objectives.

64 This chapter is focused on governance strategies for interactions between public sector entities. Cross-sectoral interactions with the private and not-for-profit sectors are also increasingly common elements of contemporary public sector policy and program delivery. For a detailed discussion of working with a broader range of third parties, see J. Alford & J. O’Flynn, *Rethinking Public Service Delivery: Managing with External Providers*, Palgrave Macmillan UK, 2012.

65 J Bourgon, *A New Synthesis of Public Administration: Serving in the 21st Century*, McGill–Queens University Press, 2011, p. 46.

and are reflected in intergovernmental agreements, national partnership agreements and associated implementation plans.

Successful collaboration requires an appreciation of the responsibilities and contributions of all involved parties. They benefit from clear purpose, defined outcomes, and the recognition of shared risks and accountabilities. This chapter discusses some key issues in cross-entity governance, which often involves building and maintaining effective working relationships between entities that have different operational priorities, cultures, risk profiles and skill sets.

Annex 1 to the chapter is a self-assessment checklist to guide better practice for developing purposeful agreements to support entities to work effectively across public sector boundaries.

Definitions

This chapter uses the following terms:

Whole of government	Public service entities working across portfolio boundaries to achieve a shared goal or an integrated government response to particular issues. ⁶³
Cross-entity governance	Governance arrangements between two or more public sector entities for the purpose of conducting the business of government (for example, a policy, program or service).
Lead entity	An entity designated as the 'lead' entity is usually expected to take carriage of the task or program and may be responsible for driving performance, coordination, monitoring progress and performance reporting for a cross-entity measure.
Cross-entity agreement	A documented relationship for the provision of services, exchange of information, other administrative functions or support, signed between two or more entities (for example, an exchange of letters, a memorandum of understanding or a service level agreement). A cross-entity committee's terms of reference can also be considered an agreement.

Legal and policy framework

Under sections 15(2), 17 and 18 of the PGPA Act, the accountable authority of a public sector entity has duties to:

- ▶ encourage officials of the entity to cooperate with others to achieve common objectives, where practicable
- ▶ take into account the risks associated with the use or management of public resources (for which the public sector entity is responsible) when imposing requirements on others, and also take into account the effects of imposing those requirements
- ▶ take into account the effects of decisions on public resources generally.

⁶⁶ Management Advisory Committee, *Connecting Government—Whole of Government Responses to Australia's Priority Challenges*, APSC, Canberra, April 2004. This interpretation of 'whole of government' is still relevant, and applies to many cross-portfolio initiatives in, for example, national security, support for Indigenous communities, the payment of employment benefits and family services.

Under section 57 of the Public Service Act, the role of the Secretary of a department includes ensuring the delivery of government programs and collaboration to achieve outcomes, within the portfolio and with other Secretaries, across the whole of government. Similarly, under section 35 of that Act, Senior Executive Service officers are required to promote cooperation within and between entities, including to deliver outcomes across entity and portfolio boundaries.

There is no general legal or policy framework that explicitly defines the nature and form of cross-entity governance arrangements in the Australian Government sector. Nonetheless, it is important that such arrangements meet accepted standards of good governance and are initiated as soon as the cross-entity issue is identified, ideally during the policy development phase. Here, the opportunity should be taken to define:

- ▶ suitable key entity responsibilities (depending on the arrangement, these could take the form of a specified lead entity, joint accountabilities or a partnership involving mutual accountability)
- ▶ outcomes for Budget measures involving multiple entities, portfolios or levels of government.

Financial arrangements and obligations for cross-entity activities should be carefully constructed and clearly documented, and include responsibilities, accountability and reporting arrangements for each participating entity.

5.2 Understand the cross-entity environment

For many years, the Australian Government has advocated whole-of-government approaches as a means of achieving more effective program implementation, seamless service delivery and better sharing of information.

Concerted, coordinated responses to natural disasters (cyclones and floods), the consolidation and coordination of service delivery entities (Medicare, Centrelink and Child Support Australia) under the Department of Human Services, and the implementation of national partnership agreements through COAG are among recent examples of whole-of-government activity. Growing public expectations for better access to government and the integration of service delivery have also been a significant driver for reform in this area.

Drivers for formalising cross-entity arrangements

Cross-entity arrangements can be informal or formal, taking the shape of written agreements, panels or committees, shared protocols or simply verbal agreements. Common drivers for formalising cross-entity arrangements include the need or desire to:

- ▶ promote a collaborative relationship between parties and demonstrate a commitment to joint work
- ▶ establish a degree of control or assurance in relation to the activities and responsibility of another party
- ▶ enhance accountability, transparency and efficiency
- ▶ improve knowledge
- ▶ provide better services (for example, consolidated or seamless services to the public or other clients).

Collaborative activities are visible in many facets of the public sector's operating environment. On a day-to-day basis, officials from different entities work across entity boundaries to deliver government services, collaborate in the formulation of national policies, and exchange information and a range of professional expertise. However, regardless of the size, materiality or nature of the exercise, operating across entity boundaries can pose distinctive governance challenges, including the following:

- ▶ Public sector entities are generally aligned to vertical accountability and working frameworks. Horizontal working arrangements extending outside an entity involve varying degrees of interdependency and, to be effective, may rely on building productive working relationships between entities that have different policy priorities and risk profiles.
- ▶ Cross-entity relationships usually involve the same legal entity (the Commonwealth), so sanctions that would be applicable under contractual arrangements will not usually apply. The principles of good governance therefore play a particularly important role in establishing shared goals, guiding collaborative behaviours, establishing commitment and cultivating trust.

In this environment, careful definition of the roles and responsibilities of entities entering into cross-entity arrangements is vital, and governance structures and processes should focus each entity on accountability, good performance and achievable outcomes.

Key success factors for cross-entity arrangements include:

- ▶ clear roles, responsibilities and governance arrangements
- ▶ a shared objective or outcome
- ▶ clear funding arrangements
- ▶ management of shared risks
- ▶ coordinated reporting and evaluation, with a clear focus on the shared objective as well as entity contributions.

5.3 Promote cross-entity performance and accountability

As a general principle, good governance of cross-entity arrangements requires:

- ▶ a clear purpose (that is, the expected shared or joint outcome)
- ▶ coordinated strategies and processes to achieve the outcome within a particular timeframe and using particular resources
- ▶ visible lines of accountability, and appropriate arrangements for managing dual or multiple accountabilities.

To enable entities to perform well individually and collectively, each party's expectations, responsibilities and functions need to be clearly identified, documented and understood, including arrangements for funding, monitoring progress and performance reporting. A complex issue in this regard is the difficulty that any one participant has in being responsible for all the actions needed to achieve successful outcomes. While this is clearer when a lead entity is identified and is given authority to drive the agenda, many collaborative arrangements may be established as joint approaches or partnerships in which entities share accountability at the aggregate level as well as having individual accountabilities for facets of the partnership.

The identification of potential risks (individual entity and shared risks) is best done early in the planning process and complemented by regular review throughout the task's or program's implementation, taking into consideration each entity's level of responsibility and leadership.

The following sections discuss important approaches to drive performance and accountability in cross-entity arrangements.

5.4 Establish clear roles, responsibilities and governance arrangements

Partnering arrangements involve entities working together towards a shared objective. As partners, the entities are collectively responsible for the operation of cross-entity agreements and the achievement of outcomes. This accountability can be seen to have three dimensions:

- ▶ horizontal accountability obligations among the partners
- ▶ vertical accountability between an entity and its governing or oversight body for the resources it uses and its contribution to the partnership
- ▶ collective accountability of all partners to a governing body for the success of the partnership.⁶⁷

An important condition for effectiveness when setting up cross-entity arrangements is the proper definition and communication of each entity's roles and responsibilities. This can help to reduce gaps or overlaps in functions which can result in less effective governance. It also allows each entity to:

- ▶ understand its own role in the arrangement, including where it has a clear lead entity role to drive the performance of all entities involved
- ▶ appreciate partner entities' perspectives and roles
- ▶ act appropriately so that the shared interests or purpose of the arrangement are best served.

However, it is also important to retain flexibility in the definition of roles and responsibilities so as to allow entities to adapt to emerging situations where that is required. A rigid approach to roles and responsibilities is unlikely to engender a sufficient level of collaboration and identification with joint goals.

For all cross-entity arrangements, early attention needs to be given to governance arrangements and to tailoring them to the process of collaboration. Major policy initiatives or substantial service delivery arrangements will generally benefit from the appointment of a lead entity and/or a management committee with a nominated chair and comprising representatives from the lead entity and other involved entities. Such governance arrangements create a firmer basis for decision-making and performance monitoring and can help to circumvent unnecessary duplication of effort and administrative risk.

While entities can be expected to work in a collaborative manner and to seek to resolve disagreements in such a way, it is also sensible to build in (for example, in MoUs or equivalent agreements) more formal dispute resolution mechanisms, such as the ability to escalate issues to a broader governance group and/or ministers, so that differences are dealt with efficiently.

5.5 Work towards a shared objective or outcome

Over the past 10 to 15 years, significant effort has been invested in embedding whole-of-government ways of working into public sector entities. Although there are many examples of progress, moving from a culture based largely on specific entity outcomes to one in which whole-of-government considerations

⁶⁷ Office of the Auditor General of Canada, *Report of the Auditor General of Canada to the House of Commons*, December 2002, Chapter 9, pp. 14–15.

take prominence is a major challenge for public sector entities, and one in which the influence of incentives is strong. A greater focus on whole-of-government outcomes challenges the institutional framework on a number of fronts, including the financial, governance, accountability, technology and capability fronts.

The 2010 *Blueprint for the Reform of Australian Government Administration* emphasised the benefits of introducing 'shared outcomes across portfolios'.⁶⁸ While this development is not new, for some entities this type of approach will change the way that program design, administration and reporting are managed. Aligning the legal and policy responsibilities of the lead and participating entities to broader government outcomes requires careful consideration and collaboration across entities. A principle of the PGPA Act is to improve collaboration and partnering amongst Commonwealth entities.

Collaborative efforts must recognise the legislative responsibilities of individual entities, their priorities and risks, as well as the collective benefit in mitigating risk to effect whole-of-government program and service delivery. In the absence of shared outcomes, cross-entity arrangements may focus on meeting agreed objectives which further individual entity outcomes while contributing to a broader collaborative objective or agenda.

Specify clear funding arrangements

The Commonwealth financial management framework emphasises: the accountability of accountable authorities and boards; devolution; and individual entity operations. Cross-entity initiatives, whether they involve policy development or operational arrangements, should identify how funding and accountability requirements will be met under the collaborative arrangements and should not inadvertently result in an accountability gap in which responsibility for outcomes or financial matters is unclear or ambiguous.

As budget-funded bodies, departments of state and listed entities can receive funding appropriations in their own right. Appropriations under Appropriations Acts are made for specific purposes. Where government policies require the pooling of funds from different entities, entity chief executives are able to do so, provided such arrangements promote the proper use and management of Commonwealth resources under s. 15 of the PGPA Act. Funds can be pooled through the establishment of a special account under s. 78 of the Act.

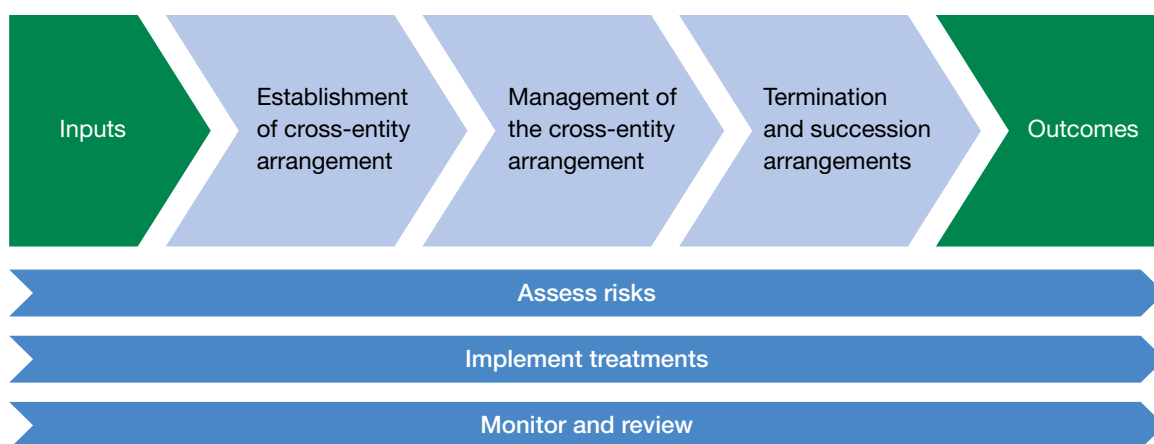
Transparency in financial management at all levels is important for cross-entity activities. Putting appropriate systems in place early, so that expenditure against milestones and deliverables can be properly monitored, is essential, particularly as it supports comprehensive management reporting and the ongoing management of cross-entity matters.

5.6 Manage shared risks

The complexity of risk management is often compounded for cross-entity arrangements. Taking a structured and broadened approach to risk management is therefore particularly important. That approach should include careful consideration and monitoring of risks facing each entity (particularly any shared risks) throughout the development, implementation and review stages of cross-boundary work. It is important that risks are considered in relation to the overall outcome being sought, as well as specific risks relating to the process of collaboration. Figure 5.1 depicts the process and timeframe for managing shared risks in cross-entity arrangements.

⁶⁸ Advisory Group on Reform of Australian Government Administration, *Ahead of the Game: Blueprint for the Reform of Australian Government Administration*, Department of the Prime Minister and Cabinet, Canberra, March 2010, p. 65.

Figure 5.1: Managing shared risks



Source: ANAO Audit Report No. 41, 2009–10, *Effective Cross-Agency Agreements*, p. 48.

The process of addressing shared risks can be assisted by assigning the carriage of a particular risk or group of risks to one entity, even if the risks span more than one entity. Clearly, this has to be linked to suitable mechanisms to monitor the risks, communicate any variations in the risk profile, and alert partner entities to events requiring remedial action. The use of ‘traffic light’ progress or status reports is one way that entities manage such situations effectively.

Coordinate reporting and evaluation of risks

The reporting of whole-of-government and cross-entity initiatives has often been difficult or ambiguous within the structure of public sector annual reporting arrangements, which are geared towards individual entity reporting. Keeping in mind the legal responsibilities and obligations of individual entities, such difficulties can potentially be reduced by:

- ▶ having a lead entity with defined responsibilities for coordinating program reporting
- ▶ establishing appropriate performance information to measure the performance of contributing entities and collective progress towards the shared objective or outcome of the cross-entity arrangement.

Early consideration should also be given to the best way to evaluate the effectiveness of cross-boundary activities in achieving their goals. Depending on the circumstances, evaluation could be undertaken jointly or by one entity on behalf of others.

5.7 Facilitate good governance through written agreements

Cross-entity agreements can provide a foundation for sharing a range of government services and expertise, from simple data sharing between two entities to the implementation of complex social reforms through multiple departments. Signing a cross-entity agreement is an indication of an entity’s intent to carry out the functions and obligations in the agreement.

There are hundreds of cross-entity agreements in place across the public sector. However, ANAO audits have shown that the appropriateness of agreements and the benefits they deliver are variable, which indicates a need for improvements in both their development and their implementation.⁶⁹

⁶⁹ See the better practice principles developed in ANAO Audit Report No.41, 2009–10, *Effective Cross-Agency Agreements*, pp. 22–25.

An important first step when considering whether to enter into a cross-entity agreement is to assess whether it is actually needed, and, if so, what level of complexity is necessary. There is little benefit in a cross-entity agreement if it is overambitious or beyond an entity's capability, or if the administrative load is excessive and costly. In such cases, governance arrangements can become unsustainable. It is therefore important to:

- ▶ match the nature of the arrangement to the size and complexity of the cross-entity initiative
- ▶ review the arrangement regularly to ensure that it is working effectively.

The agreement should set out the principles, standards and parameters that participating entities agree to uphold in their pursuit of government outcomes. Clarity is of utmost importance: documentation should always include the context of the program or service, the roles and responsibilities of each party to the agreement, specific deliverables and performance measures, and the legal status of the agreement.

Understand the legal status of cross-entity agreements

Agreements between Australian Government entities are usually not legally binding, as the entities are usually part of the same Commonwealth legal entity. Exceptions to this occur if a Commonwealth corporate entity is part of the agreement (these body corporates are legally separate from the Commonwealth). Where legally binding contracts are required, a suitable approach for managers is to follow the Department of Finance guidelines⁶⁷ and internal legal and contracting processes and, if necessary, seek legal advice.⁶⁸ Where there is any doubt, legal advice should be sought prior to entering into a formal agreement.

Formal agreements cover a broad range of situations and functions across the public sector. Consequently, they are diverse in their purposes, structures and contents—each one is customised to suit a specific situation and range of requirements. Table 5.1 provides guidance on some common uses of agreements.

70 Department of Finance and Deregulation, *Procurement Policy and Guidance*, Canberra, 2012.

71 Refer also to the ANAO Better Practice Guide *Developing and Managing Contracts: Getting the Right Outcome, Achieving Value for Money*, February 2012, Canberra.

Table 5.1: Types of cross-entity agreements often used in the APS

Type or name	Common use by entities
MoU or record of understanding	Are generally non-legally binding agreements between Commonwealth entities. Cover a wide range of programs, services and functions of varying complexity. MoUs can be funded (often by fee-for-service) or have no funding (operating within each entity's existing resources).
Partnership agreement (often prefaced by 'business', 'collaborative' or 'strategic')	Typically set out the requirements for a service delivery entity to deliver services on behalf of a policy department, or for the joint implementation of major government policies or programs. Often have protocols attached for specific projects, functions or initiatives.
Collaborative head agreement or head agreement	Define high-level principles and obligations for a collaborative relationship between two or more entities where there is an expectation to undertake or fund future or multiple tasks or projects. Often precede the development of subsidiary agreements (or protocols) for specific programs as they are developed and implemented.
Service level agreement, work level agreement, purchaser-provider agreement	Agreements with a significant focus on deliverables linked to service standards, performance indicators and timeframes. May be lengthy and complex documents with extensive product or service specifications (for example, for IT services).
Exchange of letters	Usually short communications to seek agreement on a specific task or function of limited scope in terms of cost, risk and/or duration. Frequently used to arrange the exchange of data or specialist services, to extend an existing agreement, or to seek agreement on a variation to an agreement.

Note: This list is a guide and not exhaustive.

Source: ANAO analysis included in ANAO Audit Report No.41, 2009–10, *Effective Cross-Agency Agreements*, p. 37.

Establish effective cross-jurisdictional agreements

Major cross-jurisdictional agreements between the Australian Government and the states and territories are normally settled at the head of government or ministerial level. They take a number of forms, from formal high-level political commitments expressed through national agreements to resolutions of ministerial councils and agreements between counterpart departments.

Constructive and coordinated planning is necessary to define and reach agreement on roles and responsibilities at the outset of a cross-jurisdictional arrangement, particularly in relation to assessing performance. Where important responsibilities are shared, parties to the agreement need to focus strongly on the arrangements necessary to ensure that collaboration is effective and there is no loss of oversight or visibility of those responsibilities.

Cross-jurisdictional arrangements are diverse in nature and purpose. They are often used to respond to important social issues when a national approach involving the Australian Government and state and territory governments is necessary. Where such agreements are planned, early negotiations should take particular note of roles and responsibilities, key objectives and the capacity of each party to monitor and measure progress and obtain or provide assurance in relation to performance, as appropriate. For example, incompatibilities of data systems can severely hinder data collection so that progress against outcomes cannot be accurately determined. Particular elements of governance to consider when establishing or reviewing cross-jurisdictional arrangements include:

- ▶ the level of leadership and ownership required to drive the agenda, including the role of ministers
- ▶ terms of reference and the key objective or outcome to be achieved
- ▶ the complexity of the written agreement required and how that will be negotiated
- ▶ the duration of the arrangement and mechanisms for evaluation and review
- ▶ mechanisms for stakeholder consultation
- ▶ risks which may affect progress
- ▶ coordination and management, including secretariat arrangements and financial and other resources
- ▶ existing governance structures, systems and processes that can be utilised
- ▶ communication strategies, including processes for issue and dispute resolution
- ▶ performance indicators, monitoring and reporting arrangements
- ▶ assurance mechanisms in relation to key deliverables.

5.8 Consider forming partnerships outside of government

The discussion above is largely focused on collaborative arrangements within the public sector (including between Commonwealth and state partners). It is becoming increasingly relevant for public sector entities to take a broader perspective to policy implementation and program delivery.

‘The success...of collaboration...requires new forms of leadership behaviour, particularly on the part of the public servants who remain central to most discussions of public policy and administration. Instead of agendas being imposed, they need to be negotiated. Collaboration demands public servants who can stand in the shoes of those with whom they deal, who can understand their particular perspectives and interests and, by doing so, can build trust.’

Dr Peter Shergold, ‘Governing through collaboration’, 2008⁷²

This includes considering the merits of engaging in collaboration outside of government—that is, in the private and not-for-profit sectors—to optimise outcomes. This concept of ‘commissioning’ services through an appropriate mixture of government, private sector and not-for-profit contributions has at its heart the objective of achieving value for money and improved delivery of public services.

One key challenge in engaging in such outside partnerships is to retain the openness, transparency and accountability expected in the expenditure of public funds. Private sector or community institutions that are willing to deliver outcomes for and on behalf of the government may be accustomed to operating under alternative governance structures than those traditionally encountered in the public sector. However, any public sector entity that engages with external partners must remain accountable for expenditure of public money and for achieving outcomes. The commissioning entity therefore needs to negotiate a set of operating arrangements that meet public sector transparency and reporting requirements but still allow the partner to engage and deliver effectively. The best outcomes are likely to be achieved when the alignment of interests is maximised—that is, when public and private sector goals and values are most similar.⁷³

‘The initial imperative is to ensure a new ethos of partnership is established. Over and over...I have heard the frustration of community workers. They feel managed rather than respected. They perceive they have a contract with government, not a relationship.’

Dr Peter Shergold, ‘Roadmap for reform’, 2014⁷⁴

72 Shergold, P ‘Governing through collaboration’, in O’Flynn, J and Wanna, J, *Collaborative Governance—A New Era of Public Policy in Australia?*, ANZSOG 2008, p.21.

73 For a detailed discussion of collaborating effectively outside of government, see J. Alford & J. O’Flynn, *Rethinking Public Service Delivery: Managing with External Providers*, Palgrave Macmillan UK, 2012.

74 Dr Peter Shergold, ‘Roadmap for reform’, *Public Administration Today*, edition 38, Apr-Jun 2014, pp.12-13.

The second key challenge that has emerged is to find workable ways to establish genuine collaborative partnerships with nongovernment providers, beyond the traditional contract-for-service model that is most familiar in the public sector. The full potential to enhance outcomes lies in harnessing the full expertise of external providers who have been commissioned to deliver outcomes on behalf of the government—but to do so while operating under standard public sector governance models is not always straightforward.

This challenge is not confined to the Australian public sector; on the contrary, it is receiving considerable attention in other jurisdictions as well. Emerging strategies for tackling this issue include:

- ▶ a shift towards outcome-based contracts, rather than process-based contracts
- ▶ discussions about how financial risk is shared, or transferred, between government and providers
- ▶ new thinking about the types of relationships that are being forged, with an emphasis on involving potential providers in policy development and program design from early stages of the process rather than engaging them solely at the end, or delivery, stages.⁷⁵

⁷⁵ For example, see D. Crowe, T. Gash and H. Kippin, 'Beyond big contracts: commissioning public services for better outcomes', Institute for Government, London, January 2014.

Self-assessment checklist: effective collaboration

This is a self-assessment checklist to guide entities in better practice procedures and protocols that will assist in developing effective collaboration.

Developing effective collaboration: self-assessment		In place
Understand the cross-entity environment		
1	Entities have worked together to understand the common goals and drivers for any proposed collaboration.	<input type="checkbox"/>
2	Entities have established and mutually agreed that a collaborative arrangement is likely to present advantages over a single entity approach.	<input type="checkbox"/>
Promote cross-entity performance and accountability		
3	Entities have discussed and agreed on a clear purpose, a coordinated strategy and shared and visible lines of accountability.	<input type="checkbox"/>
4	Each party's expectations, responsibilities and functions have been identified, agreed, understood and documents, including arrangements for funding, monitoring progress and performance reporting.	<input type="checkbox"/>
Establish clear roles, responsibilities and governance arrangements		
5	The parties have agreed and documented accountability arrangements in three dimensions: (i) horizontal accountability obligations among the partners (ii) vertical accountability within each entity to its governing or oversight body (iii) collective accountability of all partners to an overall governing body.	<input type="checkbox"/>
6	Appropriate consideration has been given (and action taken) to appointing a lead entity and/or management committee to oversee and drive the partnership and monitor outcomes.	<input type="checkbox"/>
7	Appropriate consideration has been given towards establishing formal dispute resolution mechanisms in order to deal effectively with any differences that arise during the course of the partnership.	<input type="checkbox"/>
Work towards a shared objective or outcome, while managing shared risks		
8	The desired objective or outcome of the collaboration has been agreed and clearly documented.	<input type="checkbox"/>
9	Funding and accountability arrangements have been discussed, agreed and clearly documented, with a focus on ensuring transparent and appropriate expenditure of public funds.	<input type="checkbox"/>
10	Risks associated with the collaboration—including shared risks—have been identified, considered and fairly allocated, and agreement has been reached and documented on how risks will be managed and reported on.	<input type="checkbox"/>

Developing effective collaboration: self-assessment		In place
Facilitate good governance through written agreements		
11	An appropriate and comprehensive written agreement has been developed and signed by all parties involved in the collaboration.	<input type="checkbox"/>
Consider developing partnerships outside of government		
12	The entity actively considers and is alert to the potential for engaging in partnerships outside of government in order to enhance public sector policy development and program delivery.	<input type="checkbox"/>

A

accountability, 5, 6, 7, 8, 10, 13, 17, 41
 chief executive and, 8
 and conflicts of interest, 50
 under cross-entity/partnering arrangements, 61
 and reporting on performance and operations,
 52–5

accountable authorities
 PGPA Act and duties for, 9, 58
see also board of directors; chief executive

adaptation *see* innovation and adaptation

Administering Regulation, 4

agreements *see* collaborative head agreement
 or head agreement; cross-entity agreements;
 cross-jurisdictional agreements; exchange of
 letters; memorandum of understanding (MoU);
 non-legally binding agreements; partnership
 agreement; service level agreement, work level
 agreement, purchaser–provider agreement; written
 agreements

analysis *see* information and analysis

ANAO Better Practice Guides, 4

annual audited financial statements, 53

annual performance statement, 14, 24, 33

annual reports, 52

Appropriations Acts, 62

APS Code of Conduct, 9
 and conflicts of interest, 49
 and social media, 47

APS Employment Principles, 9

APS Values, 9, 11
 and social media, 47
see also ICARE

Auditor-General
 financial and performance audits, 12, 35

Australian Public Service Commission (APSC)
 and barriers to innovation, 32
 capability reviews, 36, 38

Australian Standards
 for risk management, 28

B

better practice governance, 3–4, 7

Better Practice Guide: Public Sector Governance
 focus of, 3–4

and PGPA Act, 3
 purpose of, 3
 structure of, 5–6
 use of, 4

*Blueprint for the Reform of Australian Government
 Administration*, 62

board of directors
 and governance of public sector entities, 9
 PGPA Act and duties for, 9
 and risk management, 14, 28

budget management, 23

budgeting and financial planning
 and planning for high performance, 23

business and operational plans, 14, 24

business continuity management, 31

business planning *see* corporate and business
 planning

C

capability reviews, 36, 38

chief executive
 and accountability, 8
 and declaration of private interests, 51
 and governance arrangements, 13
 PGPA Act and duties for, 9
 and risk management, 14, 28

citizens
 engagement with, 41
 focus on, 21

clear roles, responsibilities and governance
 arrangements, 57, 61, 69

Code of Conduct *see* APS Code of Conduct

collaboration *see* effective collaboration

collaborative approaches to governance across entity
 boundaries, 4
see also cross-entity governance

collaborative head agreement or head agreement, 65

collaborative partnerships, 6, 10, 16
see also partnering outside the public sector;
 partnerships outside of government

commissioning entity
 and public sector transparency and reporting
 requirements, 67

'commissioning' services, 67

- Commonwealth financial management framework, 62
 - Commonwealth Ombudsman's investigations, 12, 35
 - communication technologies
 - and information sharing with stakeholders, 47
 - complaints mechanism
 - and monitoring and review of management of conflicts of interest, 52
 - conflicts of interest, 4, 6, 49–52
 - declaration of, 50, 51
 - policy and procedures, 50–1
 - protocols, 51
 - register, 52
 - sources of, 50
 - stakeholder, 52, 55
 - strategies for management of, 51
 - monitoring and review of, 52
 - constructive engagements with stakeholders *see under* stakeholders
 - continuous improvement
 - and evaluation and review, 39
 - contract-for-service model, 68
 - corporate and business planning
 - and planning for high performance, 23
 - corporate plans, 13–14, 23, 24
 - cross-entity activities
 - financial arrangements and obligations for, 59
 - cross-entity agreements, 61, 63–5
 - definition, 58
 - legal status of, 64
 - types of, 65
 - see also* cross-jurisdictional agreements
 - cross-entity arrangements
 - drivers for formalising, 59
 - establishment of clear roles, responsibilities and governance arrangements, 61
 - facilitation of good governance through written agreements, 63–6
 - funding arrangements, 62
 - key success factors, 60
 - and management of shared risks, 62–3
 - partnerships outside of government, 67–8
 - working towards shared objective or outcome, 61–2
 - see also* partnering arrangements
 - cross-entity environment, 57, 59–60, 69
 - cross-entity governance, 58
 - challenges, 60
 - definition, 58
 - requirements of good governance, 60–1
 - see also* whole-of-government and cross-entity governance
 - cross-entity initiatives *see* whole-of-government, cross-entity and cross-sectoral initiatives
 - cross-entity performance and accountability, 57, 60–1, 69
 - and risk identification, 61
 - cross-entity performance audits, 38
 - cross-jurisdictional agreements, 65–6
 - cross-jurisdictional arrangements, 66
 - cross-sectoral initiatives *see* whole-of-government, cross-entity and cross-sectoral initiatives
- D**
- data collections
 - availability of on internet, 47
 - decision making
 - information and analysis and, 25
 - see also* delegation of decision making
 - declaration of private interests, 51
 - delegation of decision making, 16
 - Department of Finance guidelines
 - and legally binding contracts, 64
 - Developing and Managing Internal Budgets*, 4
 - digital records management, 48
 - Digital Transition Policy, 48
 - disclosure of material personal interests, 49
- E**
- effective collaboration, 4, 6, 17, 57–70
 - definitions, 58
 - legal and policy framework, 58–9
 - mechanism to facilitate, 57–8
 - self-assessment checklist, 69–70
 - effectiveness, 17
 - efficiency, 17
 - electronic business systems, 48
 - entities *see* collaborative approaches to governance
 - across entity boundaries; commissioning entity; lead entity; public sector entities
 - entity performance, 4, 5, 7, 8, 21, 22
 - self-assessment checklist, 38–9
 - entity reputation, 6
 - ethical behaviour/culture, 41
 - leadership and, 10, 11, 49
 - see also* APS Code of Conduct; APS Values; conflicts of interest

- evaluation and review, 5, 11–12
 - and continuous improvement, 39
 - facilitation of, 12, 35
 - of governance arrangements and practices, 36
 - implementation of recommendations of, 36, 37–9
 - elements of better practice in, 37
 - leadership and, 12
 - and performance monitoring, 33
 - planning for, 35–6
 - see *also* capability reviews; external reviews; internal review; performance monitoring, reporting and review; program evaluations
- exchange of letters, 65
- external reviews, 12, 35, 36
- external scrutiny, 12, 35
- F**
- financial arrangements and obligations for cross-entity activities, 59
- financial management, 16, 53
 - and cross-entity arrangements, 62
 - see *also* Commonwealth financial management framework
- financial performance, 16
- financial planning see budgeting and financial planning
- financial statements/reports see annual audited financial statements
- fit-for-purpose governance arrangements, 7, 10, 13–16
- Freedom of Information Act 1982*
 - and Information Publication Scheme, 48
 - and records management, 48
- G**
- good governance, 3, 7
 - key focus areas for achievement of, 17–18
 - leadership and, 10
 - objectives of, 7–8
 - in practice, 5
 - and ‘soft’ and ‘hard’ governance, 22
 - and written agreements, 57, 63–6, 70
- governance see better practice governance; ‘hard’ governance; public sector governance; ‘soft’ governance; whole-of-government and cross-entity governance
- governance arrangements and practices
 - adjustment of to meet changing needs, 16–17
 - strategies to achieve, 17
 - evaluation of, 36
 - planning for, 36
 - see *also* clear roles, responsibilities and governance arrangements; fit-for-purpose governance arrangements
- governance evaluations or reviews, 36
- governance structures, 13
- Guide see Better Practice Guide: Public Sector Governance
- H**
- ‘hard’ governance arrangements, 3, 22
- head agreement see collaborative head agreement or head agreement
- high performance
 - planning for, 23–5
- I**
- ICARE, 11
 - see *also* APS Values
- individual performance agreements, 14, 23, 24
- information see performance information; risk information
- information and analysis
 - and decision making, 25
- Information Publication Scheme, 48
- information sharing with stakeholders see *under* stakeholders
- innovation, 5, 10, 14, 15, 26, 30, 32
 - barriers to, 32
 - leadership and, 11
 - and program management, 32
 - and risk, 32, 39
- innovation and adaptation
 - fostering of, 32
- Innovation in the Public Sector: Enabling better performance, driving new directions*, 4, 32
- integrity see ethical behaviour/culture; openness, transparency and integrity
- internal audits, 12
- internal budget processes
 - and strategic planning, 14
- internal review, 12, 35, 36
- K**
- key performance indicators, 33–4
 - criteria for evaluating, 34, 53

L

lead entity

- and cross-entity performance and accountability, 60, 61
- definition, 58

leadership, 10–12

- and constructive engagements with stakeholders, 43–4
- and ethical behaviour/culture, 10, 11, 49
 - and conflicts of interest, 49
- and learning culture, 11–12

learning culture

- leadership and, 11–12

legal and policy framework, 8–10

- understanding of, 9–10

legally binding contracts, 64

M

material personal interests

- disclosure of, 49

memorandum of understanding (MoU), 57, 61, 65

N

non-legally binding agreements, 57

O

objectives see shared objective or outcome

Office of the Australian Information Commissioner (OAIC)

- and *Principles on open public sector information*, 48

openness, transparency and integrity, 4, 6, 7, 10, 13, 17, 41–55

- and conflicts of interest, 50
- self-assessment checklist, 54–5
- and stakeholders, 41

operational plans see business and operational plans

operations see reporting on performance and operations

outcome-based contracts, 68

outcomes see shared objective or outcome; whole-of-government outcomes

P

parliamentary committee inquiries, 12, 35

partnering arrangements

- accountability of entities under, 61
- see also cross-entity arrangements

partnering outside the public sector, 6

- see also collaborative partnerships; partnerships outside of government

partnership agreement, 65

partnerships outside of government, 57, 67–8, 70

- challenges, 67–8
- see also partnering outside the public sector

performance see annual performance statement; entity performance; financial performance; high performance; individual performance agreements; key performance indicators; public reporting of performance; sustained performance success

performance information, 15

- and performance monitoring, 33
- and program implementation, 24

performance measurement, 4, 5, 39, 53

performance monitoring, reporting and review, 10, 15, 21, 33–4, 39, 52–5

- and planning for high performance, 23
- see also evaluation and review; key performance indicators; performance reporting framework

performance objectives

- strategies for achievement of, 21

performance optimisation

- self-assessment checklist, 38

performance orientation, 4, 5, 17, 21–39

- self-assessment checklist, 38–9

performance reporting framework, 52–3

- see also performance monitoring, reporting and review

personal interests see material personal interests

planning see budgeting and financial planning; corporate and business planning; evaluation and review, planning for; high performance, planning for; strategic planning; systematic planning

policy development see whole-of-government, cross-entity and cross-sectoral initiatives in policy development and service delivery

Preparation of Financial Statements by Public Sector Entities, 4

Principles on open public sector information (OAIC), 48

priorities, 23

private interests

- declaration of, 51

process-based contracts, 68

program delivery, 10, 16, 17

- see also third-party delivery of government programs and services; whole-of-government, cross-entity and cross-sectoral initiatives in policy development and service delivery

- program design, 16
 - program effectiveness
 - measurement of, 33
 - program evaluations, 12
 - see also evaluation and review
 - program implementation
 - alleviation of problems in, 24
 - essential preconditions for, 24
 - planning for, 24–5
 - and strategic planning, 14
 - program management
 - and innovation, 32
 - program objectives, 33
 - public expectations, 21
 - Public Governance, Performance and Accountability Act 2013 (PGPA Act)*, 3
 - and annual performance statements, 24, 33
 - and annual reports, 52
 - and collaboration and partnering amongst Commonwealth entities, 62
 - and corporate plan, 23
 - and duties for accountable authorities, 9
 - and duties of accountable authority of public sector entity, 58
 - and engagement with stakeholders, 43
 - and financial reports, 53
 - and funding arrangements in collaborative activities, 62
 - and governance structures for public sector entities, 8–9
 - and risk management, 14, 28
 - Public Interest Disclosure Act 2013*, 55
 - public interest disclosures, 55
 - public reporting of performance, 6
 - public sector entities, 3
 - accountability of see accountability
 - PGPA Act and duties of accountable authority of, 58
 - see also collaborative approaches to governance across entity boundaries; entity performance
 - public sector governance, 3, 5, 7
 - achievement of in practice, 5
 - fundamentals of, 5, 7–18
 - elements of, 10
 - legal and policy framework, 8–10
 - see also fit-for-purpose governance arrangements; good governance
 - Public Sector Governance Better Practice Guide*, 3
 - Public Service Act 1999*
 - provisions of, 9
 - records management and, 48
 - and role of Secretary of department and Senior Executive Service, 59
 - purchaser–provider agreement see service level agreement, work level agreement, purchaser–provider agreement
- R**
- records management, 48
 - Records Management in the Australian Public Service*, 48
 - reporting of whole-of-government and cross-entity initiatives, 63
 - reporting on performance and operations, 52–5
 - resource management, 5
 - resource management framework
 - and financial performance, 16
 - review see evaluation and review
 - risk
 - common types of, 29
 - engagement with, 26–31
 - identification of in cross-entity activities, 61
 - records, 31
 - see also shared risk
 - risk analysis, 30
 - risk assessment, 29
 - risk avoidance
 - and innovation, 32
 - risk awareness, 14, 21, 26
 - risk evaluation, 30
 - risk identification, 29
 - risk information, 28, 30, 31
 - risk management, 4, 5, 10, 14–15, 21, 26–31
 - financial, 16
 - and innovation, 32, 39
 - involvement of governance bodies in, 28
 - processes and practices, 28–9
 - good practices, 15
 - review and refinement of, 31
 - risk management culture, 27–8
 - risk management strategies, 30, 31
 - risk monitoring, 31
 - risk plans, 15, 24, 30, 31
 - risk posture, 27
 - risk register, 31
 - risk tolerance, 27

S

Secretary of a department
Public Service Act and role of, 59
responsibilities of, 9

self-assessment checklists
effective collaboration, 69–70
entity performance, 38–9
openness, transparency and integrity, 54–5

Senior Executive Service
and declaration of private interests, 51
Public Service Act and role of, 59

senior executives
and good governance, 7

service delivery, 10, 17, 21
see also third-party delivery of government programs and services; whole-of-government, cross-entity and cross-sectoral initiatives in policy development and service delivery

service delivery approaches, 16

service level agreement, work level agreement, purchaser–provider agreement, 65

shared objective or outcome, 57, 61–2, 69

shared risk
coordination of reporting and evaluation of risks, 63
management of, 57, 62–3, 69
in partnerships outside of government, 68

social media policy, 47

‘soft’ governance, 3, 22

stakeholder participation, 21

stakeholders
conflicts of interest, 52, 55
constructive engagement/interaction with, 4, 10, 16, 41, 42, 43–6, 54
co-design, co-creation and co-production, 46
leadership and, 43–4
levels of, 46
and risk management, 29
strategies for, 45–6
structured approach to, 44, 45
consultation with, 42, 43
contribution of, 41, 43, 54
identification of and their relationship to entity, 44–5
information sharing with, 6, 41, 42, 47–8, 55
interests and expectations of, 42, 45, 54
internal and external, 42
and openness, transparency and integrity, 41

strategic planning, 10, 13–14
and internal budget processes, 14
and program implementation, 14
and risk management, 15

Successful Implementation of Policy Initiatives, 4

sustained performance success
behaviours which enable, 22

systematic planning, 21

T

third-party delivery of government programs and services, 43

‘traffic light’ progress or status reports
and management of shared risks in cross-entity arrangements, 63

transparency see openness, transparency and integrity

V

Values see APS Values

W

Web 2.0, 47

whole of government
definition, 58

whole-of-government activity, 59, 61–2

whole-of-government and cross-entity governance, 6
see also cross-entity governance

whole-of-government, cross-entity and cross-sectoral initiatives in policy development and service delivery, 43, 57, 59
and evaluation and review, 12, 35
and planning for high performance, 23

whole-of-government outcomes, 61–2

work level agreement see service level agreement, work level agreement, purchaser–provider agreement

workplace culture, 11
see also ethical behaviour/culture; learning culture

written agreements
and good governance, 57, 63–6, 70