IS LESS MORE?
TOWARDS BETTER COMMONWEALTH PERFORMANCE

COMMONWEALTH FINANCIAL ACCOUNTABILITY REVIEW | MARCH 2012
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Towards Better Commonwealth Performance

Commonwealth Financial Accountability Review | March 2012
Foreword

The Minister for Finance and Deregulation announced the Commonwealth Financial Accountability Review (CFAR) on 8 December 2010. CFAR forms an important part of the Australian Government's Better Government agenda. This agenda is concerned with ensuring that there is an appropriate framework within which the government and the public sector can work effectively, irrespective of particular settings or policy priorities. It covers a range of activities to improve delivery of government policies and programs and upgrade the public management framework generally.

The objective of CFAR is to improve performance, accountability and risk management across government, through a framework that is simple, easy to use and valued by all stakeholders.

CFAR is examining the Australian Government's current financial framework – including funding arrangements, governance, performance and accountability – from first principles, to identify options for reform that will support high quality resource management and performance now, and into the future.

While the government and the Australian Public Service assess performance and management structures on an ongoing basis it is rare that an opportunity, such as CFAR, comes along to fundamentally reconsider the financial framework. The last such review occurred in the early 1990s and culminated with the commencement of the Financial Management and Accountability Act 1997 and the Commonwealth Authorities and Companies Act 1997.

This discussion paper is an important part of CFAR. It is an opportunity for those interested in public sector management to consider and comment upon issues and options for reforming the financial framework.

The paper's purpose is to promote consultation and stimulate public discussion. It seeks to challenge the reader to identify opportunities for improvement that will lead to long term sustainability in the delivery of public services. Feedback will inform the development of recommendations to be presented to the government.

The proposals outlined in the paper do not represent the views of government or put forward a final government position.

Many individuals and organisations have contributed to the CFAR process, which has greatly helped develop the paper. Your contributions are gratefully acknowledged.

I commend this discussion paper for your consideration and encourage you to put forward your views on the issues and propositions that it canvasses.

David Tune
Secretary
Department of Finance and Deregulation
Invitation to respond

We are seeking your input on one, some or all of the issues and propositions that are raised in this discussion paper. Please keep in mind that the proposals outlined have not received government approval and do not represent the views of the Australian government.

In responding, you may wish to consider the following points or you can set out your issues as you see them:

• To what extent would the proposals outlined in the paper enable the public service to perform more efficiently and effectively to meet government objectives?

• What other potential reforms, not identified in this paper, could improve government operations?

All information (including name and address details) contained in submissions will be made available to the public on the Finance website unless you indicate that you would like all or part of your submission to remain in confidence.

Respondents who would like part of their submission to remain in confidence should provide this information marked as such in a separate attachment. Legal requirements, such as those imposed by the Freedom of Information Act 1982, may affect the confidentiality of your submission.

Further opportunity to provide feedback on this discussion paper will be offered in a series of CFAR discussion forums held in the second quarter of 2012. Details of these forums will be available on the Department of Finance and Deregulation’s website at:


Submitting your comments

Written comments on the matters raised in the paper can be provided:

• by posting your comments on www.cfar.finance.gov.au; or
• by sending an e-mail to CFAR@finance.gov.au

We would appreciate your feedback and comments on the matters raised in the discussion paper by 29 June 2012.
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Executive summary

The Commonwealth financial framework regulates the financial activities of Commonwealth entities. The framework is based on requirements in the Australian Constitution, and its legislative dimensions can be seen as an agreement between the Parliament and the Executive on the Commonwealth’s use of public resources, including how the Executive will be held accountable for that use.

The key legislative components of the framework are the Financial Management and Accountability Act 1997 (FMA Act) and the Commonwealth Authorities and Companies Act 1997 (CAC Act). Together with the Auditor-General Act 1997 and the Charter of Budget Honesty Act 1998, these Acts reflected a fundamental shift in Commonwealth financial management over the 1980s and 1990s, from a rules-based environment with centralised controls (governed by the old Audit Act 1901) to a more principles-based and devolved environment.

Since the introduction of the FMA and CAC Acts, there have been some substantial changes to government financial arrangements. These include:

- accrual budgeting and reporting reforms in 1999 and the inclusion of outcome based appropriations;
- the Goods and Services Tax (GST) in 2000; and
- new funding arrangements between the Commonwealth and the states and territories under the Federal Financial Relations Act 2009.

In addition, community expectations of government have changed. Citizens expect the government to act in an integrated and coordinated way and to respond to increasingly complex issues efficiently and effectively. They expect services that meet their needs, rather than services that reflect organisational structures and boundaries. Governments are also expected to cover an increasing range of risks that may not previously have been considered the responsibility of the public sector.

As the pace of economic and social change quickens, governments must be more responsive than ever. This is at a time when public finances are under increasing pressure and the public sector is expected to do more with less. Many current models for planning and delivering public services are unlikely to be sustainable over the medium to long term.

Government has recognised the need to review its operations to meet current and future challenges, as seen with the review of government administration, Ahead of the Game. In this context, it is timely to reflect on the Commonwealth’s financial framework and its contribution to efficient and effective use of public resources. While the framework is not broken, there is scope to enhance existing arrangements, including by incorporating the best of contemporary thinking and practice into Commonwealth performance and resource management.

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Executive summary

Directions for reform

Since the introduction of the FMA and CAC Acts, changes have been made to the financial framework in response to specific issues. While the changes have addressed those specific issues, there has been less opportunity to consider the impact of individual changes, or the accumulation of these changes, on the overall framework. An unintended consequence may have been that some changes have resulted in inconsistency, fragmentation and added complexity.

There has also been a build-up in the stock of legacy systems and processes, most evident in the multitude of reporting obligations. There is a view that over time there has been a shift in emphasis towards controls and compliance at the expense of flexibility and performance. There has been a tendency to respond to perceived risks and failure with more rules and tighter controls, including the re-imposition of some prior controls.

While some re-balancing was to be expected following experience with the substantial reforms that accompanied the introduction of the FMA and CAC Acts, the framework should continue to encourage users to focus on achieving results, not complying with rules.

Through extensive consultations, CFAR has identified a number of directions for reform aimed at strengthening the existing framework so that it continues to support government performance. As with Ahead of the Game, there is some emphasis on planning and coordination. This should not suggest increased centralisation but a starting point from which to examine a basic premise – the Commonwealth should operate as a coherent whole, effective in its coordinated activities, not just in its parts. The challenge is for the framework to provide an appropriate balance between devolution and centralisation, with the appropriate level of accountability accompanying this.

Enhancing transparency and accountability

Parliament represents the interests of citizens. Fundamental to good accountability is the ability of Parliament to hold Executive government to account. This is demonstrated by the role that Parliament plays in controlling the funding of government and scrutinising its operations.

For its part, Executive government must be transparent and provide Parliament with timely, well-structured information that facilitates informed debate and allows for appropriate accountability. In this context, a substantial amount of information is presented to Parliament regarding proposed expenditure and performance. The general trend has been for this information to become more voluminous and complex. It is not clear that accountability and transparency have improved or if it is easier to judge whether government is achieving its objectives and outcomes.

Key propositions for enhancing transparency and accountability

- Simplify the appropriation bills by no longer appropriating to outcomes, but with outcomes retained in the performance context.
- Restructure Portfolio Budget Statements to more closely align external reporting with internal planning and management reporting by entities.
- Align standards better for preparing appropriation bills, Portfolio Budget Statements, annual reports and audited financial statements to enable comparisons and a clear read between budgeted and actual expenditure and performance.
- Develop criteria for establishing and reviewing special appropriations.
- Offer enhanced training and ongoing professional development to Parliamentarians and their advisers in relation to appropriations and other framework issues.
Executive summary

More effective governance arrangements

Good governance is the foundation for high performance and community confidence in the public sector. Effective governance arrangements clearly articulate the nature and extent of authority of entities and how they will be held to account by ministers and Parliament. They must be sufficiently flexible to allow the public sector to meet the needs of citizens in an efficient, effective and coordinated way and respond to changing circumstances.

The existing financial framework model classifies Commonwealth entities as falling under either the FMA Act or the CAC Act – with distinct governance, funding, reporting and accountability arrangements. While this framework has enabled new and different organisational models to deliver the complex business outputs of government, the solutions have not always been simple, and sometimes have involved complex workarounds. It has also contributed to some fragmentation of the public management system and a loss of systemic efficiency. There is growing tension about where the boundaries lie in the spectrum of policy, legal, financial and managerial autonomy across government entities.

Public policy issues are increasingly complex and require responses that stretch across boundaries (within government and across sectors). Consequently, traditional models for delivering public services, based on vertical hierarchical governance and accountability, need to be complemented by participative and networked arrangements. This will help make the public sector more connected and agile and better placed to address complex problems in an uncertain environment. It is not clear that the framework has adequate incentives and flexibility to efficiently accommodate all this.

Key propositions for more effective governance arrangements

- Operate Commonwealth entities, which are not commercial in nature, from a single Commonwealth bank account.
- Apply directors’ duties based on those in the Corporations Act 2001 only to entities that are commercial in nature.
- Structure the financial framework to allow for more integrated portfolio governance.
- Recognise in the financial framework legislation that the responsibilities of office holders, management and staff can extend beyond their individual organisations to delivering wider government objectives, including joint activities.
- Structure the financial framework to allow for pooled funding arrangements and for appropriated amounts to be more readily redistributed among entities pursuing shared objectives.
Improving performance

Good government requires good public service performance. The public sector is judged on how well it performs and the results it achieves.

Sound resource management is fundamental to good performance. It supports effective decision making, facilitates accountability and enables entities to manage material risks, including financial, political and reputational risks. Failures in resource management can reduce public value and result in additional costs.

There is scope for a more business-like approach within the Commonwealth, to the way that resources are managed and policies and programs are developed, implemented and evaluated. Better integration of the elements that comprise the Commonwealth’s resource management cycle, including budgeting, performance management, reporting and evaluation, is an important element for improving performance.

Feedback indicates that improving the quality of performance information, making better use of benchmarking and re-establishing evaluation as an integral element of the resource management cycle would be beneficial. They are key components of a performance-based system. They should not merely be viewed as a compliance exercise, to meet government or legislative requirements.

Improving the performance management system will not, of itself, improve performance. A stronger performance culture is also needed.

Key propositions for improving performance

- Reflect in financial framework legislation the responsibilities of chief executives and directors for key elements of resource management, including budgeting, performance management, reporting and evaluation, to support a more comprehensive approach to resource management across the Commonwealth.

- Consider introducing multi-year appropriations, especially for major programs and projects.

- Develop a coherent and integrated performance management framework to give a clear and shared understanding of the government’s priorities and strategic direction.

- Develop indicators that allow for performance to be measured and compared across the public service.
**Engaging with risk**

Citizens rightly expect governments to be prudent in their use of public funds – and they expect high standards of accountability from public officials. Citizens also expect a better performing public sector that delivers better outcomes at lower cost. In a complex environment this involves improvements in productivity, innovation, experimentation and the risk that something may not work out as planned.

The public sector’s challenge is to promote a high standard of risk management that fosters, rather than stifles, innovation. This can be especially challenging when operating to high standards of accountability and transparency in a politically charged environment.

An overarching Commonwealth risk framework, including supporting legislation, could help achieve greater consistency in risk practices across the Commonwealth. Among other things, it could set the context for how entities determine risk tolerances and manage their material business risks.

Employees need both the right skills and the right attitudes to handle risk effectively. They also need to be empowered to take prudent, common-sense risks to achieve better outcomes.

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**Key propositions for engaging with risk**

- Develop an overarching risk management framework for the Commonwealth to set the context for entities’ risk practices.
- Require entities to establish policies for oversight, management and reporting of material risks and to report to government on the management of these risks.
- Make risk management a core competency in government, with the Department of Finance and Deregulation (Finance) providing a more coordinated and systematic approach to risk management training.
**Building capability and culture**

The ability for individuals to exercise power effectively will be influenced by, among other things, their capability and the culture in which they are operating. Leadership is a key determinant of an entity’s culture. Overall, creating an organisational culture that values performance and seeks to demonstrate the principle of sustainable value for money in each day-to-day decision is a key goal of public sector leaders.\(^4\)

While the financial framework is not, of itself, a determinant of culture, incentives within the framework can influence the behaviour of users. People operating under the financial framework should be properly empowered to make decisions and be held to account for their performance.

Much can be done to improve financial management capability – including through formal training, assessment and evaluation of staff – to ensure that all elements of government are geared to achieve efficiencies and better value for money, while operating within the policies and priorities of the Government. The focus should be on improving the financial literacy of all people who manage public money and resources, no matter their seniority. Financial literacy includes being sufficiently proficient to know when expert help is needed.

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**Key propositions for building capability and culture**

- Increase Finance’s coordination and targeting of training and enhance guidance material, including developing web-based tools, to improve financial literacy across the Commonwealth.

- Clearly articulate qualifications, experience and minimum responsibilities for Chief Finance Officers.

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Executive summary

Simplifying requirements

Compliance controls are always going to be rigorous in government because public funds are being spent. The challenge for the financial framework is to find a simple and effective means of encouraging financially responsible behaviour and prudent decision making, without being overly prescriptive or excessively burdensome and costly.

Legislating a set of principles, rather than prescribing detailed procedural requirements, would give entities the flexibility to adopt appropriate systems and processes to achieve their objectives. Principles would allow entities to adapt to future changes in the way government operates.

Even though both FMA Act and CAC Act entities manage public money the regulatory arrangements are more prescriptive under the FMA Act. CAC Act bodies appear to operate with an equivalent level of efficacy in the management of Commonwealth resources, without the imposition of a complex legal framework.

Any reform of the financial framework should be supported by an assessment of which obligations contribute to better resource management and performance in the pursuit of government policies and clearly demonstrate that the benefits would outweigh the costs.

Key propositions for simplifying requirements

- Restructure the financial framework so that primary legislation is more clearly principles-based and focused on areas of high risk, with clearer and more detailed guidance to support entity performance.
- Simplify financial framework legislation and rules applying to managing appropriations and public money to reduce compliance burdens.
- Simplify and better align financial framework rules for grants and procurement and base their requirements on the level of risk involved.
- Develop a more focused approach to reporting to remove duplication and reduce the burden on entities and managers.
- Develop a risk-based approach to reporting allowing for tiered reporting based on an entity’s risk exposure.
- Simplify the penalties and sanctions regime in the financial framework by relying on the Criminal Code for criminal conduct and removing overlapping offences.
Clarifying obligations

A wide array of people are involved in managing and using public resources, such as the staff of government entities, third parties undertaking work on behalf of the government, and ministers and their staff. The financial framework imposes obligations on all people using public resources. Individuals are more likely to comply when they properly understand their responsibilities and the reasons for them.

There is scope to revise and simplify a range of obligations and requirements under the financial framework to create further consistency across Commonwealth entities and reduce the compliance burden on users.

Key propositions for clarifying obligations

- Adopt a more risk-based approach to imposing requirements within the financial framework, reporting compliance against those requirements and addressing non-compliance.
- Consider making the regulatory requirements that apply to FMA and CAC Act entities more consistent.
- Make language consistent between financial framework and related legislation, including the enabling legislation of statutory authorities and the Public Service Act 1999.
A financial framework for the future

The existing financial framework emphasises entity-based, vertical accountability and has been robust over the last two decades, supporting efficient and effective delivery of policies and services to citizens. The challenge is to ensure it continues to facilitate prudent financial management and effective performance, particularly as governments shift focus from services to a more strategic form of governance. This is likely to be more about influencing behaviour, being better at joining up the issues and being agile and innovative. It also may be better at forecasting and anticipating emerging issues, rather than being good at reacting to them when they are immediately apparent.5

When contemplating a potential financial framework for the future there are a number of elements to consider. These include the format and structure of any legislation, and the values, practices and procedures that support the financial framework.

There are a number of initiatives that could improve performance in the Commonwealth. Some of these initiatives would require legislative change and the reconfiguration of IT systems, and consequently a reasonable period of time and investment to implement. However, there are opportunities to reconsider existing practices and procedures, which are typically grounded in policy and convention. Such changes could be more readily implemented, as they can be accommodated within existing legislative structures.

In considering implementation of initiatives to support the proposed directions for reform, CFAR has identified three broad approaches for potential reform:

• upgrading the existing entity based framework;
• strengthening portfolio governance arrangements; and
• strengthening the whole-of-government performance framework.

These approaches are not mutually exclusive and could be undertaken progressively, taking into account implementation and transitional issues.

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1 Introduction

The Australian Government is a significant operating entity – one of the largest in the southern hemisphere. Each year it manages billions of dollars in taxpayers’ money to deliver programs and services to Australians. In 2010-11, it had expenses of around $368 billion (about 25 per cent of Australia’s gross domestic product) and employed around 310,000 people. The Australian Government affects the lives of all Australians, in areas as diverse as income support, health care, education, overseas travel, defence and taxation.

Citizens expect the government to be well managed and to handle taxpayers’ money prudently and effectively. The Commonwealth financial framework is, therefore, a fundamental aspect of Australian Government operations, providing overarching rules for regulating financial activities, including governance, resource management, auditing and accountability. It influences the culture of the public sector through the checks and balances contained in legislation for managing public resources and the mechanisms put in place by entities to comply with their legal and other requirements.

While updated regularly, the current framework has not been fundamentally reviewed since its inception some two decades ago. The FMA Act and CAC Act, together with the Auditor-General Act 1997, commenced on 1 January 1998, replacing the Audit Act 1901, which was seen as unable to accommodate the demands of modern public sector management. These legislative changes reflected a fundamental shift in Commonwealth financial management from a rules-based environment with centralised controls and a focus on compliance to a more principles-based and devolved environment with a focus on performance.

Underpinning this shift was the emergence of New Public Management (NPM) as a major influence for public management reforms in Australia and many other Organisation for Economic Cooperation and Development (OECD) member countries during the 1980s. Broadly speaking, the NPM-influenced reforms included a focus on results and management of performance; devolution of authority; greater emphasis on value for money; the use of market-type mechanisms to drive efficiency, such as commercialisation, privatisation and contracting out; and the adoption of more business-like management, including accrual accounting.

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To support devolution, steps were taken to develop and strengthen accountability systems within the public service, and between the public service, ministers and the Parliament. Formal accountability mechanisms such as agency annual reports provided the government and the Parliament with information about the operations of government, assessments of results and forecasts of future needs and expectations. It was intended that program management information systems would help with monitoring and reporting on program performance.10

By seeking to apply private sector management approaches, public sector entities learnt how to operate more efficiently and how to be more responsive and service-oriented. Vertical accountabilities within agencies were also strengthened. However, the subsequent focus on entity-specific outcomes and the alignment of incentives for that purpose has, at times, inhibited collaboration and integration across government.

In addition, the combination of a centralised budgetary process and devolved agency management has proved challenging, and has led to tensions in the framework. Despite the move to accrual budgeting and accounting, which was intended to give a more comprehensive picture of the government’s financial position to aid decision-making beyond the short-term, there remains an entity-centric view in management with a focus on ‘cash’ and managing within an annual budget.

In recent years, there has been an emphasis on improving performance reporting and the transparency of budgeting and financial management, such as through the reforms resulting from the Review of Operation Sunlight (‘Murray Review’).11 From the 2009-2010 Budget, agencies began reporting on both an outcomes and programs basis.

Another significant change has been the introduction of the Federal Financial Relations Act 2009 (FFR Act), which has simplified processes for making Commonwealth payments to the states. In 2011-12, payments by the Commonwealth amounted to $95 billion for specific purposes and general revenue assistance.12 The FFR Act instigated centralised payment arrangements from the Commonwealth Treasury direct to each state treasury for subsequent distribution, rather than Commonwealth departments making payments to the relevant state agencies under individual administrative arrangements. To support performance reporting, a standardised performance reporting framework for all jurisdictions has been endorsed by the Council of Australian Governments (COAG).13

Amendments to the financial framework have been made from time to time, principally to address specific, often discrete issues. The framework is not broken, but looking at it as a whole, there is an opportunity to consider how it could meet future needs of government better and support effective and sustainable delivery of public services. This includes accommodating the increasing emphasis on cross-jurisdictional and cross-sectoral partnerships and a possible further evolution as government continues to shift its focus from delivering services and policies towards an emphasis on influencing people’s behaviour.14

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10 Management Advisory Board/Management Improvement Advisory Committee, Accountability in the Commonwealth Public Sector, Report No. 11, June 1993.
2 Current financial framework

The Commonwealth financial framework regulates the financial activities of the Australian Government. It takes into account requirements contained in the Australian Constitution, and its legislative dimensions can be seen as an agreement between the Parliament and the Executive on the Commonwealth’s use of resources.

Australian Constitution

The Australian Constitution is the fundamental law of our nation; it provides the key elements of a form of government within which accountability is a central concept. It establishes the conditions under which parliamentary legislative powers exist and provides for an Executive government.15

The Constitution establishes that all money raised or received by the Executive government forms one Consolidated Revenue Fund (CRF),16 and provides that money can be spent only if it is appropriated by law.17 In this way, the Constitution ensures that Parliament controls the funding of the Executive.

However, the Constitution leaves it to the Parliament to make detailed legal provisions relating to government operations. Laws relating to the financial operations of government, such as the FMA Act and the CAC Act, provide the legislative basis for much of the financial framework.

Key legislation for government entities

Legislative requirements for the management of Commonwealth resources are principally set out in the FMA Act and the CAC Act, and subsidiary legislation made under those Acts. The FMA and CAC Acts operate in conjunction with other legislation, including Acts containing appropriations, the Charter of Budget Honesty Act 1998, the Auditor-General Act 1997, the FFR Act, the Public Service Act 1999 (PS Act) and the enabling legislation of particular entities.

Appropriations

The constitutional basis for appropriations is straightforward. The Australian Constitution establishes that all money raised or received by the Executive government forms one Consolidated Revenue Fund. The money can be spent only if the expenditure is supported by an appropriation made by law. This is illustrated in the following diagram.

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15 Management Advisory Board/Management Improvement Advisory Committee, Accountability in the Commonwealth Public Sector, Report No. 11, June 1993.
16 Section 81.
17 Section 83.
The requirement for money to be appropriated before it can be spent is a key element in the Constitution, which safeguards Parliament’s control over the spending of the Executive. Parliament’s role is to review, debate and approve or reject the Executive’s proposed expenditure. In effect, government can do only what Parliament will pay for.

The Constitution affects the content of annual appropriations Acts. Section 53 restricts the power of the Senate to amend Bills proposing taxation or appropriating revenue or moneys for the ordinary annual services of the government. Section 54 provides that a proposed law that appropriates moneys for ordinary annual services must contain only such appropriations.

To clarify what constitutes the ordinary annual services of the government, the Executive and the Senate reached an agreement that has come to be referred to as the ‘Compact of 1965’. As a result, annual appropriation Bills for the government are introduced in pairs – one for the ordinary annual services of government (Bill No. 1) and one for other appropriations (Bill No. 2).

Federal Financial Relations Act 2009

The Intergovernmental Agreement on Federal Financial Relations (Intergovernmental Agreement) governs all financial relations between the Commonwealth and the states. It establishes a foundation for the Commonwealth and the states to collaborate on policy development and service delivery, and implement economic and social reforms of national importance.

The FFR Act provides a standing appropriation for the Commonwealth to make ongoing financial contributions to the states. The Act allows the Treasurer, through a written determination, to credit amounts to the Council of Australia Government (COAG) Reform Fund to make grants of national partnership payments and general revenue assistance to the states.

18 The Compact is not set out in a single document, but rather is a series of records of parliamentary meetings and other documents built up since 1965. The last substantial revision to the Compact occurred in 1999 following the introduction of accrual accounting.
Charter of Budget Honesty Act 1998

While much of the Budget process is based on convention, an important legislative aspect is the Charter of Budget Honesty Act 1998 (the Charter). This Act requires the Government to produce a fiscal strategy statement based on principles for sound fiscal management. It also requires regular reporting throughout the Budget cycle so that the Government’s performance can be assessed against its fiscal objectives.19

The Charter also requires, among other things, that the government publish an economic and fiscal outlook at the time of the Budget, a mid-year economic and fiscal outlook (MYEFO) by the end of January each year, and a Final Budget Outcome report three months after the end of the fiscal year. These documents facilitate parliamentary and public scrutiny of fiscal policy and performance.

Another requirement in the Charter is an Intergenerational Report every five years.

Financial Management and Accountability Act 1997

The FMA Act regulates the use of public money and public property20. It is based on an executive management structure, with a chief executive at an agency’s apex. Under the FMA Act, chief executives have certain powers and responsibilities, including managing the affairs of their agency in a way that promotes the proper use of Commonwealth resources.21

A full list of agencies under the FMA Act is at Attachment A.

Commonwealth Authorities and Companies Act 1997

The CAC Act regulates bodies corporate that are legally separate from the Commonwealth and hold money on their own account. It is based on a structure with a board of directors at the apex of an organisation. The CAC Act imposes certain duties relating to the conduct of officers and directors of these bodies, such as the duty to exercise due care and diligence, and the exercise of powers in good faith and for a proper purpose.22

The CAC Act covers Commonwealth authorities and Commonwealth-controlled companies. This includes bodies such as Australia Post, the Reserve Bank of Australia and the Commonwealth Scientific and Industrial Research Organisation (CSIRO). A full list of bodies under the CAC Act is at Attachment B.

Auditor-General Act 1997

The Auditor-General Act 1997 establishes the role of Auditor-General and the Australian National Audit Office (ANAO). The Auditor-General is an independent officer of the Parliament, providing assessments of selected areas of public administration, and assurance about public sector financial reporting, administration, and accountability.23

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20 Concepts defined in section 5 of the FMA Act.
21 Section 44 of the FMA Act defines proper use as ‘efficient, effective, economical and ethical use that is not inconsistent with the policies of the Commonwealth’.
22 Sections 22 and 23 of the CAC Act.
Public Service Act 1999

A number of entities employ staff under the PS Act. That Act details the Australian Public Service (APS) Values and the APS Code of Conduct that apply to all public servants, which include a specific obligation to use Commonwealth resources in a proper manner.

The following diagram shows the hierarchy of legislation and information, such as Finance guidance material\(^\text{24}\) and ANAO Better Practice Guides, relevant to the financial framework.

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\(^{24}\) Guidance material includes Finance Circulars; the Financial Management Guidance and Financial Management Reference series; and Estimates Memoranda.
3 The case for change

The evidence suggests that the APS is in pretty good shape, but there are areas that can be improved. And, we need to acknowledge that the world doesn’t stand still – if we are performing pretty well today, then we won’t be in 5, 10, or 20 years unless we continue to change and develop.25

While the current financial framework has met the needs of government to date, there is evidence that it could be enhanced to better meet current needs and facilitate more effective performance and resource management.

The government operates in a continually changing and evolving environment. It faces an array of challenges and opportunities to enhance performance and position Australia for the future.

Internationally, there is increased financial uncertainty flowing from the global financial crisis (GFC). This has led to a stronger focus on debt levels in Europe and other countries, bringing long-term fiscal sustainability to the forefront of government considerations.

Unsustainable fiscal practices can have direct impacts on citizens, including through reduced services, increased taxation and unsustainable debt burdens for future generations. Australia remains in a strong financial position, faring well through the GFC compared with other nations. However, the GFC’s legacy has seen tax receipts revised down.26

Demographic change is having a substantial impact globally. In Australia the ageing population will have implications for government spending in health, age pensions and aged care, and the growing population will put pressure on infrastructure and services.27

At the same time, expectations of government are increasing and changing. Citizens expect government to be more responsive to individual and community needs and to provide broader, timely, accessible and coordinated programs and services. People expect more and they expect better.

Compounding the issue of rising citizen expectations, is that the problems being addressed are increasingly complex, sensitive and inherently multi-disciplinary in character, and present challenges in terms of resourcing and accountability. They require more participative governance models and a different way of working to those adopted in the past.

Changes are occurring in the way government meets citizen expectations and policy challenges. Increasingly, the government collaborates with other jurisdictions and parties in designing and delivering services. Over time this is likely to include greater participation by citizens in service design and delivery as a means of developing more effective and personalised policies and programs. This will challenge historical concepts of accountability, transparency and bureaucratic control.

Federal, state, territory, and local governments are more joined up than a generation ago. There is more pooling of efforts and resources. Issues such as productivity improvement, a sustainable environment, rural and regional affairs and Indigenous service delivery each present the challenge of interdependency. Complex challenges are also found internationally.\(^{28}\)

Advances in technology are also increasing citizens’ expectations. Some are likely to be more achievable than others. For example, reducing service complexity and turnaround time are achievable and measurable – as is the creation of a single record per citizen that can be accessed through multiple channels and organisations. However, a single point of contact may not be achievable in the short term.\(^{29}\)

The challenge for government is to find ways to use technology to meet increasing expectations for higher quality services and greater involvement in service design. In particular, with the commercial world delivering highly personalised responses, the public want to know why government does not treat them the same. They want services specific to their needs and circumstances rather than ones based on organisational structures and boundaries and a ‘one-size-fits-all’ model.\(^{30}\) And they compare the quality of public services to the best services offered by the private sector. For example, government search engines are measured against Google’s capabilities.\(^{31}\)

Government 2.0 is likely to offer opportunities for the public sector to engage with interested citizens and communities to address complex policy and service delivery challenges.\(^{32}\)

It could also help transform existing e-services, which, to date, have largely replicated over-the-counter or form-based services.

Technology has also changed the way government conducts internal operations, such as budgeting, reporting, banking and payment arrangements. More changes to government operations are likely with advancing technologies expected to further improve processes.

Overall, there is strong impetus for government to achieve value for money, improve outcomes and offer services with increasing efficiency and effectiveness and through new channels. It may no longer be possible to keep doing things the same way just because it worked well in the past. Government operations must be up to these challenges.

Government has recognised the need to review its operations to meet the challenges of a new century, as seen with the review of Australian Government administration, *Ahead of the Game*. In this context, it is timely to reflect on the Commonwealth’s financial framework to ensure that it continues to play its part in a high performing public service.

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4 Directions for reform

The financial framework should support government operations to create public value. It should promote the efficient and effective achievement of outcomes and provide for high levels of transparency and accountability.

The past 30 years have been a rich period of experimentation in public administration, aimed at making government more efficient, effective, productive, transparent and responsive. It may now be time to outline a new, integrated model of public administration more relevant to the complex challenges of today.33

While the current financial framework has performed well in supporting government operations, there are opportunities for improvement. For example, as more services are delivered by third parties, a particular challenge relates to accountability and transparency for the use of public money. On this issue, the framework is diffuse and does not contain a coherent statement about Parliament’s expectations for the use of public money. This has contributed to a lack of clarity around roles and responsibilities and in relation to governance, risk and performance practices.

The framework needs to provide sufficient flexibility for achieving policy objectives that require networked and horizontal alignment across government entities, such as reducing homelessness or improving healthcare. Such issues cannot be addressed by one department, entity or portfolio.

The framework must also be sufficiently adaptable to readily accommodate new technology, which will continue to be an important enabler of change in the way public services are delivered. For example, automated decision making, such as e-tax refunds and new payment mechanisms, such as direct mobile billing and smart card transactions payments via mobile phones were not envisaged when the FMA and CAC Act were introduced.

Improving the design and operation of the financial framework so that it supports good financial management and performance is likely to require a focus on:

- enhancing transparency and accountability to Parliament and the public;
- more effective governance arrangements;
- improving performance;
- encouraging innovation by better engaging with risk;
- building a positive resource management culture and financial management capability;
- simplifying requirements; and
- clarifying obligations.

Each of these issues is discussed in the following chapters. The final chapter discusses possible approaches for implementing reforms, with specific initiatives to support each approach outlined in Attachments G to I.

33 Bourgon, J., Reclaiming Public Administration, Ethos, Issue 4, April 2008, Centre for Governance and Leadership, Civil Service College, Singapore, p. 5.
5 Enhancing transparency and accountability

Accountability of the Executive to Parliament is a fundamental feature of the Westminster system. In a democracy, the key accountability relationships are between citizens and holders of public office, and between elected politicians and bureaucrats.34

Effective accountability arrangements are essential for managing public resources. Parliament must be able to gain a clear understanding of where and how these resources are being spent and how effective this expenditure is. Government must be transparent and provide Parliament with timely, well-structured information that facilitates informed decisions and allows for appropriate accountability.

Informing Parliament on appropriations

An appropriation approved by Parliament provides budget authority for amounts to be spent by the Executive. Appropriation bills and budget documents should clearly inform parliament about government’s proposed spending. They should specify a clear purpose and, whenever possible, the amount, in cash, that will be spent and a time span of proposed expenditure after which no further expenditure can be made without a renewed parliamentary authority.35 It is for parliament to identify the degree of specificity with which the purpose of an appropriation is identified.36

The documents detailing the government’s proposed expenditure at each Budget, include appropriation bills and Portfolio Budget Statements (PB Statements).37 The general trend has been for budget documentation to become more voluminous. It is not clear that this has improved transparency.

Case study

While Operation Sunlight streamlined agency PB Statements to reduce duplication, the variety of information they contain may dilute their value. Some entities use the PB Statements to provide additional detail to support the budget papers, while others include information that would be more appropriately included in a corporate plan or on an entity’s website. This leads to the question of whether the purpose of the PB Statements is to be a budget document, a management planning tool, or both. There may be a need to refocus the PB Statements on their primary purpose rather than aim to meet too many different needs.

35 It is not always possible to specify an appropriation amount, for example in certain types of special appropriation. Therefore, objective criteria for payments should be provided instead.
36 Victoria v The Commonwealth & Hayden (1975) 134 CLR 338, at 404, per Jacobs J.
37 PB Statements are the key document for informing parliament of planned activities, particularly at the entity level. They are intended to further explain the purposes and planned performance of government agencies and their contributions towards the achievement of outcomes. This includes information on objectives and key performance indicators for each program that an agency administers.
The structure and content of annual appropriations bills and PB Statements could be simplified. In particular, consideration could be given to the value of continuing to classify amounts as departmental or administered in the appropriation bills and of continuing to link broad outcomes to appropriations.

Financial framework rules require agencies to classify amounts as either departmental or administered (except for payments to CAC Act bodies). These amounts are treated differently under the framework and appropriated separately in the appropriation Acts.

It is unclear what value the distinction between departmental and administered amounts contributes to financial management. For example, there is evidence to suggest a general lack of understanding among agencies of the content of these items and the allocation of expenses to one or other category. There can also be peculiar consequences, such as amounts for a particular item being received as administered revenue, but expenses being recorded as departmental.

In addition to classifying amounts, agencies must specify outcomes against which amounts are to be appropriated in the annual appropriation bills. Outcome statements were introduced together with the accrual budgeting reforms in the late 1990s. Although outcome statements and accrual budgeting are seen as complementary, there is no necessary relationship between the two.

Outcomes are the key mechanism used to inform Parliament about the purpose of annual appropriations. Therefore, it is important that agency outcomes describe concisely and specifically, the impacts that the government intends to achieve through the use of allocated appropriations.

Outcome statements have been criticised as being too high level and overly broad. Their breadth has been one means of giving management flexibility for the use of resources, although this may have come at the expense of a loss of accountability. In examining outcome based appropriations for their own use, the New Zealand Treasury concluded that while these would provide a significant level of management freedom, it would be difficult to meet the other principles that underpin the New Zealand public management system – particularly clear specification of objectives and accountability. Further, officials considered that outcomes-based appropriations would be unreliable both as a control or an accounting mechanism, and would not be relevant in a performance-based accountability system.
Fundamentally, the practice of defining broad outcomes to support management flexibility does not reconcile easily with the need for clear and specific objectives to support accountability. There is also little evidence to suggest that appropriating to outcomes has given Parliament useful and relevant information about, and more meaningful control over, the purpose of appropriations. It may be timely to ask what the minimum standard is for appropriations to meet the constitutional requirement for parliamentary accountability that would also allow the current administrative complexity to be reduced.

One option to simplify the annual appropriation bills could be to appropriate a single amount to an entity. The purposes could be drawn from, or linked to, the legislated function of statutory entities and the Administrative Arrangements Order (AAOs) for departments. An alternative could be to appropriate a single amount to a portfolio, with the purpose being related to the AAO for that portfolio, noting that PB Statements are currently prepared on a portfolio basis.

To support simpler appropriation bills, PB Statements could be restructured to more closely align external reporting of planned expenditure and performance, including on programs, with internal planning and management reporting by entities, thereby making the PB Statements more akin to a corporate plan. This could facilitate better alignment of, and a clear line of sight between, internal and external financial and performance information.

An alternative option could be to appropriate to particular programs, rather than to outcomes. This could provide Parliament with greater specificity over what it is approving and from a control viewpoint, there could be increased confidence that money will be directed to specific programs as proposed.

However, there may be less flexibility for managers to deliver on results and increased administrative costs if amounts are appropriated to specific programs. For example, one of the benefits of appropriating to outcomes is that it is possible for entities to reallocate funding between programs covered by the same outcome. If appropriations were to be based on programs, other mechanisms may be required to support flexibility in government while still meeting Parliament’s needs.

This is not to say that the focus on outcomes should be abandoned. However, rather than linking outcomes to appropriations, the intention would be to develop comprehensive and meaningful outcomes, outputs and Key Performance Indicators (KPIs) that are part of a more holistic, whole-of-government performance framework. The issue of performance is considered further in the Improving Performance section of this paper.

45 Outcome statements are currently supported by financial and non-financial information on programs in the PB Statements.
Appropriations and cash

Under accrual annual appropriations, parliamentary authorisation for expenditure is intended to recognise the total accrued costs incurred by agencies, and allow them to carry forward annual appropriations, for example in respect of employee entitlements.

As part of the government’s response to the Murray Review, the 2010–11 Budget implemented a net cash framework. Under this approach, the range of expenses being funded in the year they were incurred was reduced and future appropriations are only provided for these items when cash payments are expected to be made. This returns at least a part of the annual appropriation framework to the relative simplicity of appropriating on an ‘as needed’ basis.

Cash appropriations, based on the net annual cash requirement of an entity, would simplify appropriations. They could be structured to have no impact on accrual accounting and financial reporting by appropriating against an entity’s cash flow statement. This would also facilitate a clear read between appropriations and annual financial statements.

Moving to cash appropriations should not reduce motivation for agencies to manage all of their resources as opposed to end of year cash balances, as budgets and financial statements would still be prepared on an accrual basis.

Informing Parliament on expenditure

The information contained in reports provided to Parliament, such as budget documentation and annual reports, should allow for a clear comparison to be made between budgeted and actual expenditure and performance. Currently this is not the case, with different requirements applying to various documents.

Financial and performance information reported in the appropriation bills, PB Statements, annual reports and audited financial statements should be aligned more closely to allow for easier comparisons between budgeted and actual expenditure and performance.

Funding options

The financial framework provides for a range of mechanisms for funding government programs. One of the challenges in deciding how a program is to be funded is to identify the most appropriate option for a given circumstance. The main mechanisms include the annual appropriation Bills, appropriation clauses within other legislation (special appropriations), and special accounts (established either by the Finance Minister under the FMA Act or through other legislation). In addition, public policy objectives can be achieved through tax expenditures.

The choice of program design and funding vehicle impacts on funding and program management arrangements and also affects the flexibility of the government and Parliament to adjust budget priorities. On the one hand, special appropriations can offer greater program flexibility to provide additional funding if costs exceed initial estimates.46 On the other hand, it can take time to amend the terms of a special appropriation, such as eligibility criteria. Consequently, there can be a time lag in implementing government policy decisions, due to the legislative process, thereby hindering the government’s desired results.

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46 Special accounts can also offer similar program flexibility – for example, funding remains available until the special account balance reaches zero.
In contrast to special appropriations, annual administered appropriations are effectively capped at the outcome level, providing the government and Parliament the opportunity to limit funding for that outcome. This makes them better suited for areas of expenditure where the government is authorised and responsible for achieving the best outcomes from a finite allocation. Any additional funding usually requires specific consideration and decision by government and additional appropriation approved by Parliament.

Tax expenditures can be less transparent than special or annual appropriations, and can also lock in budget costs. Tax expenditure may, however, be the most efficient and effective way to achieve a particular objective.

**Special appropriations**

Special appropriations provide money for a particular purpose, for example the payment of social security entitlements. Once approved by Parliament, special appropriations provide the capacity for expenditure to be funded on a permanent basis, unless they are time limited, subject to meeting particular criteria. Parliamentary approval is required to remove or adjust a special appropriation.

As the graph below shows, around 75 per cent of government expenditure is currently authorised by special appropriations, which is higher than in a number of other jurisdictions. The graph should not, however, be read as indicating the extent of differences in expenditure controlled by legislated commitments. Some jurisdictions use annual rather than special appropriations to fund programs even though the financial commitment is determined by statute.

**Special appropriations as a share of government expenditure**

![Graph showing the share of government expenditure controlled by special appropriations in various countries]
As most government expenditure is authorised by special appropriations, accurately informing Parliament about special appropriations is critical. While PB Statements and annual reports include information on special appropriations and annual reports are subject to review by Senate committees, there is no formal whole-of-Parliament scrutiny of special appropriations.

Although reporting on special appropriations has improved significantly in recent years, there is a perception that Parliament’s role in considering the Budget each year is diminished due to limited opportunities to examine special appropriations. As noted in the Murray Review: 'From an accountability perspective, the worst feature of special appropriations is that they are not subject to regular or recurrent parliamentary review. Once the individual bills are passed the spending often passes from effective parliamentary oversight…’

Regular review of special appropriations could help to provide assurance about the accuracy and purpose of current special appropriations and to identify special appropriations that are no longer required. The inclusion of ‘sunsetting’ clauses in legislation relating to special appropriations could enable the elimination or reconsideration of a special appropriation after a certain period of time.

The role of the Finance Minister in the creation of special appropriations could also be enhanced to better recognise the custodianship role they play in relation to government finances. Finance could assist by developing criteria for establishing special appropriations, as is currently the case for special accounts. Such criteria should take into account the design and nature of the program being funded and the potential to sunset funding.

There is also potential for Finance to take a greater role in assisting agencies with determining the best option for funding activities, that is, the choice between annual appropriation, special appropriation and the use of special accounts.

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47 For example through enhancements to the information presented in Budget Paper No. 4.
49 Special accounts are a subtype of special appropriations, established either by a determination of the Finance Minister under section 20 of the FMA Act or established in other legislation.
Professional support for parliamentarians and advisers

Parliamentarians and their advisers are often confronted with large amounts of information to assess. There are a number of ways they are supported in their responsibilities with financial framework and appropriation matters. They can draw on information provided by the Parliamentary Library and Auditor-General, and training provided by departments of the Parliament. The establishment of a Parliamentary Budget Office may help further.

Enhanced training and ongoing professional development could be offered to parliamentarians and their advisers to assist them assess complex financial and legal issues, including training by Finance on financial framework and appropriation matters.

Key propositions for enhancing transparency and accountability

- Simplify the appropriation bills by no longer appropriating to outcomes, but with outcomes retained in the performance context.
- Restructure Portfolio Budget Statements to more closely align external reporting with internal planning and management reporting by entities.
- Align standards better for preparing appropriation bills, Portfolio Budget Statements, annual reports and audited financial statements to enable comparisons and a clear read between budgeted and actual expenditure and performance.
- Develop criteria for establishing and reviewing special appropriations.
- Offer enhanced training and ongoing professional development to Parliamentarians and their advisers in relation to appropriations and other framework issues.

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50 A Murray, Budgets and Finance: Sunlight and the Dark Arts, Paper for the Australian Senate Occasional Lectures Series, Parliament House, Canberra, 10 June 2011, pp. 11-12.
6  More effective governance arrangements

Good governance provides the foundation for high performance and community confidence in the public sector. Effective governance arrangements should clearly articulate the nature and extent of authority of entities and how ministers and Parliament will hold them to account. They should also be flexible enough to allow the public sector to meet the needs of citizens in an effective and coordinated way and respond to changing circumstances.

The existing governance model, where Commonwealth entities are classified as falling under either the FMA Act or the CAC Act has worked relatively well. However, given the changing operating environment and expectations of Australian citizens, there is a need to reconsider how the public sector should do business, including how it is structured.

Improving governance arrangements could promote a more connected and agile public sector better placed to address increasingly complex policy problems in an uncertain environment.

Operational autonomy

All Australian Government entities are established under power that comes from the Constitution, usually through legislation or some exercise of executive power.51 Parliament holds Executive government accountable for the performance of public sector entities.52

The Constitution recognises that core aspects of government operations are conducted by departments of state. There are currently 20 such entities. A department of state has the flexibility to accommodate policy and functional activities in various ways.53 For example, legislation may be used to establish positions or entities, with specific roles and responsibilities, which are administratively supported by a department.54

Case study

The Director of War Graves, established under the War Graves Act 1980, is an example of a statutory office holder operating within the Department of Veterans’ Affairs. The Director maintains war cemeteries and individual war graves in Australia, and acts as the agent for the Commonwealth War Graves Commission (established in the United Kingdom), which maintains the war graves of service personnel of the nations of the British Commonwealth in 150 countries. It also manages official commemorations for eligible veterans who have died post-war and whose deaths are accepted as being caused by war service. Staff assisting the Director are employed under the Public Service Act 1999 and are made available by the secretary of the department. The staff collectively comprise the Office of Australian War Graves.

51  Effectively, government entities require legislative authority to undertake activities (including through the exercise of executive power).
In contrast, individuals can undertake any activity that is not restricted by law.

52  There are a small number of entities/office holders that are directly accountable to the parliament for their performance, such as the Auditor-General.

53  The matters dealt with by each department are determined through Administrative Arrangements Orders.

54  Unless otherwise provided for, office holders in a department will be subject to the financial governance arrangements of the department.
Outside of the department structure, government functions are undertaken by entities established through particular legislation or, less commonly, by entities such as companies and trusts.

The Australian government currently comprises 195 entities performing a diverse range of functions. Its internal operations are akin to a conglomerate that comprises many distinct entities with varying levels of operational autonomy.

Rather than a single coherent financial framework that accommodates the diverse range of Australian Government entities, there are essentially two groupings — FMA Act agencies and CAC Act bodies — with significantly different performance and accountability arrangements. Within these two groupings there are many types of entities. The diagram below shows that there are many factors that impact on the nature of an entity, including its Budget and statistical classification.

**Characteristics (and numbers) of entities covered by the FMA and CAC Acts**

<table>
<thead>
<tr>
<th>Financial framework legislation</th>
<th>Body type</th>
<th>Employment framework</th>
<th>Budget classification</th>
<th>Government finance statistics</th>
<th>Legal status</th>
</tr>
</thead>
<tbody>
<tr>
<td>FMA Act (111)</td>
<td>Department of state (20)</td>
<td>Statutory agency under PS Act (67)</td>
<td>Material (41)</td>
<td>General government sector (111)</td>
<td>Body corporate (15)</td>
</tr>
<tr>
<td></td>
<td>Department of parliament (4)</td>
<td>Executive agency under PS Act (18)</td>
<td>Non-material (70)</td>
<td></td>
<td>Commonwealth of Australia (96)</td>
</tr>
<tr>
<td></td>
<td>Prescribed agency (87)</td>
<td>Staffed through department or agency (7)</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td></td>
<td></td>
<td>Staffed under own act (5)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>CAC Act (84)</td>
<td>Commonwealth authority (62)</td>
<td>Statutory marketing authority (1)</td>
<td>Material (28)</td>
<td>General government sector (68)</td>
<td>Body corporate (84)</td>
</tr>
<tr>
<td></td>
<td>Government business enterprise (3)</td>
<td></td>
<td>Non-material (56)</td>
<td>Public financial corporation (5)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Commonwealth company (22)</td>
<td></td>
<td></td>
<td>Public non-financial corporation (9)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Government business enterprise (4)</td>
<td></td>
<td></td>
<td>Unclassified (2)</td>
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</tbody>
</table>

Source: Department of Finance and Deregulation, Flipchart of FMA Act Agencies / CAC Act Bodies, 15 February 2012.
Within the current framework, successive Australian Governments have established a range of organisational models to deliver the complex outputs of government. However, the solutions have not always been simple, and sometimes involve complex workarounds. In addition, while devolution has its advantages, the framework’s focus on entity performance has contributed to some fragmentation of the whole-of-government perspective and collective ambition of entities. This has resulted in a loss of coordination and systemic efficiency, and sometimes a lesser degree of commitment to the government’s strategic priorities and policies. Over time, this may have had a ‘silo’ effect on Commonwealth operations.

Across government entities there is a spectrum of operational autonomy and there is growing tension around where the boundaries lie. Notwithstanding that entities operate with devolved authority, and that many entities have a high degree of independence, the public ultimately holds governments accountable for the performance of individual entities. There is an implicit assumption that the Commonwealth stands behind its public bodies, regardless of the type of entity.

In considering an appropriate level of overall autonomy for an entity, the political and long term financial risk to the Commonwealth should be taken into account. Government entities are responsible for their own performance, subject to whole-of-government fiscal and operational determinations.55 This reflects that, in practice, government remains the bearer of risk in the last resort, as shown by the following case study.

**Case study**

Fannie Mae and Freddie Mac were companies sponsored by the United States Government to stimulate the mortgage market. Although both enterprises functioned as private corporations, they had a public purpose and had a number of political figures on their boards.

As a result, many foreign investors assumed that the US government guaranteed these corporations’ debt, even though US law did not provide for any such guarantee. When Fannie Mae and Freddie Mac got into trouble, these foreign investors demanded that the US government guarantee them. Washington complied and now US taxpayers stand behind more than US$5 trillion in Fannie Mae and Freddie Mac debt obligations.

It can be difficult to strike the right balance between enabling the centre to coordinate action across government and set a clear strategic direction and giving entities sufficient freedom to manage themselves. Tensions arise when entities do not want to implement a government decision or policy and claim ‘independence’ in circumstances where a clear policy or statutory basis cannot be identified.

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The extent of an entity’s autonomy is multi-dimensional and depends on a range of factors.\textsuperscript{57} It is typically a matter of balancing policy, managerial, legal, and financial autonomy. This balance can be dynamic. It is therefore important to pay close attention to the design of the control arrangements for entities.\textsuperscript{58} Such controls, which can include reporting requirements, will depend on a range of factors including the capability and tasks of the agency and the risks the agency poses to the government, in political and financial terms or with respect to government priorities.\textsuperscript{59}

Importantly, the FMA and CAC Acts are not determinants of autonomy — this comes from the legislation or documentation establishing the entity. However, experience suggests that financial structure has the potential to affect perceived autonomy, and may influence decisions on governance structures. There is a perception that the FMA Act gives less operational autonomy than the CAC Act even though entities like the ANAO, the Australian Federal Police and the Australian Security Intelligence Organisation are under the FMA Act.

The legislative requirement for a CAC Act body to hold money on its own account, unlike an FMA Act agency, may also contribute to perceptions of autonomy. It is questionable whether entities under the CAC Act that are not commercial in nature and receive the majority of their funding from government should be able to hold money on their own account. In the private sector, diversified organisations can effectively operate from a single bank account. For example, Wesfarmers has an internal funds management system which enables the entire Group to operate from only one bank account.\textsuperscript{60}

There is a view in the public sector that the CAC Act is easier to operate under because the FMA Act includes more prescriptive financial management rules. The CAC Act, however, has its own complexities and obligations, such as officers’ duties which involve greater personal risk for directors and senior management.\textsuperscript{61} While such duties are appropriate for a commercial or entrepreneurial entity, they may not always be appropriate for a public body established for a public purpose.


\textsuperscript{61} The CAC Act utilises a set of principles-based duties that apply to directors, based on those in the Corporations Act 2001.
Flexible structures

The financial framework needs to accommodate governance structures that suit the wide-ranging activities of government entities. A useful starting point would be to define core governance principles that apply to all Commonwealth entities, regardless of legal technicalities on issues such as body corporate status or whether an entity is governed by executive management or a board.

The issue of whether an entity is governed by a board or executive management is divisive under present legislative settings.62 The CAC Act is premised on a body having a governing board. This allows an entity to leverage the benefits of a mix of different experiences and skills and exercise collective decision making. However, there are circumstances where the CAC Act may not suit the function or purpose of the entity, but a board will contribute to better governance outcomes. Yet the FMA Act is not structured to support collective decision making because the legal obligations are centred on chief executives.

Case study

The organisational arrangement put in place for the Future Fund is an example of an entity structure that involves a board and an FMA Act agency.

The Future Fund Board of Guardians is tasked with investing amounts from four government investment funds. The Future Fund Management Agency, a prescribed FMA Act agency, is responsible for implementing the investment decisions of the board.

Members of the board are subject to a range of duties similar to the directors of a CAC Act body; however, the chair of the board is the chief executive of the agency for the purposes of the FMA Act. Day-to-day management of the agency is undertaken by a general manager, operating under delegations from the chief executive.

There are several ways to achieve more flexibility in structuring governance arrangements. One option would be to replace the current binary system under the FMA and CAC Acts with a single Act that would more readily support fit-for-purpose governance arrangements.63 A single Act would need to accommodate diverse government bodies, multi-jurisdictional arrangements and the level of autonomy Parliament provides.

While there is a risk that a single Act may be overly long and complicated, it could give greater flexibility in developing fit-for-purpose governance arrangements. It could help shift the debate from simplistic consideration of whether entities should be under either the FMA Act or the CAC Act. Under a single Act, the discussion could focus on function, rather than form, and on determining appropriate governance arrangements for the function, including levels of autonomy, control and accountability.

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62 This issue has frequently arisen in the context of establishing multi-jurisdictional arrangements.

63 The original Joint Committee of Public Accounts recommendation was for one Financial Administration Act (Joint Committee of Public Accounts, The Auditor-General: Ally of the People and Parliament, JCPC report 296, 1989, paragraph 18.24 recommended that Audit Act 1901 be repealed and replaced by two new laws, a Financial Administration Act and an Audit Act).
Having more than one Act creates the issues around how entities are classified. An alternative to the current model would be to classify entities in accordance with the principles used to determine statistical classifications. These broadly classify the government into a general government sector (GGS) and two market oriented sectors.

Irrespective of the preferred legislative structure, the framework should not restrict the use of governing boards. However, duties like those in the Corporations Act 2001 (Corporations Act) should only be applied to directors of entities that are commercial in nature, with alternative duties for the boards of other entities.

For entities that are commercial in nature, it may be appropriate to apply oversight and reporting principles that are similar in scope to the Commonwealth Government Business Enterprise Governance and Oversight Guidelines.

**Role of the centre**

Within existing governance arrangements there is an ongoing question about the role of Finance and how it can best support the financial framework. Many in the public sector consider that after the introduction of the FMA and CAC Acts and the shift towards more devolved authority and accountability, the support available to entities from the centre diminished. This may have contributed to a lack of coherence in governance arrangements and central control and accountability mechanisms.

The shift to devolution and greater managerial freedom continues to yield benefits in innovation, adaptation and responsiveness. However, there have been, and continue to be, shortcomings in the public accountability mechanisms required to balance the increased managerial flexibility.

Incentives and accountabilities under the FMA Act and the CAC Act (and the budgetary regime where entities compete for funding) are primarily at the entity, rather than the whole-of-government, level. Central agencies possess few tools beyond ‘the brute force of political edict to make sure that a fragmented public sector adds up to more than the sum of its parts’. In particular, there is currently no capacity in the framework for making autonomy conditional on performance.

Increased strategic capacity at the centre would help to create and maintain a whole-of-government strategy for resource management. Chief Finance Officer (CFO) areas of private sector conglomerates may provide some insights into alternative models for regulating financial management practices and behaviour across the Commonwealth.

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64 For Government Finance Statistics (GFS) purposes, a government is regarded as comprising three sectors:
- the General Government Sector (GGS), which consists of all government units and non-profit institutions controlled and mainly financed by government;
- the Public Non-Financial Corporation (PNFC) sector and the Public Financial Corporation (PFC) sector, which are more market oriented government sectors, and comprise government-controlled entities that produce goods and services for the market and may be a source of income, profit or other financial gain to the government. They typically transact with outside consumers, frequently at arm’s length in contestable markets.

65 The majority of CAC Act bodies are classified in the GGS, which is the classification for all FMA Act agencies.

66 This could include the duty to prevent insolvent trading as per section 588G of the Corporations Act 2001. This does not currently apply to directors of Commonwealth authorities.


68 For example, there may be scope to increase or reduce certain regulatory and compliance controls depending on the quality of an entity’s financial management practices and performance.
Although the centre should step back from micro-managing policy and delivery,\(^6\) it should be able to keep control of the overall public finances and ensure compliance with the policies and strategic direction of the government. This could include more direct access to financial information of entities. Evidence from the private sector indicates that the centre generally has direct access to financial management systems and real time data of entities within the corporate group.

Devolution will continue to provide important benefits to Commonwealth operations, in terms of agility and innovation. However, it is timely to consider how the framework can provide an appropriate balance between devolution and centralisation, with the appropriate level of accountability. The nature and extent of direction from the centre necessary for the Commonwealth to operate as a coherent whole is an important consideration.

**Enhanced portfolio arrangements**

One of the strengths of the financial framework is the clarity of obligations and responsibilities placed on chief executives of FMA Act agencies and directors of CAC Act bodies. Ultimate accountability, however, rests with ministers who answer to Parliament for all entities in their portfolios, consistent with the principle of responsible government. The FMA Act and the CAC Act provide that entities must give their portfolio minister such reports, documents and information about their operations as the minister requires.\(^7\)

Departments play a significant role in advising and assisting ministers’ oversight of their portfolios. In recognising the role of departments, *Ahead of the Game* recommended that a departmental secretary should play a leadership role in the portfolio, although arrangements should not abrogate the statutory accountabilities of relevant entities and individual office holders.\(^8\)

Financial framework legislation could be updated to better support the role of departmental secretaries in assisting responsible ministers with the oversight of portfolio entities. For example, the general concept of the role of the secretary could be established at the start of legislation to improve the understanding of the operations of departments of state in relation to portfolio bodies.

Legislation could also articulate the role of a secretary in assisting the responsible minister on the financial performance of portfolio bodies and their compliance with responsibilities under financial framework legislation. To enable the secretary to meet these obligations to the responsible minister, financial framework legislation could provide the power for secretaries to obtain information from portfolio bodies.

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\(^7\) Section 44A of the FMA Act and sections 16 and 41 of the CAC Act.

\(^8\) Advisory Group on Reform of Australian Government Administration, *Ahead of the Game: Blueprint for the Reform of Australian Government Administration*, March 2010, p. 47. The Review of Corporate Governance of Statutory Authorities and Office Holders also reflected that “the portfolio secretary needs to be in a position to provide advice in relation to all matters within the relevant Minister’s portfolio” (J Uhrig, *Review of Corporate Governance of Statutory Authorities and Office Holders*, June 2003, p. 91).
More connected portfolio arrangements could facilitate better strategic control by government in key areas and achieve efficiencies of scale without affecting managerial autonomy and flexibility. Some functions – such as payroll, accounts payable and receivable, and internal audit – could be consolidated at the portfolio level.

The link between financial materiality and appropriate control mechanisms could also be examined at a portfolio level rather than an entity level. For example, for non-material entities, audit committees could be at portfolio rather than entity level.\(^\text{72}\) Canada provides an example of a possible alternative model for audit committees.

**Case study**\(^\text{73}\)

Under Canadian policy, the deputy head of each large department and agency (LDA) must establish an independent departmental audit committee that includes experienced competent external members. The deputy heads of LDAs are fully responsible for the adequacy of internal audit coverage and must approve an audit plan that, where required, addresses risks identified by the Comptroller-General of Canada as part of government-wide or sectoral coverage.

For small departments and agencies (SDAs), with fewer than 500 full-time equivalent staff and a reference level of less than $300 million a year, the Comptroller-General conducts horizontal and other audits each year. The Comptroller-General provides SDA deputy heads with copies of all relevant audit reports.

The Treasury Board of Canada requires the Comptroller-General to report annually on significant issues of risk, control or management arising from internal auditing across government, and the overall state of risk management, control and governance processes.

\(^\text{72}\) Currently, each Commonwealth entity is required to have an audit committee. As a result, there are 195 audit committees across the Commonwealth. A portfolio audit committee to represent non-material entities would reduce this number to about 69 committees.

Greater focus on portfolio operations could free small agencies from some regulatory requirements and other day-to-day administration, allowing them to focus more of their resources on their business outcomes. There is also potential to gain efficiencies and other benefits through stronger portfolio governance arrangements involving larger entities, as demonstrated in the following case study.

**Case study**

Before the Service Delivery Reform Project, the Human Services portfolio operated as three distinct organisations: the Department of Human Services (including the Child Support Agency), and two major service delivery statutory agencies; Centrelink and Medicare Australia. Each had its own distinct roles, structures, funding models and spans of control.

On 1 July 2011, the former statutory agencies were operationally integrated into the Department of Human Services, through the Human Services Legislation Amendment Act 2011. The rationale for the integration includes seamless delivery and efficiency, facilitating co-location of offices and one entry point for citizens.

Integrating the agencies is anticipated to provide significant savings in IT, finance, property management, procurement and human resources. Savings from the administrative and physical integration were estimated at $69.5 million over four years. In addition, amalgamation was estimated to save some $341.3 million over four years.

These savings can be reinvested in new services and improved service quality making it easier for people to do business with government.

**Supporting joint activities**

A vital issue for the Australian Public Service (APS) in delivering quality advice, programs and services is ensuring that its work is effective across organisational boundaries. Despite its size and diversity, citizens expect the government to act in a coordinated way, providing for streamlined and straightforward interactions. They expect services that meet their needs, rather than services that reflect organisational structures and boundaries.

In responding to these demands, government is increasingly using joined-up arrangements for policy development, program design and service delivery. These joint activities can involve partnerships between different government entities, with other jurisdictions (such as state governments or New Zealand), and with the non-government sector, such as commercial partners and not-for-profit organisations. Examples of joint activities in recent years include responding to natural disasters, addressing Indigenous disadvantage and health sector reform.

74 Bowen, C., ‘Service delivery reform: designing a system that works for you’, Address to the National Press Club, Canberra, 16 December 2009.


78 The then Department of Finance and Administration and the New Zealand Ministry of Economic Development released a paper on 22 April 2007 titled Arrangements for facilitating trans-Tasman government institutional co-operation to support trans-Tasman co-operation between the two countries.
In January 2009, the Commonwealth signed the National Partnership Agreement on Remote Service Delivery with five states and territories. Under this agreement the parties are investing $291.2 million over six years to change the way they work with Indigenous Australians in a number of priority communities.

The Coordinator-General for Remote Indigenous Services is a statutory officer who reports on the performance of Australian Government agencies in meeting their commitments to implement the agreement.

The key role of the Office of the Coordinator-General for Remote Indigenous Services is to oversee the planning and strategic investment in remote Indigenous communities and provide agencies with guidance on good practice. It also assesses progress and advises governments where there are gaps or slow progress or where improvements are needed to ensure governments meet their commitments under the remote service delivery strategy.

Most government operations are based on traditional structures with an emphasis on clear organisational boundaries and vertical hierarchical accountability. While it establishes some overarching whole-of-government principles, the current framework has a strong focus on the operations of individual entities. The roles and responsibilities of chief executives under the FMA Act and of directors under the CAC Act relate to the particular entities they are appointed to run, and do not directly consider concepts such as joint operations with other entities.

While these requirements promote individual agency accountability and transparency, they may also go to reinforcing a silo mentality, which can be a severe barrier to the effectiveness of joint activities. Staff may be unwilling or feel unable to prioritise the goals of the partnership over those of their own organisation because of the accountability and reward structures in place for their position. Employees need to service their portfolio ministers, who themselves have particular areas of responsibility. The way that ministers account to Parliament for joint activities can also influence the governance arrangements that are put in place.

The effective management of many joint activities is highly reliant on establishing sound inter-agency relationships and strong governance arrangements. This includes clearly defining roles and responsibilities, and establishing performance indicators and reporting and review arrangements. This may involve being clear on the roles of ministers as, for example, approvers in joint activities. At the operational level, it may also require ensuring that those responsible for delivery have appropriate authority, including delegations.

Depending on the nature of the activity, these elements may be set down in a written agreement. The negotiation and development of such agreements can take time and senior management involvement, particularly in relation to administrative arrangements.

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80 Established under the Coordinator-General for Remote Indigenous Services Act 2009.

81 Buick, F., ‘Silos and Risk Aversion: Building an Adverse Culture for Horizontal Approaches in the Australian Public Service’, 2010, p. 11.

Providing clarity on the responsibilities of a joint activity, including assisting in building effective relationships between entities that are likely to have different priorities, cultures, risk profiles and skill sets.

For a joint activity, the appropriations to fund the activity may be provided in various ways, including one ‘lead’ entity receiving the entire appropriation or each government party receiving separate appropriations in pursuit of the same outcome. Irrespective of the appropriation arrangement, most joint activities involve several of the parties handling and spending public money.

Some mechanisms in the current framework, such as drawing rights and special accounts, accommodate the shared use of appropriated funds for joint activities, but they can be cumbersome or complex. There can also be accountability issues in using these mechanisms. Agencies are accountable for the appropriated funds that they manage, even though, through an agreement, another entity may expend the money.

Redistributing accountability for an appropriation, that is not related to a transfer of function, currently requires Parliament to pass an appropriation Act, the timing of which may not always meet government requirements. This limits funding flexibility for entities involved in joint activities.

**Case study**

The Project Wickenby cross-agency taskforce works with both Australian and international bodies to deter, detect and deal with abusive arrangements, fraud, secretion of income and falsification of deductions.

The taskforce consists of eight Australian Government agencies, with the Australian Taxation Office (ATO) as lead agency. Coordinated governance arrangements have been established to guide the work of the taskforce, including a group of department and agency chief executive officers and a Cross-Agency Advisory Committee.

Parliament appropriated funding to each agency. Despite a clear understanding of the project scope, there have been difficulties moving money between them to respond to shifting priorities.

After careful consideration, the ATO concluded that some of its funding in a particular year would be better used by another participating agency.

Reallocating this funding proved to be relatively cumbersome, even though it would still be spent on the project.

Changes could be made to the financial framework to better reflect the joined-up nature of government operations. This may support improved joint activities by facilitating the development of appropriate leadership and governance structures and effective working cultures.

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In particular, the framework could provide greater flexibility for moving appropriations between entities involved in joint activities. For example, it could be amended to allow for some proportion of appropriated amounts to be moved or redistributed between entities as determined by government. This reform could be at whole-of-government level, controlled by the Finance Minister, or at portfolio level, with portfolio ministers determining allocations. There would need to be a mechanism (potentially legislative) to effect the change without diluting parliamentary authority or public transparency.

Another approach could be to appropriate money to a shared outcome, through either a single outcome shared by multiple agencies or by replicating the outcome across multiple agencies. A shared outcome could relate to identified government priorities. Designing a shared outcome approach would need to recognise that traditionally it has been seen as easier to maintain full accountability by appropriating public monies to specific entities.84

A vulnerability for pooled funding is that individual entities may assume less ownership of the collective objectives. To overcome this, it may be practical to require pooled funding arrangements to be supported by formal collaboration agreements covering how application of resources is to be governed and performance monitored.

Financial framework reforms need to be complemented by effective entity behaviour. In particular, collaboration and interagency coordination is important for ensuring that individual agency efforts on joint activities are mutually reinforcing and efficiently implemented. A culture among participants that is conducive to making things happen and achieving outcomes can facilitate effective joint activities.85

A possible option could be to make explicit in legislation that the responsibilities of office holders, management and staff can extend beyond their individual organisations to include wider government objectives. This would strengthen the APS-wide stewardship role for departmental secretaries. It could help build appropriate leadership and governance structures and a culture that values and supports working across boundaries (including internationally). Where collaboration is part of the culture it is easier to pursue joint activities through coordinated departmental management and operational or service delivery mechanisms.86

Entities could modify performance management systems so that people are not only accountable for their own work but for their contributions to the work of others. Performance metrics for mutual accountability are evident in many team sports. For example, the number of ‘assists’ a player provides to team members who then score is a key metric. Performance management systems could be designed to measure a person’s assists, which could motivate employees to collaborate more, and in new and innovative ways.

There may also be scope for agencies to adjust their approaches to and processes for joint activities to better align with their partner entities. For example, a joint activity could benefit from each of the participants having similar levels of authority, including delegations, from their employing agency to make relevant decisions.

84 The CSIRO National Research Flagships initiative, which was launched in April 2003, could provide insight into how shared outcomes could be implemented in practice.
Specific guidance and support is needed for entities undertaking joint activities. This could draw on the experiences and lessons learned from previous and current joint activities, and potentially involve the establishment of centres of excellence. The guidance could cover the structural options available for joint activities and the types of activities for which they may be best suited. This should include advice on the use of inter-jurisdictional entities to encourage appropriate governance structures and accountability arrangements.

Collaboration and joined-up work will not be suitable for all policy areas. While the financial framework should be amended to better support joined-up work, decisions concerning the nature and extent of collaboration (if any) should be made on a cost-benefit basis.

**Boards in departments**

To support secretaries in their wide-ranging responsibilities, there may be benefit in using boards. Boards could provide a diverse range of skills and experiences that secretaries could leverage. The inclusion of members from outside the public sector who bring particular specialist skills and qualifications to support the work of secretaries could also be considered and would be a significant step in an Australian Government context.

Boards may be of particular benefit where a department or portfolio is going through significant change or undertaking major policy or program activities. The use of boards, and their composition, should be at the discretion of individual secretaries. Care would be required to ensure that any new arrangement does not affect a secretary’s authority and accountability for the operations of a department.

**Case study**

In September 2010, the New Zealand Treasury established a governance advisory board. The Board supports the Secretary to set the Treasury’s strategic direction and strengthen its performance. The seven-member Board is chaired by the Secretary and includes three non executive members and three Treasury executives.87

The then Secretary to the Treasury, John Whitehead, noted that ‘Having non-executive members of the Board will enable the Treasury to bring expertise, skills and perspectives from different sectors into the organisation; it will help us question how we have always done things and identify areas for improvement.’88

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The use of boards in FMA Act agencies is not new. Some agencies have already created executive boards for management purposes, comprising the chief executive or Secretary as well as senior managers within the agency. These boards typically do not replicate a governing board in the corporate or CAC Act sense, including in relation to function and responsibility. Members are not subject to formal directors’ duties.

FMA agencies do draw on people from outside their organisation for their audit committees. While there has been no inclination to move down the United Kingdom path of including non-executives on boards of FMA Act agencies, the notion of boards for such agencies has been discussed in Australia. The financial framework should be flexible enough to allow for this to happen where appropriate.

**Case study**

The United Kingdom has introduced boards, comprising non-executive members, to support ministers and chief executives in the leadership and running of departments. The Treasury issued a code of good practice that provides an overview of the processes and responsibilities within departments and sets out the roles and functions of departmental boards. The code says the minister should be the chair of the board and the board should comprise executive and non-executive members. The minister remains responsible and answerable to Parliament for all of the policies, decisions and actions of the department, including its executive agencies.

The chief executive also remains personally responsible and accountable to Parliament for the department’s management and organisation, including the use of public money and stewardship of its assets.

The code of good practice suggests that the board has a duty to scrutinise strategy and the delivery of policy for effectiveness and efficiency. It also has a role in setting an entity’s standards and values, assessing and managing risk, and maintaining a transparent system of prudent and effective controls.

**Establishing and abolishing bodies**

Establishing a new statutory body can be time consuming. Companies, on the other hand, can be established quickly. This can result in decisions on financial governance becoming skewed towards the quicker option, rather than the better one.

A potential disadvantage of companies in the Commonwealth structure is that they are not always automatically subject to accountability and transparency arrangements applying to government more broadly, such as requirements of the *Freedom of Information Act 1982*. While these arrangements can be extended to Commonwealth companies, it can take time, resulting in comparatively weaker governance in the interim.

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There can also be difficulties in winding up entities. Legislation is required to abolish statutory entities. Companies can be hard to wind up, especially if there are trailing contingent liabilities and a legal persona needs to be retained to deal with these liabilities. They can linger for years during an expensive liquidation process, taking up public resources.

The efficiency of government operations could be improved by developing a single piece of legislation with templates that outline a set of core governance provisions covering financial and governance matters for new government bodies. This approach could be similar to that adopted in the Corporations Act, where companies can elect to adopt a model company constitution.

Such legislation could give the Finance Minister power to create and abolish new bodies by regulation, similar to the approach that applies to prescribed agencies under the FMA Act. This would enable new bodies to be established and abolished faster, compared with companies or bodies set up in primary legislation.

To reduce the risk of entity proliferation, legislation could ensure that establishing a new entity requires the Finance Minister’s approval.

**Key propositions for more effective governance arrangements**

- Operate Commonwealth entities, which are not commercial in nature, from a single Commonwealth bank account.

- Apply directors’ duties based on those in the *Corporations Act 2001* only to entities that are commercial in nature.

- Structure the financial framework to allow for more integrated portfolio governance.

- Recognise in the financial framework legislation that the responsibilities of office holders, management and staff can extend beyond their individual organisations to delivering wider government objectives, including joint activities.

- Structure the financial framework to allow for pooled funding arrangements and for appropriated amounts to be more readily redistributed among entities pursuing shared objectives.
The Australian Government faces enduring challenges in allocating limited resources according to its priorities and ensuring they are used to maximum effect. This involves aligning public services around agreed priorities to achieve better outcomes for citizens and communities, and stopping activity that does not add public value.90

Assessing and reporting government performance enhances public accountability. As noted by the OECD: ‘How government activities are measured matters...Citizens are entitled to understand how government works and how public revenues are used.’91

Stronger performance, when combined with stronger accountability, can help maintain trust in government institutions.92

There are important challenges in assessing the performance of public sector entities. Compared to private sector organisations, their goals are not simple to measure or to communicate.

Private sector organisations exist primarily to maximise shareholder value, measured largely by financial profit or loss and share price. The public sector aims to create public value; a direct but not always immediate benefit to society. While shareholder value is relatively easy to measure in monetary terms, public value is not. ‘Bottom line’ financial accountability data, while useful in acquitting the stewardship obligations of government in relation to public funds, is insufficient to measure public value or gauge public sector performance.93

Improving performance and delivering results has always been important to the public service. In recent years there has been increasing pressure for governments globally to improve performance. Citizens are demanding that government deliver more and better public services, with higher levels of accountability, at a time when government spending is increasingly constrained.

Implementing an integrated resource management cycle

Budgeting and financial management in the public sector is about managing the public’s money. An effective system should be able to identify the purpose for which public money is being allocated, how and where it is being spent, and what the expenditure has achieved.
The Commonwealth has been reforming its budgetary and financial management systems since the 1980s. For example, the Financial Management Improvement Program (FMIP) was launched in 1984 with a key focus on helping departmental and agency managers ‘manage for results’ and focus on the purposes of programs and cost-effective achievement of outcomes, rather than simply on inputs and processes. FMIP was based on the following cycle:

Despite the clear intentions behind the FMIP, various elements of the resource management cycle are not well integrated and the implementation of some of the elements has not always been successful.

There have been many reforms to the Commonwealth’s financial framework since the FMIP was developed, including the FMA Act, the CAC Act, the Charter of Budget Honesty and the accrual budgeting framework. As requirements have become more complex, the focus on individual elements of the resource management cycle has been at the expense of how these elements should be integrated within the cycle.

Particular elements of the resource management cycle could be strengthened. For example, many entities prepare PB Statements for external reporting purposes based on their outcome structures as well as internal planning documents based on organisational governance structures. In the private sector the corporate plan is often a single strategic document.

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An integrated resource management cycle, to guide the government and entities as a whole, would improve policy design, strategic priority setting, fiscal discipline, resource allocation and reporting and evaluation, with commensurate improvements in performance across the Commonwealth. One option would be to modernise the FMIP. The Victorian Strategic Management Framework provides a practical example to consider.

**Case study**

Victoria has implemented a strategic management framework that guides the government, departments and agencies, by outlining key elements of a better-practice resource management cycle. The framework is structured around six core elements: analyse, plan, allocate resources, implement and monitor, evaluate, and report. Many of the elements are closely linked or interdependent, and some may overlap.96

This cyclical approach to resource management ensures that each element is an integrated part of a wider process. The framework highlights the importance of the analysis and evaluation stages, strengthening the integration of performance information into central decision making and driving value for money.97

A key characteristic of the framework is its ability to be applied to any entity, regardless of size. It is designed to be used as a tool to improve planning and capability across the whole of the Victorian Government.

Another option would be to reflect the key stages of the resource management cycle (such as planning, budgeting, reporting and evaluation) in the financial framework legislation, including placing responsibility for their implementation on chief executives and directors. Successful implementation might also require adjustments to operating models across some entities to address any dichotomy that may exist between policy, budgeting and financial management areas. Such dichotomies may be impeding the interaction of these areas and impinging on the efficiency and effectiveness of financial and resource management generally. Improving processes and procedures alone may not necessarily lead to a better allocation of resources. This is because the political dimension is an important consideration for budgeting and resource management decisions. Meaningful progress also lies in understanding the economic and political incentives, actors, processes and institutions that permeate, facilitate and constrain public sector resource management.98

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Strengthening links between budgeting and financial management

Budgeting is an important part of the resource management cycle. However, despite the obvious connection between budgeting and financial management, the links between the two in legislation are tenuous. For example, the FMA and CAC Acts contain limited references to an entity’s responsibilities related to receiving funding from the Budget, including budget process obligations.

Requirements for obtaining and managing funding from the Budget are divided between different pieces of legislation, without any direct connections between the different Acts. This makes it difficult for end users to understand their accountabilities. For example, reporting requirements are in the Charter of Budget Honesty, the FMA Act, the CAC Act and the PS Act.

There is an absence of clear accountabilities for preparing budget estimates compared to preparing financial statements, which can undermine quality and timeliness. As part of current budget practices, entities are required to compile estimates on their expected spending, revenue and financial position. These obligations do not include a qualitative element, unlike requirements for financial statements which are prepared on a ‘true and fair’ basis.

In addition, legal obligations relating to budget estimates differ for FMA Act agencies, which prepare estimates as required by the Finance Chief Executive,99 and CAC Act bodies, which prepare estimates as required by the responsible Minister.100 The reason for this difference is unclear.

Financial framework legislation could be amended to better reflect the roles of chief executives and directors in the provision of estimates to support government in decision making and with reporting obligations. This could include chief executives and directors having more direct and formal obligations in relation to the quality and timeliness of budget estimates. As noted by then Senator Andrew Murray:101

Budget transparency and financial accountability reforms need to be entrenched through permanent change and new statute where necessary. If you want high standards, accountability and good governance, you cannot rely on particular individuals in a particular role at a particular time – you have to institutionalise and legislate those standards, so they are there whoever is in charge. Policy fashions and people come and go, but you want good government whoever is in power.

Codifying any additional requirements in financial framework legislation would need to be done carefully. One of the strong benefits of the Australian budget framework is its ability to respond to emerging demands. Any codification of requirements in legislation should be done in a manner that provides the Executive government with the ability to address wider economic circumstances.

99 FMA Regulation 22D.
100 Sections 14 and 39 of the CAC Act.
Flexibility and longer term planning

The financial framework offers few incentives to entities to demonstrate good financial management or take extra steps to achieve more efficient and effective use of Commonwealth resources. Feedback suggests that there can be disincentives for doing so, for example, underspending a budget one year may result in lower allocations in future years. Managers may seek to spend their annual budgets to protect their budget share and avoid having future allocations reduced.

Longer term planning does not easily reconcile with the annual budget process. Typically, once budgets are agreed and amounts appropriated, there is a tendency to focus on managing against annual budget targets. While most entities manage within their annual budgets, this does not necessarily equate to good financial management.

Allowing entities, or portfolios, to retain all, or a component of the money they save in any year, could provide an incentive for better resource management. Australia had carryover arrangements for running costs for most of the 1990s, to provide flexibility to agencies to respond to changing spending priorities and to reduce the incentive for unnecessary end-of-year spending. Canada has implemented an approach that seeks to provide incentives, as shown in the following case study.

Case study

In Canada, amendments were introduced to appropriation Acts in the 1993–94 fiscal year that allowed up to 2 per cent of appropriated funds of an agency’s operating budget to be carried over. The following year, the limit was raised to 5 per cent.

The practice of carrying over a portion of unspent appropriations was extended to capital funds in 1997–98: under certain conditions, up to 5 per cent of any capital vote (to a maximum of $75 million) could be carried over to the following fiscal year. Carry-forward proposals must be related to specific capital plans, objectives and results and must be justified under the principles outlined in Treasury Board of Canada policy.102

The Constitution does not preclude multi-year appropriations. Special appropriations can, and typically do, authorise expenditure beyond a single year, noting that there are administrative controls that monitor such expenditure. In addition, there are already numerous annual appropriation items for which expenditure is authorised beyond a single year, such as accrued leave entitlements. However, there are no multi-year appropriations for major programs or projects that are expected to last for several years.

There may be advantages, in certain circumstances, to appropriating amounts over multiple years to encourage better management of spending. For example, this could apply to an entity that has demonstrated good financial management over several years, and arguably earned greater autonomy; or for major programs and projects with extended delivery timetables.

A coherent performance management framework

A good performance management framework enables the government to assess whether its objectives are still relevant, determine whether it is still achieving those objectives and learn how to achieve them more effectively, and at lower cost. It also shows Parliament and the public what they are getting for their money. Underpinning an effective performance management framework is adequate performance information.

Currently, the Australian Government has a number of mechanisms in place for gathering performance information and monitoring and assessing performance, such as annual reports, parliamentary scrutiny and ANAO audits. However, while these mechanisms achieve a relatively high standard of openness for government activities and decisions, they fall short of providing a cohesively functioning framework for producing performance information. In fact, performance monitoring and evaluation across Commonwealth entities and government policies and programs is variable.

The current performance framework is disparate, with different reporting requirements for different bodies. Even budget-funded entities have different reporting requirements depending on whether they are an FMA Act agency or a CAC Act body. There is the potential to improve the coherence of performance management across the Commonwealth, with similar rules being applied across the range of entities covered by the performance framework.

This could be achieved by developing a whole-of-government performance framework, and improving the consistency in requirements across entities. This would involve more than the production of a set of high quality measures. A benefit of this approach would be the opportunity to develop a common understanding and intent of requirements across entities, irrespective of the type of body involved.

Improving the links between performance management and other stages of resource management, like the budget, could support a more comprehensive approach to assessing performance. For example, more emphasis could be placed on the availability of robust performance information to support policy and budget processes, both for evaluating new initiatives and systematically reviewing ongoing programs and expenditures (‘base’ funding).

International experience has shown that visible and strong links to budget and strategic policy development processes is important to the long-term success of any performance framework. Linking performance measurement to regular planning processes helps entities to clarify their purpose, mandate and goals; examine risks and opportunities; identify strategic issues and alternative ways to deal with them; and develop a set of outcome indicators to track progress towards goals.103

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Articulating performance goals

A clear and shared understanding of the government's priorities and strategic direction is fundamental to a high-performing public service. Governments have sought to take a whole-of-government view for certain initiatives including border protection and some Indigenous programs.

However, the focus of performance management is generally at an entity level, and entities may adopt performance indicators that do not link to overall government objectives and outcomes. This contrasts with other jurisdictions in Australia and internationally that have expanded their performance frameworks to focus on whole-of-government outcomes.

Providing whole-of-government outcomes could clarify entities' contributions to the broader government environment and assist in supporting joint activities across multiple entities. It would be important, however, for individual agency accountability to be maintained.

Looking at performance management in other jurisdictions, the Scottish National Performance Framework stands out for its simple articulation of the strategic direction of the government and the associated performance measures.

Case study

The Scottish Government established a new national performance framework in November 2007. This framework is designed to provide a unified vision with quantifiable benchmarks against which future progress can be assessed. It defines (refer Attachment E):

- a single purpose;
- five strategic objectives;
- 15 national outcomes; and
- 45 national indicators and targets.104

The key feature of the Scottish National Performance Framework is that the line of sight from purpose down to delivery and back has been made explicit. At present it is easy to map how the 15 national outcomes cluster around five strategic objectives, all sitting beneath the overarching purpose. Forty-five national indicators measure how Scotland is performing in achieving those outcomes.105

The Government Accountability Office (GAO) in the US has noted that a strategic plan for the Federal Government, along with key national indicators to assess the government's performance, could provide an additional tool for government-wide re-examination of existing programs, as well as proposals for new programs.106

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104 The whole of the public sector is expected to contribute to one overarching purpose, with all performance management systems being aligned to a single, clear and consistent set of priorities (Scottish Government, Scottish Budget Spending Review 2007, November 2007, pp. 43–47).


Whole-of-government objectives and outcomes could give strategic direction to Commonwealth entities when formulating and reporting on their KPIs. Clear objectives help to focus government entities. Entities can seek to be efficient, but if that efficiency is not directed toward the core functions or high priorities of government then they have focussed their efforts on the wrong issues.

Governments will always choose to maintain some flexibility in their priorities and strategic direction. The clearer ministers are about what they want to achieve and about how government collectively prioritises its goals, the more departments and entities can respond effectively.\(^\text{107}\)

Articulating clear objectives, either at the whole-of-government level or portfolio level, could help build an overarching risk management framework for the Commonwealth. For example, Wesfarmers has noted that a single objective across all operations of the group simplifies managing risk at a portfolio level.\(^\text{108}\)

To encourage a greater focus on performance management, the responsibilities of chief executives and directors could be reflected in the Commonwealth’s financial framework legislation. While legislation, of itself, will not guarantee effective implementation,\(^\text{109}\) it could help create momentum for change and translate strategic direction into action for entities. As an example, the United States has established a statutory regime for performance management and accountability.

**Case study**

Legislated performance management requirements were first introduced in the United States under the *Government Performance and Results Act 1993* (GPRA). The GPRA, requires federal agencies to set goals and report annually on progress and program evaluation findings. Subject to performance, agencies could be granted waivers with respect to certain administrative procedures and controls.

The GPRA was recently updated by the *GPRA Modernization Act of 2010* \(^\text{110}\) (GPRAMA). Among its provision, the GPRAMA:

- creates a government-wide planning and reporting framework, including Federal Government priority goals and a government-wide performance website;
- requires agencies to develop a limited number of policy and management goals that cut across agencies, such as financial and procurement functions; and
- requires each agency to issue a strategic plan at least every four years.

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\(^{109}\) This is underscored by the OECD, which found that although legislation on performance budgeting has been enacted in most OECD countries actual practice and behaviour have not been altered. Inertia has dominated with less than full implementation and/or lack of incentive to change behaviour (Organisation for Economic Co-operation and Development, *Performance Budgeting in OECD Countries*, 2007, p. 68).

Producing improved performance information

High-quality performance information improves transparency and supports better accountability. It can help in managing public services and in enabling Parliament and the public to check whether an appropriate quality is being delivered at a reasonable cost. The ANAO has judged that, ’importantly, the Parliament and the public’s consideration of a program’s performance, in relation to impact and cost effectiveness, rely heavily on reliable and appropriate performance information.’

The benefit of collecting performance information is only fully realised if it is used in decision-making. Other factors aside, consistently high quality performance information helps policy makers to construct better budget and management decisions and government to make better policy choices. It can inform decision making and resource allocation by giving the government a more reliable basis for assessing the relative merits of policy and delivery options. Better informed decisions can improve the ability of entities to achieve results.

The GAO has found that comprehensive key indicator systems have a positive effect in four areas. They enhance collaboration to address public issues, provide tools to encourage progress, help inform decision making and improve research, and increase public knowledge about key economic, environmental and social and cultural issues.

Numerous reviews have found that the coverage and quality of KPIs and related information on targets and results could be improved. Performance management has been viewed as an externally imposed requirement. The focus has been on measuring and reporting, rather than management and leadership.

Under current settings it is difficult to assess performance because:

- KPIs may not align easily with outcomes, appropriations, PB Statements and annual reports;
- there is a time lag of about 18 months between the Budget and the publication of annual reports; and
- KPIs can change during the intervening period, without formal approval.

Commonwealth entities report on about 3,500 KPIs in the PB Statements. Entities also use many others for internal reporting purposes. Too many measures are costly to manage, can lead to information overload and can become meaningless.

It is preferable to have fewer, more meaningful indicators that focus on what matters. Tailoring performance information in this way would make it easier for Parliament and the public to judge the effectiveness of government spending. In addition, agency resources would be better targeted and collecting essential information.

Despite its importance, there are no explicit obligations on chief executives or directors for improving performance information. Requiring chief executives and directors to develop and report against relevant and appropriate KPIs would focus attention and resources on this key factor and may lead to improvements in quality.

114 For example, recent ANAO reports have been critical of the availability of useful information upon which to base judgments of some programs’ performance. A particular focus of criticisms has been the standard of KPIs and related information on targets and results. ANAO, Application of the Outcomes and Outputs Framework ANAO Audit Report No. 23 2006–07 and ANAO, Development and Implementation of Key Performance Indicators to Support the Outcomes and Programs Framework, Performance Audit Report No. 5 2011-12).
Another important element that affects the value of performance information is the ability to produce and use it. Generally, entities are best placed to produce such information. Building this capability would boost the quality and utility of the performance information being generated, enable its integration, promote its understanding and assist with its use in managing and improving performance. Additional investment may be required to boost this capability in the Commonwealth. Business analytics software and the emergence of Web 3.0 technologies also have the potential to assist entities obtain greater value from the large volume of data being created.

Finance could give more support to entities on performance management, including developing KPIs. Such support could include more comprehensive guidance, such as worked examples and a web-based assessment tool. It could also involve developing a consistent standard for performance measurement that allows entities to assess how effectively resources are generating public value.\textsuperscript{115} Recent amendments to the \textit{Auditor-General Act 1997}\textsuperscript{116} will help ensure entities' performance reporting meets minimum standards.

Under the Intergovernmental Agreement on Federal Financial Relations, COAG has endorsed a standardised performance reporting framework for all jurisdictions underpinned by clear roles and responsibilities. The reporting framework focuses on results, efficient service delivery and timely provision of publicly available performance information that improves transparency and enhances the accountability of governments for expenditure.\textsuperscript{117} This could form the foundation for developing performance information for other Commonwealth programs, noting that the COAG work had been specifically funded.

Better performance information will not itself deliver better outcomes and cannot eliminate the need for considered judgement and political choice. It will not provide the ‘right’ answers or answer questions about why programs work or fail. However, it can inform discussions about how to improve public services. At best, performance information can signal that something is wrong and prompt debate.

Making better use of performance information would allow for honest discussions between stakeholders and assist in moving debates ‘beyond subjective and biased evaluation of programs, self serving assessment of interest groups, and value judgments based on anecdotal evidence and scandals, and towards the use of more objective criteria from which to make rational decisions about policies and programs and the allocation of resources.’\textsuperscript{118}

Irrespective of the quality of performance information, the government will make decisions about policies and programs based on a wider range of factors than evidence of efficiency and effectiveness. Values, interests, personalities – in short, democracy – determines what actually happens.\textsuperscript{119} Decision-making in a political environment does not, however, lessen the value of providing good evidence to reduce uncertainty, but at times the evidence may not be the primary influencer of the decision.\textsuperscript{120}

\begin{enumerate}
\item SMART is one of a number of methodologies that can be used to determine if the group of selected indicators contain a range of characteristics that allow for the identification of effective delivery of a program objective. ANAO, Development and Implementation of Key Performance Indicators to Support the Outcomes and Programs Framework, Performance Audit Report No. 5 2011-12, 2011, p. 45.
\item Sections 19 to 23 of the Auditor-General Amendment Act 2011.
\item Banks, G., \textit{Challenges of evidence-based policy-making}, Productivity Commission and Australian Public Service Commission, Canberra, 2009, p.3.
\end{enumerate}
Improving performance

**Benchmarking**

Some jurisdictions and entities are developing reports around key metrics in a brief format to give a snapshot of performance. Having clear metrics that are comparable across entities could improve the quality of debate around efficiency in the public sector. Such metrics could be presented in the PB Statements or other existing reports, or they could be presented separately in a high-level dashboard-style report. This style of reporting would present financial and non-financial information in one place and in a simple-to-read format.

Comparative benchmarking is one means to promote ongoing performance improvement across government. It can facilitate learning across entities, by highlighting examples of better practice and innovation, and assist in closing performance gaps. If coupled with appropriate incentives for managers to keep up with best practice, it could help to improve government programs and services.

There is also a need to integrate current approaches that emphasise annual financial accountability with longer-term perspectives. For example, an ageing population presents long-term risks to the sustainability of government finances and influence decisions about public sector resource allocation. Reliable baseline data is crucial to such analysis.

There are perceptions that the centre promotes performance measurement and reporting because it is one means for it to exercise control. Such perceptions are given added weight whenever additional regulations and procedural controls are introduced even though the rhetoric is about reducing red tape. There is a need to increase trust in reporting relationships and to create incentives for program managers to deliver comprehensive, balanced and credible news about performance.

**Making better use of evaluation**

Evaluation is essential in any performance management framework. A range of evaluation activities are undertaken across the Commonwealth, by entities and specialist agencies like ANAO, the Productivity Commission and Finance and through parliamentary inquiries. But there is an opportunity to make evaluation more systematic and improve its effectiveness by linking it more closely to the Budget process.

The quality of performance monitoring and evaluation across agencies, policies and programs is variable. While there are some programs (particularly some large ones) that benefit directly from good evaluation practices, average quality appears to be low. Even where good evaluation and review exists, this information is not readily available to inform government decision making, especially on cross-portfolio matters.

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121 For example, this could include the variance between budgeted and actual performance and proportion of overhead costs to overall costs.
124 Department of Finance and Deregulation, Incoming Government Brief, Canberra, 2010, p.3.5.
Undertaking evaluations on a rolling-basis, particularly for significant programs and activities, could help to identify good practice and areas for improvement. There have been efforts in this area and care would need to be taken to ensure the approach is appropriately targeted and consistently applied across the Commonwealth. Strong coordination and leadership from Finance, as a central agency, would help prevent past problems from recurring.

**Case study**

In the late 1980s the then Department of Finance attempted to introduce a whole-of-government framework for systematic evaluation of all significant government programs. This initiative required each portfolio to develop and implement a rolling multi-year plan for program evaluations to ensure that all major programs in the portfolio were reviewed at some point, over a period of years.

Portfolios were required to develop and implement portfolio evaluation plans (PEPs) from 1988 onwards. One objective of PEPs was to deliver evaluations, as needed, to inform budget decisions. However, the PEP process itself was not directly part of the Budget cycle.

Often a policy or activity would be evaluated only if it was likely to be a specific matter considered by ministers. Compliance was variable as many agencies regarded the initiative more as an external impost rather than a tool for better policy design and delivery. There was also variability in the quality of evaluations across agencies and the emergence of an industry of providers of compliant evaluations.

The PEP framework was found to be cumbersome, resource intensive and unsustainable, with more than 160 evaluations underway at any point in time. Some of the PEPs had increased in size from the recommended 20 or 30 pages to over 120 pages, with a concomitant increase in the administrative workload necessary to prepare them.

PEPs were formally abandoned in 1997 as part of reforms aimed at reducing internal red tape in government administration.

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The OECD produced *Best Practices on Evaluation* in 1999. This work emphasised the need to involve the central finance ministry, the need for evaluation to be driven by demand rather than supply and the need for monitoring and follow-up in any best practice arrangement.

Finance may be best placed to play a leadership role in fostering a culture that values evaluation more systematically. Leadership from ministers and senior officials will be critical in developing consistent interest in evaluations and a commitment to use such information in the decision making processes of government. Strengthening incentives in the Budget process and senior management reviews would help.

There is no point in evaluation if results are not used. While it is important to appreciate the realistic limits to the influence of evaluation on ministerial and cabinet decision making, evaluation information will always be useful for program management, for departmental planning and decision making and for accountability.

### Access to information

Improving access to information, including on performance, should give greater accountability and transparency. Information can increase the level of community engagement and equip citizens to contribute to policy making and delivery. But information can only play this role if users have confidence in its integrity and it is easy to understand.

Increased access to government information improves the discipline of governments and their agencies. It creates a demand for high levels of data accuracy and it encourages alternative ways of arranging and presenting data.

Increasingly, government information is being made available electronically, which increases its accessibility. Here are some examples.

- The My School website profiles Australian schools and has the National Assessment Program of literacy and numeracy results that can be compared across Australia. A similar website for hospitals was launched in 2010.
- The State of Virginia in the United States reports against 49 societal indicators on its Virginia Performs website, which shows how the state is doing in areas that affect the quality of life of its residents.
- The United Kingdom has been producing reports for more than a decade, across a broad set of services, including schools, hospitals and police stations.
- The Canadian Citizen First Initiative scores and benchmarks customer satisfaction with individual services provided by national, state and local governments.

Some governments have gone well beyond using the internet to simply deliver electronic versions of reports and documents. Like Australia’s data.gov.au, the US and the UK are, to varying degrees, providing raw data on government websites to enable data developers to create their own applications.136 Users are able to satisfy their specific information requirements, effectively donating their time to construct an application that potentially has wider public interest.

Improving access could enable entities and government to obtain additional value from the large volumes of data being created and collected. It would also put a premium on constant monitoring so that benefits can be captured and negative issues can be effectively managed.

The Australian Government’s Declaration of Open Government notes that citizen collaboration in policy and service delivery design will enhance the processes of government and improve the outcomes sought. It states that collaboration with citizens is to be enabled and encouraged and that agencies are to reduce barriers to online engagement, undertake social networking, crowd sourcing and online collaboration projects and support online engagement by employees, in accordance with the Australian Public Service Commission Guidelines. It also notes that effective collaboration between citizens and government requires timely sharing of the information held by Government.

The Government’s Freedom of Information reforms create the new statutory Office of the Australian Information Commissioner and establish a comprehensive Information Publication Scheme that requires agencies to publish a wide range of information. This could include assisting to define appropriate measures of performance for government programs and improve the dialogue around performance.

### Key propositions for improving performance

- Reflect in financial framework legislation the responsibilities of chief executives and directors for key elements of resource management, including budgeting, performance management, reporting and evaluation, to support a more comprehensive approach to resource management across the Commonwealth.

- Consider introducing multi-year appropriations, especially for major programs and projects.

- Develop a coherent and integrated performance management framework to give a clear and shared understanding of the government’s priorities and strategic direction.

- Develop indicators that allow for performance to be measured and compared across the public service.

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Engaging with risk

Risk management is the culture, processes and structures that are directed towards taking advantage of potential opportunities while managing potential adverse effects.\textsuperscript{137}

Public sector risk management differs from the private sector in significant ways. The private sector typically invests only where it believes there is a prospect of a rate of return. Signals about investment decisions are relatively clear. The greater the risks and uncertainties, the greater must be the expected return before a project is approved. Effectively managing risk allows private sector entities to improve profitability and shareholder returns.

The Australian Government often operates in areas of market failure, dealing with risks the private sector cannot or will not cope with and which individuals, families and communities cannot manage on their own. In many instances public services cannot be subject to financial risk and return calculations that apply elsewhere. However, managing risk effectively allows public sector entities to save money, become more efficient and be forward-looking and innovative. The government must still engage with risk, even if it does so on a different basis.

For example, the Australian Government established a terrorism insurance scheme to minimise the wider economic impacts that flowed from the withdrawal of terrorism insurance in the wake of the terrorist attacks in the US on 11 September 2001.\textsuperscript{138} The Australian Reinsurance Pool Corporation was established in 2003 to provide primary insurers with reinsurance for commercial property and associated business interruption losses arising from a declared terrorist incident.

The government sector is subject to greater scrutiny than the private sector, particularly from Parliament and the media. It often works in a politically charged environment where critical comments are made regarding decisions and performance, even when risks are low. Sometimes the distinction is not made between a small failure and a big one, or an operational failure and a strategic one.\textsuperscript{139} This level of scrutiny affects the decision-making processes in the government sector.

The Public Administration Select Committee in the UK noted that, in recent years, a string of highly-publicised failures combined to cast doubt on the ability of the government to implement and administer large schemes. It went on to say that government administration is not as bad as is sometimes made out, including by the media.\textsuperscript{140}

With successful risk management difficult to measure and unlikely to attract headlines, ‘the disadvantages of taking a risk greatly outweigh the possible benefits of success.’\textsuperscript{141} That is, the perceived costs of failure can be an inordinate factor in decision-making, with the safest course being to adhere to the knowns inherent in standard procedure. It is unsurprising that the public sector is often seen to have a low risk tolerance which ‘is often expressed as a pre-occupation with administrative process.’\textsuperscript{142}

For several decades the APS has been grappling with how to make risk management work effectively in practice. While progress has been made and there are many examples of good practice, risk management is still variable across the Commonwealth. The challenge is to build a risk management culture.

Critical to this is aligning risk management practice to business processes, business planning, priority setting, decision-making and reporting so that it is seen to be adding value. The following case study is an example of how the relevant and appropriate use of risk management can be used to change culture, improve performance and achieve operational efficiencies.

\textbf{Case study}

The Australian Taxation Office’s Large Business and International line (LB&I) is responsible for gathering information and managing the risk of non-compliance associated with large business taxpayers. These are the most important taxpayers in the system. In order to better manage these taxpayers and the risks they pose to the overall operation of the Australian taxation system, LB&I developed a Risk Differentiation Framework.

The framework was designed to provide a guide for engaging with business taxpayers according to the likelihood of their non-compliance and the consequences of that non-compliance if it occurred. It uses both qualitative and quantitative intelligence to classify business taxpayers as higher, key, medium or lower risk, and tailors ATO engagement accordingly.

Based on the multiple likelihood and consequence factors identified in the framework, the ATO has developed a more consistent approach to managing the large business taxpayer’s relative risk of non-compliance.

Using the framework has allowed LB&I to better understand taxpayers and to more openly and effectively communicate the approach it is taking to determine the taxpayer’s non-compliance risk. One of the implementation issues identified by the ATO was the need to change from a process-based ‘one-size-fits-all’ culture to one where staff consciously differentiated taxpayers by their risks, and to recognise that prevention and deterrence approaches could be important tools as well as traditional enforcement strategies.

\textsuperscript{141} Australian Public Service Commission, ‘Delivering Performance and Accountability’, Contemporary Government Challenges, 2009, p.9
\textsuperscript{142} Moran, T., ‘Citizens, Culture and Leadership’, address to the Institute of Public Administration Australia (ACT), 8 December 2010.
An overarching risk management framework

The issue is not generally the technical understanding of risk management that needs more work, but embedding risk management into our organisations.143

Even though managing risk is important for the Commonwealth, there is no explicit reference to risk management in financial framework legislation, nor is there an overarching risk management framework. As a result, agencies do not have the context within which to set their own risk strategies, such as appropriate risk thresholds.

Interestingly, the framework established by the FMA Act and Regulations does contain risk mitigation strategies, such as the Finance Minister’s control over the ability of FMA Act agencies to borrow and invest. Similarly, the CAC Act duties on officers imply that they have risk management obligations (for example, the duty to exercise care and diligence).144 References to risk are limited to corporate planning145 and reporting requirements146 for government business enterprises.

There is guidance material to encourage agencies to improve their risk practices. This includes Comcover’s Risk Management Better Practice Guide, published in 2008, with practical tips for implementing or reviewing risk-management frameworks and its Awards for Excellence, published in 2010, with case studies of risk practices. Some of the ANAO’s Better Practice Guides have helpful advice about risk management, including its 2009 Better Practice Guide Innovation in the Public Sector: Enabling Better Performance, Driving New Directions.

Despite existing legislative arrangements and guidance material, action by entities to embed risk into their governance arrangements and culture vary. This may reflect the devolved nature of the financial framework, which appropriately allows for flexibility. Another reason may be the lack of an explicit and common framework to guide risk practices across the Commonwealth.

Risk management could be incorporated in legislation to make chief executives and directors, as well as decision-makers at different levels, explicitly accountable for oversight and management of risk. Legislative change would send an important signal that risk management is a key management responsibility and would be a first step in encouraging government bodies to integrate risk management into their governance structures, improving performance and contributing to cultural change. It could help to establish a common interpretation for materiality thresholds and standardise some risk practices in areas like grant and procurement processes.

Any legislative provisions should be principles-based and sufficiently flexible to support good practice at all levels of an organisation, as well as in a variety of different organisations. This would allow entities to tailor risk practices to their needs and readily adapt practices as necessary. Requirements that are too prescriptive may result in non-compliance, especially if they are difficult to understand and apply, or become redundant because they do not keep pace with changes in the operating environment.

144 Section 22 of the CAC Act.
145 Government business enterprises should include in their corporate plan details of the investment and financing programs of the GBE, including strategies for managing financial risk, and an analysis of factors likely to affect achievement of targets or create significant financial risk for the entity or the Commonwealth [Department of Finance and Deregulation, Commonwealth Government Business Enterprise Governance and Oversight Guidelines, October 2011, p. 18].
146 Clause 20 of the Commonwealth Authorities (Annual Reporting) Orders 2011
While the management of risk can be made explicit in legislation, it would be challenging to capture all the cultural and behavioural aspects that underpin good risk management. Legislative change is a first step in encouraging the cultural change required to ensure managing risk becomes general practice throughout the Commonwealth.

**Assigning material business risks**

The cost of not managing risk is high. This is evident where there are policy and program failures, which sometimes result in legal claims against the Commonwealth, frustration of policy objectives and, more broadly, damage to the reputation of the government and the Australian public sector.

For each material risk identified by an entity, there should be a responsible senior manager. Assigning material business risks and holding people to account promotes the active management of risk and allows entities to quickly intervene in a coordinated way. There should also be regular reporting and discussion of the management of material business risks by senior management.

CAC Act entities appear to have clearer accountabilities for risk. Risk is seen as a strategic issue for boards of CAC Act entities to manage in order to deliver on their mandate. For FMA Act entities responsibility can be harder to assign. For example, it may not be clear whether the Chief Executive or the Minister has responsibility for policy risk.

An effective risk management framework, which appropriately identifies material business risks and assigns responsibility for managing those risks, can assist entities to set standards and compliance requirements for staff, both loose and tight, for internal processes and procedures. For example, loose compliance may be permitted in areas where the entity is not at risk and can derive benefit from staff empowerment, creativity and innovation. That is, if staff get it wrong in a particular instance, there are unlikely to be serious consequences. However, strict compliance with internal processes and procedures is required in areas that are central to an entity’s culture, ethics and reputation.147

In many private-sector organisations, accountability for overseeing the design of a risk management framework and maintaining a risk management program has been allocated to a senior executive called the Chief Risk Officer (CRO).148 The CRO is commonly a key member of an organisation’s executive team in large companies, particularly banking and finance. A CRO can help coordinate an organisation’s approach to managing risk, create the right culture for managing it and ensure the organisation balances its risk with policy, program and project deliverables.

For some entities, audit committees may play a role in assisting senior management to improve internal processes and procedures. Other bodies have established specific risk management committees to focus on strategic risks and to review and approve risk profiles and action plans.

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147 Cornall, R., Regulatory and Administrative Decision Making, 9 November 2011, p. 10.

148 Government entities that have created a CRO role include the Department of Immigration and Citizenship and the Civil Aviation Safety Authority, with others announcing their intention to create these roles.
Balancing innovation and risk

We [United Kingdom Government] waste a huge amount of time and effort in stopping bad things happening and the result is we stop a huge amount of potentially good things happening as well.\(^\text{149}\)

Innovation is increasingly viewed as integral to creating public value and improving the performance of public services. While annual efficiency gains can be met through one-off cuts, sustainable savings and productivity growth are likely to require innovation and a focus on ‘doing it smarter’.

There is now a stronger focus on innovation due to tightening budgets and challenges associated with changing social and economic conditions and rising citizen demands for more accessible, responsive and flexible services. This means that ‘government cannot simply do more of what it has always done, but it will need to develop radical and new approaches and seize ideas within and outside organisations that can lead to greater efficiency and effectiveness.’\(^\text{150}\) The recently released APS Innovation Action Plan is aimed at helping the APS to develop a more innovative culture.

An appetite for risk is crucial for achieving innovation. Appropriate risk taking and innovation are consistent with careful and proper control of public resources. The Auditor-General has noted that parliamentary committees have generally supported the application of risk management as an integral part of good management practice, and recognised the benefit from realising opportunities.\(^\text{151}\)

To support innovation and engage with risk better, employees need both the right skills and the right attitudes. Judgement, leadership and a positive risk culture are qualities that are central to handling risk effectively. They are hard to address directly through the financial framework but can be supported through measures to boost capability and positive cultural change.

A positive risk culture

Leaders must also support innovation by fostering creativity and ideas – a culture of risk aversion may prevail if innovation is not rewarded.\(^\text{152}\)

Risk management is not about eliminating all risks. Managing risk involves identifying, assessing and judging risks, taking actions to mitigate or anticipate them, and monitoring and reviewing progress. For public sector entities to perform effectively and continue to create public value in the future, their long term strategy is likely to involve some risk taking.

There are few incentives to take risks in the public sector and managers tend to associate risk taking with the possibility of something going wrong, of project failure or of financial loss. Cultural change begins with people and no entity can move from a risk-averse to a risk-smart culture without supporting its employees.\(^\text{153}\)


\(^{150}\) United Kingdom Comptroller and Auditor-General, Innovation Across Central Government, National Audit Office, 2009, HC 12 Session 2008-09, p.11.


Leadership is a key factor. Cultural change starts with the senior executive and the importance it places on governance and risk management, including setting their organisation’s appetite for risk. The following case study demonstrates that leadership is critical to creating the right processes to support the development of a positive risk culture.

Case study

The Australian Broadcasting Corporation (ABC) has a risk management framework that recognises the importance of developing a positive risk culture and that leadership, communication, and the integration of risk management with other governance frameworks are critical elements in achieving change.

The ABC has established these foundations by promoting the members of its Executive Risk Committee as risk champions; developing processes that facilitate cross-divisional communication; integrating risk management practices within key processes; providing education and training; and providing personalised assistance and advice to business areas. The committee meets every six weeks to discuss key risks and to monitor and update the corporate risk profile.

Clear leadership is needed to establish a culture where the consequence and likelihood of a risk eventuating is understood and managed to an appropriate level. Such a culture may be difficult to foster when considered in the context of political risk and public scrutiny.

Individuals need to be empowered to take prudent, common-sense risks to achieve better outcomes. Such an approach depends on a transparent and open assessment of risk, and a system and culture that encourages innovation and intelligent risk taking.

People will be more willing to take risks and innovate in a culture that recognises that some failures will occur, but will not lead to adverse personal consequences if proper risk management practices have been followed. Accountability systems that punish public servants for unforeseen or unpreventable errors will constrain policy innovation, program delivery and organisational learning, and limit the public service’s capacity to deal with new and emerging problems.

Reckless risk taking still needs to be exposed and criticised. However, accountability processes should allow new approaches to be tried, and for them to be properly reviewed and shared to continually improve program design and delivery. Typically, making a mistake is less of a problem than the failure to recognise it and address the underlying issues.

154 Comcover’s Risk Management Benchmarking Survey indicated that not all public sector organisations have the positive risk culture necessary to support good risk management. In Comcover’s experience, creating the right culture for managing risk relies on the people at the top. When individuals or ‘champions for risk’ change in an agency, the culture for managing risk can also change.


Each government entity should develop its own tolerance to risk based on its own circumstances. This will drive the overall risk management effort of an entity. The common hallmarks of organisations that manage risk well include:

- a culture where management is willing to deal with risk, be accountable and take responsibility, including appropriate support mechanisms when things go wrong;
- a governance framework where risk is managed proactively and decisions are informed by timely and accurate risk information, including early reporting when things are going off track; and
- active, open and consistent discussion of culture and attitude to risk among senior management and communication of expectations to staff.

**Training and Education**

A positive risk culture can be influenced by staff capability. All staff should be aware of the relevance of risk to achieving their objectives and should be equipped with skills that will allow them to manage risk effectively, including the capacity to judge risks that might deliver high rewards.

Judgement is central to handling risk effectively. To build judgement, people need real experience, which means that sometimes people will try things and get them wrong. This should be accepted as part of the learning process. People should be encouraged to acknowledge mistakes quickly and, most importantly, to learn from them.157 As government mandates more rigour around delivery of policies and project and program outcomes, acknowledging risk management as a core competency is important. While formal training is one way to improve capability, integrating risk management into learning and development at all levels may help embed risk management thinking and capability in government operations.158 Recognising or valuing risk management and innovation in performance appraisals could also help.

**Key propositions for engaging with risk**

- Develop an overarching risk management framework for the Commonwealth to set the context for entities’ risk practices.
- Require entities to establish policies for oversight, management and reporting of material risks and to report to government on the management of these risks.
- Make risk management a core competency in government, with Finance providing a more coordinated and systematic approach to risk management training.

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158 For example, the Australian Public Service Commission has recently incorporated effective risk management into the APS-wide work level standards for the Senior Executive Service.
9 Building capability and culture

It is people, not systems, who produce excellence and drive change. In the private sector, it is recognised that as much as 80 per cent of a company’s worth is now tied to its people.¹⁵⁹

People drive performance. The current financial framework was intended to allow managers to manage. Central to this is that people are empowered to make decisions and held to account for them. The ability for individuals to exercise power effectively will be linked to their capabilities and the environment or culture in which they operate.

Creating a performance culture

A key determinant of an entity’s culture and performance is the tone at the top. Performance is more likely to be high where there is top leadership commitment and sustained attention to achieving results. Leaders need to value good financial, performance and risk management practices. Leaders should also ensure the right incentives are in place for staff to show initiative and get things done. Systems and processes should not be focussed solely on compliance and control. The Ahead of the Game report identifies a clear need to build and embed a stronger performance management culture.¹⁶⁰

A recent study shows that reducing organisational drag in decision making has the greatest impact on improving performance. Organisational drag is defined as a negative force that exists between management behaviours and organisational processes that adversely impact speed and effectiveness of decision-making. For example, adhering to a rigid ‘this is how we do things around here’ approach can lead to suboptimal performance. Add to the mix hierarchical decision making, siloed information flows and decentralised operations across many government agencies, and the performance situation worsens. The study found that performance management processes and culture play a significant beneficial role, as shown below.¹⁶¹


The financial framework imposes a number of obligations on entities and users. Agencies also tailor internal processes to suit their individual requirements and risk tolerances. While this is appropriate, there is evidence that additional processes are sometimes implemented, particularly by FMA Act agencies, on the misunderstanding that they are necessary to comply with legal requirements.\textsuperscript{162} As noted above, a process that is not well designed can lead to organisational drag and stifle performance.

Those responsible for translating the framework into particular organisations – such as boards, senior managers and audit committees – need to think about their own role in creating internal red tape. The \textit{Ahead of the Game} report noted that evidence suggests that significant red tape could be cut and that agencies should develop arrangements to identify red tape, including feedback mechanisms that allow staff to recommend ways to reduce red tape.\textsuperscript{163}

\textsuperscript{162} For example, prior to the model set of Chief Executives Instructions (CEIs) being released by Finance, there was substantial discrepancy in CEIs across the Commonwealth.

Building a performance culture means accepting that there will be some failures. The instinct of most bureaucracies is to respond to failure with more rules and tighter controls. But lasting improvements come from innovation and the discovery, or adaptation of new knowledge. As noted by the political scientist Aaron Wildavski, ‘error must be the engine of change.’

In the public sector there are strong political sanctions for poor judgement of risk; and conversely, far lower rewards for successful risk taking or innovation. The challenge, therefore, is to steer a middle ground between encouraging innovation and performance while not incurring unacceptable risk. As a minimum, this requires senior managers to be clear on when it is appropriate to take well measured and mitigated risks. Poor risk management practices, such as risk aversion, can stifle innovation and lead to operational inefficiency.

Influential stakeholders impact on the culture of government entities, including portfolio ministers to whom entities are accountable, and Parliament to which ministers are accountable. The importance of political leadership in the public sector is reinforced by the example in the United Kingdom, where the Blair Government was seen as essential in shifting the culture of the UK’s public management system towards a results orientation.

Building a performance culture will depend on dealing effectively with underperformance. In this context, the recent State of the Service Report showed only 10 percent of relevant respondents thought that underperformance had been fully dealt with. The challenge of effectively dealing with underperformance is not unique to the APS. Evidence presented to the Public Administration Select Committee in the UK noted that:

... one observation coming from outside the civil service and from the wider public sector as well is we tolerate performance in the civil service that frankly I do not think other bits of the wider public sector or certainly the private sector would tolerate ... If we were stronger in the way we manage people, rewarding the good and putting them in charge of bigger things and equally dealing with people who are not in the right job or are not dealing with the right issues, I think it would be better.

Financial management capability

In addition to leadership, financial management culture is influenced by staff capability. Decision makers should be financially literate and be able to recognise when they need to seek expert assistance.

While financial accountability and professionalism are relatively strong across the Commonwealth, they are largely concentrated in finance areas. There is still scope for improvement before financial management is viewed as central to broader organisational culture.

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167 Australian Public Service Commission, 2009-10 State of the Service Report, p.139
A lack of financial skills and poor financial awareness among many non-finance staff would produce a significant barrier to effective resource management and the effective development, management and delivery of programs. With better skills, including knowing when to seek expert assistance, non-finance staff in policy and program delivery areas would be better equipped to ensure that financial implications are given the requisite attention when decisions are being made about their policies and programs. This need not necessarily mean that financial skills should be consistent across all staff, but rather that there could be a tiering of skills commensurate with the requirements of individual roles.

Core standards of financial management capability should be developed for senior managers and those with delegated responsibility for managing resources, such as program managers. This could be supplemented by including an assessment of financial management in performance appraisals for all senior managers.169

There is scope to improve learning across the APS, including mechanisms to identify and translate better practice across the wider public service. A more systematic way of sharing information on best practice and positive results that enables the public sector to learn from better models (including from other jurisdictions and sectors) is required. The UK has established professions as one means to facilitate cross-government learning.

Improving training and guidance

Developing better financial management skills should be an imperative, particularly as public finances come under increasing pressure. It will require a focus on complex knowledge skills, such as analysing information, problem solving and thinking creatively.

This is true for all staff participating in policy and program delivery. It requires entities to foster a culture that encourages education and training by providing access to training, tools and information.

Clear guidance from Finance, as the central agency responsible for the financial framework, is critical to supporting capability. Currently, there is no standardised format or central location for training and guidance. The Commonwealth is well behind other jurisdictions, with some having implemented comprehensive financial management websites.

Entities could assess their approach to using their intranet and internal social media tools to encourage information sharing and learning and produce business value through their use. The US Defence Finance and Accounting Service’s Facebook page merits some consideration as an example of better practice.170

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169 The United Kingdom National Audit Office noted that, in general, staff can still be promoted to senior positions without having demonstrated an ability to deliver cost-effective operations, which sends a message within an entity that performing well in financial matters is not important for career progression (United Kingdom National Audit Office, Progress in Improving Financial Management in Government, Report by the Comptroller and Auditor General, HC 487, Session 2010-11, 3 March 2011, p. 14).

Finance should enhance training and improve the quality of guidance material. Importantly, training and guidance needs to enable staff to get to an acceptable level of performance reasonably quickly, noting the changing employment demographic for the APS, with staff becoming more mobile and an increasing use of contractors and third parties to deliver services. There may also be benefit in seeking to refocus training from simply increasing knowledge to also influencing the behaviour of users.

Standardised tools and targeted training could be developed to raise awareness of financial management obligations across the Commonwealth. Training and guidance should be delivered through a range of methods, including web-based packages. A standardised tool to assess an individual’s knowledge of the financial framework, especially for those exercising delegations, could also be developed to support an increased focus on capability.

**The role of CFOs**

In the last 20 years there have been initiatives to recognise and elevate the role of the CFO across the Commonwealth, with varying success. One of the most notable supports established for CFOs is the CFO forum, which Finance convenes to discuss issues and share best practices. Despite these efforts, the role assigned to many CFOs within entities is one that focuses more on reporting and where we have been, rather than on providing strategic input to where we are going. There is scope to use the financial expertise in entities more effectively.

Where appropriate, CFOs should have a strategic influence on material business decisions, rather than being merely scorekeepers. The CFO should play a major role in advising and supporting the leaders of entities to meet their financial responsibilities and accountabilities to the government and Parliament.

Measures have been taken to strengthen public sector financial management capability in other jurisdictions. In Canada, the Comptroller-General (or their representative) is a member of the selection committee appointing CFOs in departments.171 Canada and Queensland have specific minimum qualifications that must be met by CFOs.172

Minimum qualifications and experience for CFOs could be specified in the financial framework to ensure that there is more consistency in the qualifications or experience required. Finance could also have some systematic involvement in recruiting CFOs and a more direct relationship with CFOs. Alternatively, stronger links could be established at the portfolio level.

In addition, there may be scope to redefine some roles where the strategic business needs of particular entities do not readily accommodate a CFO. The concept of materiality could assist to inform such considerations.

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Key propositions for building capability and culture

- Increase Finance’s coordination and targeting of training and enhance guidance material, including developing web-based tools, to improve financial literacy across the Commonwealth.
- Clearly articulate qualifications, experience and minimum responsibilities for Chief Finance Officers.
10 Simplifying requirements

Public officials are meant to work in dynamic partnership with private and non-governmental organisations, to show initiative and take calculated risks to achieve exemplary social outcomes.\(^{173}\)

All this, at the same time as they are supposed to be responsive to community demands and have been placed under strict accountability regimes that demand almost excessive process requirements.\(^{174}\)

Citizens rightly expect governments to be prudent with public funds, and they expect high standards of accountability from public officials. Compliance controls are always going to be more rigorous in government. However, performance is measured by progress and results, not just the processes or procedures.

The challenge for the financial framework is to minimise performance roadblocks. It should be a simple and effective means of encouraging financially responsible behaviour and prudent decision-making, without being overly prescriptive, excessively burdensome or costly. Simplifying regulatory requirements can contribute to improved productivity.

Principles-based legislation

Conceptually, there is no difference between public resources provided by the Commonwealth to FMA Act agencies and those provided to CAC Act bodies. The activities of both FMA and CAC Act bodies can involve financial, legal and reputational risks to the Commonwealth.

There is scope to reconsider the legislative requirements to support prudent resource management and improve performance across both types of entities. People should be able to focus on achieving results and not feel like they are hamstrung by rigid regulatory requirements. At the same time, their obligations in handling public resources should be clear.


There are different treatments of different types of expenditure under the FMA Act (for example, grants, procurements, gifts, compensation mechanisms, benefit payments and entitlements, investments, loans, payments to states and territories, subsidies and rebates, memberships and sponsorships). These different treatments have their origins in government policy as reflected in the FMA Act and various other pieces of legislation.

FMA Act agencies are required to work out which type of arrangement they are dealing with (noting that the names of the different types of expenditure do not necessarily reflect their substantive purpose and characteristics) and then determine the relevant policies, processes and legal requirements that apply, which can vary in terms of the level of prescription.

The FMA Act also focuses on expenditure at a particular point in time rather than consideration of the entire lifecycle of resources, including such things as receipt, banking, storage, management, handling, disposal, gifting and release.

Rather than prescriptive requirements to guide behaviours and decision-making, as in the FMA Act, the focus should be on a more principled and comprehensive approach, as in the CAC Act and the PS Act. A simpler and clearer framework of regulation that sets out broad goals and prescribes only what is necessary to achieve them can still support effective compliance. It would provide flexibility for entities to tailor arrangements to suit the requirements of their business and support strategic decision making.

The division of activities between primary and subordinate legislation could also be re-examined. Primary legislation could be principles-based with more prescriptive provisions included in subordinate legislation, or authoritative guidance material, where needed. However, subordinate legislation should not become voluminous or complex to compensate for simpler primary legislation.

Where legislation is principles-based, the role of supporting guidance material is more significant. Therefore, a review of this material and the level of information available to support agencies would be useful, including consideration of how information is provided to, and accessed by, users. Consideration could also be given to providing standardised ‘tools’, in particular areas, building on recent work in procurement and development of model CEIs.

### Improving the management of annual appropriations

In addition to the issues identified earlier in relation to content and structure of annual appropriation bills, there are several aspects concerning the management of annual appropriations that can hinder transparency and create administrative complexity.

Since the introduction of the accrual framework, annual appropriation items do not automatically lapse at the end of each financial year as they once did. This has led to a significant build-up of unspent annual appropriations, estimated to be around $12 billion.

Prior to the introduction of the accrual-outcome statement reforms in 1999, annual appropriations lapsed at the end of the financial year for which they were appropriated, although there were carry-over provisions.

As at 11 November 2011 unspent annual appropriations were estimated to be $12.2 billion. Figure derived by the Department of Finance and Deregulation.
These amounts remain legally available to agencies until they are fully drawn, regardless of the timing. Although legislation can reduce this build-up, significant unspent appropriations can linger for years. The long life-span of annual appropriations complicates whole-of-government management of appropriations and represents a risk to Budget management.

Amending the framework so annual appropriations automatically lapse after an appropriate time would reduce the current value of unspent annual appropriations. It would also help entities by reducing the complexity of managing annual appropriations.

Another issue is that adjustments are commonly made to annual appropriations. The amount approved by Parliament for an entity may vary from the appropriation amount that is actually available for the year. For example, through the adjustment provision contained in section 31 of the FMA Act, agencies can add certain receipts to the appropriations that they manage. In 2009-10, agencies credited a total of $2.5 billion in receipts to their appropriations for later expenditure. These are managed through administrative means rather than parliamentary control.

The appropriation adjustment provisions create complications for agency recordkeeping. FMA Act agencies are required, in effect, to retain two sets of records – one that records accounting transactions and one that records appropriation transactions. Despite the fact that the majority of CAC Act bodies receive all, or a large part, of their funding through appropriations, these adjustments provisions do not apply to them. Instead the general accounting treatments are considered adequate for reporting requirements.

As discussed in Chapter 5, one option to limit adjustments is for Parliament to approve an appropriation based on the budgeted cash requirements of an entity, thereby incorporating any expected receipts or other variations into the parliamentary approval process.

Appropriation adjustments are typically necessary where the Australian Government decides to restructure its entities, particularly departments, and move functions around. These changes can be time consuming and costly. Where there is a transfer of function(s) from one agency to another, section 32 of the FMA Act allows the appropriation amounts related to the function to be transferred.

However, there are often complications, including the time taken to reach agreement between agencies on the amounts to be transferred. On average the time taken to process a section 32 transfer of annual appropriation is 81 days. In addition, the requirement to consolidate transfers into the appropriation Acts has added considerable complexity and cost to drafting section 32 instruments.

177 The total of undrawn appropriation for all types of appropriations, including special appropriations, is $218 billion. However, special appropriations for capital expenditure are excluded.
178 For example, refer to sections 30, 30A and 31, which relate to appropriation adjustments such as repayment to the Commonwealth, recoverable GST and agency receipts.
179 Figure supplied by the Department of Finance and Deregulation.
180 The United Kingdom National Audit Office conducted a review of United Kingdom government reorganisations and found that the gross cost per year was just under £200 million (United Kingdom National Audit Office, Reorganising Central Government, Report by the Comptroller and Auditor General, HC 452, Session 2009-10, 18 March 2010, p. 4).
181 Department of Finance and Deregulation statistic.
In one instance, the transfer of appropriation between agencies took more than nine months, required four section 32 instruments which amounted to 55 pages, and amended 46 appropriation amounts across eight appropriation Acts.

To improve efficiency when the restructuring of activities takes place, options to simplify the transfer of appropriations should be developed.

Finally, a blurred line of accountability exists for money appropriated to CAC Act bodies. As mentioned above, the majority of CAC Act bodies receive parliamentary appropriations. However, as a matter of policy, CAC Act bodies do not receive annual appropriations directly. Instead, appropriations approved by Parliament are paid to CAC Act bodies through portfolio departments. The intention was to bring consistency to the management of CAC Act appropriations.

The benefit of indirect payments is questionable, given that CAC Act bodies are ultimately accountable for that money. Moreover, the actual approach to management of these appropriation items can vary across portfolios. To provide for clearer accountability, the appropriation Acts could be amended to allow CAC Act bodies to be directly appropriated. Indeed, the High Court of Australia is already appropriated directly, and it is an entity under neither the FMA Act nor the CAC Act.

Simplifying public money processes

The FMA Act is more prescriptive in relation to financial management obligations than the CAC Act. Much of the complexity inherent in the FMA Act and Regulations has evolved to support the treatment of ‘public money’, which is specifically defined in the FMA Act (see Attachment F).

Consideration needs to be given to what the objective of the concept of public money is and whether the current complexity is in fact warranted, especially noting that many CAC Act bodies are also responsible for substantial amounts of money that has been appropriated from the CRF. From the public’s perspective, there is no difference between money that is provided to FMA Act agencies and money that is provided to CAC Act bodies.

In the case of the FMA Act there is a question of whether all the requirements remain warranted. For example, the FMA Act has over 25 provisions which relate to managing or using public money. A similar number of provisions are contained in the FMA Regulations. This creates a significant compliance burden, and it is not clear that the benefits outweigh the costs.
In contrast, CAC Act bodies appear to be operating with an equivalent level of efficacy in the management of Commonwealth resources, but without the impost of a complex legal framework. The CAC Act has only five provisions that relate to using money and one Regulation and one direction relating to procurement. Instead, the CAC Act imposes general duties on officers and directors. This means there is less prescription, which provides for a more principles-based approach to regulating activity and flexibility for entities to tailor controls and processes based on risk.

Rules about managing public money should be easy to understand and apply consistently, especially in an operating environment where nearly all transactions involve electronic transfer of virtual currency as opposed to the exchange of physical notes. In reconsidering the concept of public money there is an opportunity to simplify or remove a range of provisions in the FMA Act, such as section 12, which covers the receipt and spending of public money by outsiders.

There is also an opportunity to simplify several requirements which apply to FMA Act agencies, but have no equivalent requirement for CAC Act bodies, with a view to achieving more consistency across the financial framework as a whole.

- FMA Regulation 9 concerns the approval of spending proposals. It is questionable whether the benefits arising from obtaining such an approval outweigh the compliance cost for entities, especially noting section 44 of the FMA Act.

- FMA Regulation 10 requires agencies to obtain the approval of the Finance Minister before entering into an arrangement that involves expenditure beyond available appropriations. This important provision ensures that the government is aware of significant forward commitments. However, this only applies to FMA Act agencies. It is unclear why there is not an equivalent requirement for CAC Act bodies.

Furthermore, given the advances in financial management systems and internal controls since the FMA Act was developed, drawing rights may no longer be a necessary tool to manage appropriations. There would seem little risk in removing drawing rights and instead giving the Finance Minister power under the legislation to stop money being drawn down against an appropriation in the event of poor financial management, noting that Finance manages the CRF and amounts that are withdrawn from it.

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183 Drawing rights are a statutory control over who may draw upon appropriations and make payments, and they allow for conditions and limits to be set by the Finance Minister (or the Finance Minister’s delegates) in relation to these activities.
Simplifying the concept of public money could also be complemented by a refinement of the policy underpinning interagency charging, as it can be more administratively complex and costs more for agencies to charge each other for essentially core agency functions than to receive a direct appropriation. As an example, Centrelink no longer charges other agencies for its services and instead receives a direct appropriation from Parliament. In particular, the approach to interagency charging could be considered for those agencies that are established solely to fulfil a specific government function (which no other agency provides) that only the public sector utilises.

**Procurement**

Procurement is an everyday activity undertaken by tens of thousands of public servants. Transactions can range from purchasing stationery to multi-billion dollar defence contracts. In developing appropriate procurement requirements, there are competing tensions. Government procurement is expected to achieve value for money through competitive, open, transparent, efficient and publicly accountable processes. It also supports a range of social and economic policies.

Very few procurement obligations are included in the primary legislation. Instead, the Finance Minister issues Commonwealth Procurement Guidelines (CPGs) under the FMA Regulations\(^\text{184}\) for officials to follow when they are performing procurement duties. While the CPGs only comprise six basic rules, there is a wide-range of guidance materials, entity specific processes and up to 24 procurement-connected policies\(^\text{185}\) that influence how procurement is conducted. Feedback indicates that, together, these requirements can create unnecessary complexity.

Recently, there have been a number of initiatives to improve procurement practices in the Commonwealth, including training and support by Finance. It is anticipated that as these changes become embedded in agency practice they will lead to simpler and more efficient internal processes. That said, there is scope to make procurement simpler and more cost effective, including:

- recognising ‘procurement’ in primary legislation and including the objectives and principles of the procurement framework in a single location - currently there is multi-level segregation between primary and subordinate legislation, and guidance materials;
- formalising processes for establishing procurement-connected policies to ensure that they are subject to adequate consultation and planning; and
- Finance taking the lead in developing consistent legal approaches for cooperative procurements, including liability, insurance and intellectual property needs.

A simplified process for contracts involving expenditure of less than $10,000 has been introduced, although entities are still able to adopt a tailored process. This approach could be extended further.

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\(^{184}\) FMA Regulation 7. These are soon to be renamed the Commonwealth Procurement Rules (CPRs). The CPRs will be released on 1 April 2012, but will not come into effect until 1 July 2012.

\(^{185}\) Procurement-connected policies span, but are not limited to, industry participation arrangements and the Fair Work Principles through to energy efficiency, the Commonwealth Disability Strategy and the Indigenous Opportunities Policy. A full list of procurement connected policies is at Attachment C.
Case study

In 2009–10, Australian Government entities reported about 81,000 procurement contracts valued at $10,000 or greater. About 72 per cent (or 59,000) were valued at less than $80,000 (the threshold for the Mandatory Procurement Procedures as set by Australia’s Free Trade Agreement with the US) and represented only 4 per cent of the total value of the contracts.

Even modest improvements to procurement practices in these contracts would provide an opportunity to achieve significant efficiency benefits for government and suppliers.

To assist assurance and improve access to professional advice, Finance proposes to raise the general awareness of procurement processes, with a focus on up-skilling procurement officials, and to improve the capability of officials who provide procurement advice within their entities (or portfolios) by establishing accredited centres of excellence. These centres of excellence would employ officials who have specific accredited skills in procurement and can advise other officials on procurement activities.

It has also been suggested that standardised whole-of-government templates and training could provide examples of best practice and ensure staff undertaking procurement understand their responsibilities.\(^{186}\)

A further option that could be considered is to require officials (including delegates) to attain a level of competency when conducting procurements and exercising financial delegations, or to seek the views of an official with that competency.

Improving risk management will also greatly benefit government procurement including, for example, by decreasing costs to entities and suppliers through a more appropriate allocation of risk. This should include reviewing Commonwealth liability and insurance requirements placed on suppliers to align these requirements with those of commercial practice.

Grants

The government provides financial assistance in grants for a variety of activities. The Commonwealth Grant Guidelines (CGGs) apply to all FMA Act agencies and set out requirements and best practice for entities and officials in undertaking grants activities. The ANAO has also issued a guide on Implementing Better Practice Grants Administration to complement the CGGs.\(^{187}\)

The introduction of the CGGs in July 2009 was a significant step in improving arrangements. There is potential to simplify the requirement, which would benefit government entities, grant applicants and recipients. It may be necessary to examine the interaction of the CGGs with the Federal Financial Relations Act 2009 (FFR) to remove any inconsistencies and improve governance.\(^{188}\)

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187 During consultations, the view was expressed that having the CGGs and the ANAO Better Practice Guide, while helpful, can sometimes create confusion about responsibilities and accountabilities.
Entities can determine their own specific grants administration practices within the grants policy framework established by the CGGs. This means grant applicants and recipients can face inconsistent requirements when they draw grant funding from different government programs. This can place unnecessary burdens on them, be administratively burdensome and have cost implications.

From a whole-of-government perspective, there is scope to reduce costs for applicants when seeking multiple grants. Initiatives could include a single contact portal or having data stored in a common place to be drawn on easily to make multiple applications, including across entities.

Some consideration has been given to how external bodies are asked to provide information to the Commonwealth. For example, the introduction of Standard Business Reporting (SBR), a major whole-of-government project, is designed to streamline business-to-government reporting through the SBR-enabled accounting and payroll software. This technology may have application to grants management.

The Secretaries’ ICT Governance Board (SIGB) is reviewing the potential for a whole-of-government grants management system. SIGB has been discussing the use of FaHCSIA’s grants system, FoFMS, as a potential for such a solution. SIGB is monitoring the current implementation by the Department of Health and Ageing of FoFMS and assess the outcomes before consideration as a potential whole-of-government solution.

**Reporting requirements**

For many entities, compliance with legislative and other reporting obligations represents a significant investment in time and resources. Costs are compounded where similar information is required for several purposes but in different formats. For example, there are numerous reporting requirements for grants and procurement that require nearly the same information to be provided through different channels (see Attachment D).

At present, there is no whole-of-system consideration of the impact of proposed reporting requirements, or the continued relevance of existing reporting requirements. New reporting requirements can therefore be introduced without considering how they relate to existing requirements. It may be timely to examine a number of legacy reporting processes to determine whether the benefits outweigh the costs.

It seems that there are many factors, such as responding to a parliamentary or audit report, that drive additional reporting requirements, but there is no effective way to remove requirements once they are in place. The cumulative impact of imposing additional reporting requirements on entities needs to be considered. While individual requirements may appear reasonable on their own, they can impose a large burden collectively.

A more focused approach to reporting should be used to reduce the burden on organisations and managers. The benefits of reporting should justify the cost.
Financial and performance reporting

High quality financial and performance reporting is essential for accountability and transparency. It is an important driver of trust and confidence in an entity. The objective should be to get the right data, in the right format, at the right time to the right users.

There is scope to reconsider how entities compile and present information detailing financial and non-financial performance, internally and externally. The amount of information presented in reports should be sufficient to satisfy user requirements but not so great or detailed as to overwhelm the user. It is not always the case that more is better.

Under the current reporting framework, reports are typically long, complex and in many instances are not seen as very useful. Both PB Statements and annual reports can run for hundreds of pages and can contain non-material information. The total number of pages for annual reports for all Commonwealth entities is in the tens of thousands.

There is also evidence to suggest that some entities do not have one integrated information set that can be used for internal and external reporting. This can compromise the quality of information as there might not be a ‘single source of truth’. Managing multiple information sets is also costly.

The recent harmonisation of the Government Finance Statistics system and the accounting standards framework in Australia has removed a major source of differences in financial reports produced by governments. As Professor Allan Barton has noted, the recent adoption of the modified GFS system as the sole accounting information system has removed a major source of duplication, misdirected effort and confusion. It is one step in designing a reporting system that better suits the unique nature of public sector activity.

Improving the reporting system should also seek to ensure that the reporting burden more appropriately reflects an entity’s risk exposure. The current reporting framework requires all entities to prepare financial statements in the same way, depending on whether they are CAC or FMA entities, to assist consolidation and comparability across entities.

While there are benefits to this one-size-fits-all approach, it does not consider the disparate purposes or risk environments of Commonwealth entities. Exploring options that would enable the introduction of a differential reporting framework (across both financial and performance reporting) may result in entities having a reporting burden that more appropriately reflects their risk exposure.

Differential reporting for entities would allow the Commonwealth to allocate resources for reporting more effectively where it has the greatest risk exposure, and would be of particular benefit to smaller, low-risk entities. Differential reporting could also be considered in the context of obligations imposed on external stakeholders, such as grant recipients.

The Commonwealth and state and territory governments are working to identify further issues and opportunities in applying a less complex reduced disclosure regime to smaller government bodies.

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189 For example, in 2010-11 Cancer Australia had a PB Statement of 31 pages and an annual report of 121 pages (including 51 pages of financial statements) for one outcome. The Department of Health and Ageing had a PB Statement of 397 pages (834 pages for the portfolio and an annual report of 634 pages (including 113 pages of financial statements) for 14 outcomes.

190 Barton, A., The Use and Abuse of Accounting in the Public Sector Financial Management Reform Program in Australia, ABACUS, Vol. 45, No. 2, 2009, p. 245. Reference to the GFS system should be read as GFS/GAAP reporting.
Case study

In recent years there have been a number of changes to the reporting framework for not-for-profit entities, designed to reduce the reporting burden.

Provisions of the Corporations Act 2001 – applying to companies limited by guarantee – have been amended to introduce a three-tiered reporting structure and streamlined requirements for directors’ reports, and to permit a review rather than audit of financial reports (in some circumstances).

In July 2010 Accounting Standard AASB 1053 Application of Tiers of Australian Accounting Standards introduced a two-tiered financial reporting framework that allows for reduced disclosure requirements for not-for-profit entities.

Of 195 FMA and CAC Act entities, 69 are currently classified as material. Introducing tiered reporting based on risk could significantly reduce the number of audited financial statements prepared each year.

Another option to simplify reporting would be for information to be consolidated and audited at the portfolio level. This should not reduce accountability if done appropriately. Financial information would still be required at the entity level to support entity functions and decision making. The CEO would still be responsible and accountable for the stewardship of public resources and the performance of the entity. It will be important to define appropriate thresholds when determining which entities should consolidate and which should continue to prepare their own financial statements.

Alternatively, there may be scope to make greater use of management information for external reporting purposes. This could provide a cost-effective solution for many entities, as they would not need to duplicate reporting. If such an approach was adopted, the challenge would be to ensure that management information is relevant and reliable.

In Australia, standards for reporting are primarily determined through independent mechanisms. These include the accounting standards and the Australian Bureau of Statistics’ system of national accounts. In addition, the Auditor-General has a role in supporting independent accounting standards. Not only should standards be independently set, they should also capture contemporary practice and facilitate global comparability.

Standards for reporting currently focus on financial reporting. However, public value is not only concerned with financial performance. For government entities to contribute to long-term, sustainable value creation they need to direct their operations to achieving sustainable economic, service, social and environmental performance.

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191 Material entities comprise 99% of revenue, expenses and liabilities. Note: all of the 20 departments of state are ‘material in nature’.

Current standards do not adequately address sustainability reporting. They also do not require entities to provide an integrated view of service, environmental, social and financial performance. The integration of sustainability information with mainstream financial reporting is receiving increased attention in the private sector. For example, the 2008 KPMG International Survey of Corporate Responsibility Reporting found that three-quarters of the Global Fortune 250 and 69 per cent of the largest companies in the world by revenue follow the Global Reporting Initiative (GRI) Sustainability Reporting Guidelines.193

There are a number of projects with the potential to inform current reporting arrangements. Finance and the Financial Reporting Council (FRC) are monitoring developments in International Public Sector Accounting Standards (IPSAS) and their standard-setting arrangements, as a means of remaining informed about alternative financial reporting systems. New Zealand has proposed to switch to IPSAS-based standards for its public sector in 2013. Integrated reporting, incorporating not only financial information but environmental, strategic and non-financial operational information, is being examined by the FRC. The Australian Accounting Standards Board and the IPSAS Board have active projects that are considering the role of performance information in reporting.

Comprehensive and appropriate penalties and sanctions

Penalties and sanctions should deter individuals and organisations from non-compliance and effectively address non-compliance when it occurs. They need to be seen as part of a broad suite of strategies to promote and encourage compliance.

The current penalties and sanctions regime for the financial framework is piecemeal. Various penalties and sanctions exist, without a clear rationale for their size or scope, or a hierarchy explaining how they relate to each other. There is a risk that suspected contraventions will be inconsistently handled, which limits the regime’s effectiveness and relevance.

As a general principle, equivalent penalties and sanctions should be imposed for equivalent misconduct, unless there are strong reasons not to do so. In practice, similar types of misconduct do not necessarily result in the same penalty or sanction being imposed.

Case study

Section 14 of the FMA Act makes it an offence to misuse public money. Subsection 26(2) of the CAC Act makes it an offence for a director or employee to misuse their position. Both sections can be used to punish misuse of public resources. Under the FMA Act, an official could face up to seven years’ imprisonment, whereas an employee of a Commonwealth authority would face up to five years’ imprisonment or a fine of $220,000 or both.

There is scope to make the penalties and sanctions regime more holistic and better integrated. A single policy framework should be developed which sets the size and scope of penalties and sanctions commensurate with the consequences to the Commonwealth. This would reduce confusion and remove some of the inequality created by the current regime. There should be more guidance and support offered to entities looking to impose penalties and sanctions, including those available under employment arrangements.

In addition, the FMA Act and CAC Act contain criminal offences that overlap the Criminal Code. The Criminal Code (for example, abuse of public office194 and the general fraud provisions) is already broad enough to capture most of the conduct where a criminal prosecution under the FMA Act or CAC Act could be pursued.195 Therefore, overall the penalties and sanctions regime could be simplified by relying on the Criminal Code for criminal conduct and removing overlapping offences from the financial framework.

In the area of civil penalties, Finance provides advice to the Finance Minister on the Minister’s enforcement role for Commonwealth authorities. The Australian Securities and Investment Commission (ASIC) is an independent regulator that fulfils the same role for Commonwealth companies. If statutory corporations continue to have equivalent directors’ duties to those contained in the Corporations Act, greater consistency could occur in regulation of these obligations. ASIC could take on this role in relation to statutory corporations as it currently does for Commonwealth companies.

Key propositions for simplifying requirements

- Restructure the financial framework so that primary legislation is more clearly principles-based and focused on areas of high risk, with clearer and more detailed guidance to support entity performance.
- Simplify financial framework legislation and rules applying to managing appropriations and public money to reduce compliance burdens.
- Simplify and better align financial framework rules for grants and procurement and base their requirements on the level of risk involved.
- Develop a more focused approach to reporting to remove duplication and reduce the burden on entities and managers.
- Develop a risk based approach to reporting allowing for tiered reporting based on an entity’s risk exposure.
- Simplify the penalties and sanctions regime in the financial framework by relying on the Criminal Code for criminal conduct and removing overlapping offences.

194 Clause 142.2 of the Criminal Code makes it an offence for a person to use his or her influence, position or information dishonestly to gain an advantage for himself or herself or cause detriment to another person.

195 Between 1 July 2002 and 23 December 2010, there were 26 prosecutions under the FMA Act and one under the CAC Act.
11 Clarifying obligations

Legislation codifies and underpins key elements of the Commonwealth’s financial framework. Effective legislation conveys intent, powers and obligations in a clear manner and does not impose unnecessary compliance costs.

The financial framework imposes obligations on individuals entrusted with managing public resources. Most officials and employees seek to ensure they comply. However, under the current framework it can be difficult for them to identify and comprehend financial management requirements.206 Entity-specific processes can add to this difficulty. Clarifying obligations to ensure that they are easily understood and properly considered as part of financial management activities is critical in supporting effective financial management and performance.

Improving compliance

The legislative and policy requirements for FMA Act agencies and CAC Act bodies vary significantly, as do the potential consequences of non-compliance (depending on both the requirement and the circumstances in question).207 Consideration should be given to whether these obligations should be made more consistent.

In the case of FMA Act agencies, reasonably prescriptive reporting requirements have led to a focus on compliance and a strengthening of controls in areas that, under a risk-based approach, might have been subject to less prescription.208 It is not clear that the benefits associated with the current rules, particularly FMA Act agencies, outweigh the costs. The ANAO has observed that many instances of non-compliance with requirements of the financial framework are relatively minor in terms of their impacts and consequences.209

Achieving full compliance will not always be possible, at least at reasonable cost. Determining what is an acceptable level of non-compliance will depend on the nature of the risks arising from non-compliance and how those risks will influence the achievement of policy outcomes.210 In this context, consideration of risks and their materiality should be broad and encompass not only financial risks, but also reputational, legal and other risks.

199 The ANAO audit on the management of the Certificate of Compliance process indicated that external audit committee members had advised that many instances of non-compliance are relatively minor in terms of their implications (ANAO, Management of the Certificate of Compliance Process in FMA Act Agencies, ANAO Performance Audit Report No. 38 2010-11, 2011, p. 23).
200 OECD, Reducing the Risk of Policy Failure: Challenges for Regulatory Compliance, 2000, p. 11.
The CAC Act is less prescriptive than the FMA Act, even though many CAC Act bodies receive all or a significant proportion of their funding from government (either directly or indirectly) and that the risks involved in handling these funds are similar.201

Despite less prescription, there is no evidence to suggest that financial management practices in CAC Act bodies are of lesser standard than FMA Act agencies. A comparative assessment of financial practices in FMA and CAC Act entities could help to identify those legal obligations that contribute to better financial management and those where the costs outweigh the benefits.

There may be benefit in contrasting the compliance requirements of the current Commonwealth financial framework with other financial and regulatory frameworks, in Australia and overseas. For example, commentary on the Sarbanes-Oxley Act, which was enacted in the United States in 2002 in response to significant corporate failures, points to a widely held belief that additional compliance requirements have not contributed significantly to improving the quality of financial management in listed public companies.

Internal controls play an important role in supporting compliance. These controls, which are now increasingly IT-based, need to be consistent with the legal obligations set by the financial framework. Principles-based legislative requirements can provide flexibility to accommodate technological changes, without compromising prudent financial management. Prescriptive legislative requirements introduce risk and may impose additional costs when financial management systems are being implemented, and when the requirements change and systems need to be reconfigured.

**Case study**

As more internal processes and controls are automated, the issue arises of how best to demonstrate compliance. The advent of rules-based systems (including for processing social welfare applications and tax returns) requires the organisation and those responsible for systems implementation and modification to verify that the systems are compliant with the law. This will require appropriate testing and assurance processes to be established.

In relation to the Australian Taxation Office’s Change Program, the ANAO noted that matters of design and/or correctness of coding will typically have to satisfy two broad categories of requirements: compliance with legal, regulatory and financial legislative requirements; and compliance with requirements of administrative efficiency and simplicity of use by taxpayers.202

A well designed and sensibly applied control framework allows employees to efficiently and effectively achieve their objectives. If a clear relationship between a particular control and risk cannot be demonstrated, it is likely that the control should not be in place.

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201 At 15 February 2012, all 111 FMA Act agencies and 68 (of 84) CAC Act bodies received funding directly or indirectly through the budget process.

While controls can restrict discretion, they protect against unwanted events such as fraud. However, if compliance consumes the attention of managers, sound management control can be compromised and sensible discretion and innovation can be inhibited.\footnote{CCAF-FCVI, Taking Chances: Finding Ways to Embrace Innovation, Risk and Control in Public Sector Organisations, A CCAF Discussion Paper, 2009, p. 2.} The challenge is to ensure that the right procedures are in place to support good performance, and that compliance requirements do not become more red tape.

Importantly, controls should not replace common sense – they are about stewardship of resources and should only be applied where they are proportional to risk. Too much prescription can mean an individual is captured by the process of making decisions, rather than focusing on outcomes.

There should be a greater regard to the impacts and consequences of non-compliance within the financial framework. Legislative requirements should be focused more on areas of high risk and less on procedural requirements that can be addressed through internal controls, such as delegations and authorisations. Consideration should be given to those areas where there is scope to reduce the compliance burden without compromising transparency and accountability. For example, risk-based monetary thresholds could be introduced to differentiate the requirements applying to particular activities.

In addition to considering the appropriateness and cost of existing legislative and other regulatory controls in the financial framework, there may be scope to modify compliance reporting to achieve a greater focus on material risks,\footnote{ANAO, Management of the Certificate of Compliance Process in FMA Act Agencies, ANAO Performance Audit Report No. 38 2010-11, 2011, p. 23.} and ensure that the reporting requirements balance benefit and burden.

There may also be scope to introduce a legislative mechanism to address instances where processes and systems have not been compliant with the law and errors have resulted, including overpayments to recipients.

**Clearer responsibilities**

A wide array of people are involved in managing government money and resources. Increasingly this involves more than the office holders, management and staff of government entities, particularly as more services are being delivered on behalf of government by third parties. Ministers, Parliamentarians and members of their offices are also users of public resources. There would be benefit in all having a clearer understanding of their roles and responsibilities under the financial framework legislation, including powers and responsibilities through delegations.

Currently, the FMA Act focuses on the powers and responsibilities of agency chief executives, while the CAC Act focuses on those of directors and senior managers of Commonwealth authorities. As noted in other sections of this paper, there may be scope to provide greater clarity in some areas, such as the quality of performance information and managing risk.
To help achieve a consistent understanding of requirements for managing public money across government, the legislation should speak to the users of the framework, not just to those at the top of government entities. For example, outlining the overarching responsibilities and obligations that apply to all employees who are involved in managing public resources could be included in the legislation. Moreover, these obligations could apply across both FMA and CAC Act entities, rather than having differentiated rules governing similar activities (which pose similar risks to the Commonwealth). Concepts could include:

- promoting the proper use of Commonwealth resources;
- exercising powers with a degree of care and diligence that a reasonable person would exercise;
- making judgements in good faith and for a proper purpose;
- having no material personal interest in a matter;
- properly informing themselves about a matter to the extent they reasonably believe is appropriate; and
- reasonably relying on expert information and advice provided by others.

Many of the requirements above can be found in existing legislation, such as the FMA Act, CAC Act or the PS Act. However, they are not drawn together as a whole system. For example, program managers in an FMA Act agency may not necessarily link their PS Act obligations with requirements imposed by the FMA Act. Similarly, not all CAC Act duties apply to employees. Establishing a common set of principles or values would help to ensure that staff are able to locate and properly understand those requirements that apply to them when they manage Commonwealth resources.

The FMA Act places some operational responsibilities on the Finance Minister, which are then delegated to chief executives. It may be more appropriate to directly confer such operational powers and obligations on chief executives. The Finance Minister could then retain a ‘reserve power’ whereby the authority of officials could be restricted in certain circumstances.
Achieving more consistency in legislation

Most government entities are subject to numerous pieces of legislation, such as enabling legislation and the PS Act, in addition to the financial framework legislation. The respective roles of these different pieces of legislation could be clarified and the interaction of other legislation with the financial framework legislation improved. For example, achieving greater consistency in language between the financial framework legislation and related legislation, like the PS Act, could help improve understanding of statutory obligations and duties.

Key propositions for clarifying obligations

- Adopt a more risk-based approach to imposing requirements within the financial framework, reporting compliance against those requirements and addressing non-compliance.
- Consider making the regulatory requirements that apply to FMA and CAC Act entities more consistent.
- Make language consistent between financial framework and related legislation, including the enabling legislation of statutory authorities and the Public Service Act 1999.
The complex challenges facing Australia requires a Commonwealth sector that is agile to adapt and stay ahead of the game. In policy development and service delivery the APS needs to work together as one organisation so that it is equipped to tackle multi-dimensional and interrelated issues.\(^{205}\)

When contemplating how the financial framework may look in future, there are a number of elements to consider. These include the format and structure of any legislation, and the values, practices and procedures that support the financial framework.

In general, legislating a set of principles, rather than prescribing detailed requirements, creates a framework where agencies have the flexibility to adopt appropriate systems and processes to achieve diverse policy and statutory objectives.\(^{206}\) A principles-based framework can readily adapt to changes in the way governments may wish, or need, to operate, including changes between devolving and centralising activities.

It will be important to ensure that the framework is sufficiently flexible to accommodate changes in future approaches to policy development and service delivery, including the increasing involvement of parties outside of government. In addition, information and communication technology will continue to provide opportunities for the public sector to join up services around principles such as life episodes, which make more sense to users, rather than services built around bureaucratic structures and functions.

Linking up a range of currently separate services around the needs of a citizen will have implications for existing governance and accountability mechanisms. For example, it might be necessary to have a more flexible approach to budgeting within and between organisations so that funding can be more readily deployed to areas where it will provide the most benefit. Such a change would need to be supported by appropriate accountability and an assessment that the gains in outcome outweigh the perceived loss of control.

As noted in the preceding chapters, there are initiatives that could improve performance in the Commonwealth. Some would require legislative change and reconfiguring IT systems, and a reasonable period of time. However, there are opportunities to reconsider existing practices and procedures, which are typically grounded in policy and convention. Such changes could be more readily implemented, as they could be accommodated within existing legislative structures.

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\(^{206}\) Section 13 of the PS Act (the APS Code of Conduct) is an example of a principles-based legislative provision.
In considering initiatives to support the proposed directions for reform, CFAR has identified three broad approaches, which are discussed below:

- upgrading the existing entity based framework;
- strengthening portfolio governance arrangements; and
- strengthening the whole-of-government performance framework.

The three approaches are not mutually exclusive and could be undertaken progressively, taking into account implementation and transitional issues.

As depicted in the diagram below, the relative benefits associated with each approach are likely to vary. For example, compared to existing entity-based arrangements, there may be opportunities to increase efficiency and effectiveness by strengthening portfolio governance arrangements. Beyond that, a stronger whole-of-government performance framework could facilitate a more agile and connected public sector able to shift resources quickly to new priorities. This should be the aspiration for the Commonwealth in the longer term.

**Figure: Extent and Nature of Reform**

- Enhancing transparency and accountability
- More effective governance arrangements
- Improving performance
- Engaging with risk
**Upgrading the existing entity based framework**

The FMA Act and CAC Act have served government well. Notwithstanding, there is growing evidence that the framework is showing signs of strain, is overly complex and is not readily understood, especially by new users. Feedback suggests that the interaction between legal and accounting requirements creates confusion for most users.

Reforms could be undertaken within the existing FMA Act and CAC Act entity-based governance model to improve performance and accountability. A list of suggested reforms is at Attachment G.

To upgrade the current framework, the primary focus would be on simplifying and clarifying existing legal and policy requirements to reduce compliance burdens. In particular, requirements imposed by the appropriation framework could be simplified. These reforms could be complemented by measures to improve financial management capability across the Commonwealth and the skills of people interacting with the framework.

It might be prudent to make explicit certain obligations that are only implicit within the framework. This could enhance accountability, improve performance and contribute to cultural change. Suggested enhancements to current legislation include:

- chief executives and directors having more direct and formal obligations in relation to the quality and timeliness of Budget estimates;
- making chief executives and directors explicitly accountable for the oversight and management of risk; and
- placing explicit responsibilities on chief executives and directors in relation to developing performance criteria for their organisation.

Existing arrangements would be improved by an integrated resource management cycle for the Commonwealth, to guide the government as a whole and entities individually. This could involve improving the FMIP as it was presented in the 1980s. The initiatives to upgrade the existing entity-based framework are essential to support effective financial management across the Commonwealth and should meet short to medium-term needs.
Strengthening portfolio governance arrangements

The FMA and CAC Acts support devolution of management responsibilities to individual entity operations. The internal operations of the Australian Government, however, are akin to a conglomerate that comprises many distinct entities with varying levels of operational autonomy. In addition to simplifying and clarifying existing arrangements, there is an opportunity to develop a more coherent, portfolio-based governance framework, which re-balances devolution and accountability. Such a shift could help to better meet the strategic needs of government to improve coordination and joined-up work. A list of suggested initiatives is at Attachment H.

Strengthening portfolio governance could involve reasonably significant legislative amendments. For example, there may need to be recognition that chief executives and directors have obligations for not only their entity but also for the performance of the portfolio as a whole. It might be necessary to provide a legislative role for departmental secretaries in supporting their ministers with portfolio governance and resourcing arrangements. Care would need to be taken to ensure that the accountabilities of relevant entities are not impinged.

Accountability arrangements could be strengthened by having certain functions, such as audit committees, consolidated at portfolio level, especially for non-material entities. It could also allow for materiality to be assessed at the portfolio level. This broader focus could assist in portfolio resources being strategically allocated.

Differential reporting requirements could be introduced so that non-material entities have their reports consolidated at portfolio level. This should not diminish accountability but would reduce the volume of reporting.

A wider reform agenda could include revisiting the structure of financial framework legislation and considering whether the existing delineation of FMA Act and CAC Act entities is optimal.

While the initiatives to strengthen portfolio governance arrangements will take some time to implement they can take the Commonwealth financial framework forward significantly in terms of transparency and efficiency and meet medium-term needs.
Strengthening the whole-of-government performance framework

There is no overarching performance framework for the Australian Government, although there are areas where governments have sought to take a whole-of-government view.

The focus of performance management is at an entity level, and entities may develop program performance indicators that do not link to overall government objectives and outcomes.

Other jurisdictions, including internationally, have expanded their performance frameworks to focus on whole-of-government outcomes.  

To implement a whole-of-government performance framework would require substantial innovation and reform over and above that required to move to a portfolio governance model. Suggested issues to consider are at Attachment 1, and would include the development of a whole-of-government performance framework, akin to that established by the Scottish Government.

The development of a whole-of-government performance framework could include the development of a strategic plan for the Australian Government and clear definition of government priorities, desired whole-of-government outcomes and a set of key national indicators. This could then serve as a focal point for implementation and provide strategic direction for entities to draw on in formulating and reporting on their KPIs. It could also help Parliament and the public in assessing whether the government’s broader objectives have been met. Such an approach is most likely to serve the ongoing needs of Parliament, government and the community in the longer term.

207 For example, in 2001, Victoria introduced desired whole-of-government level strategic outcomes under Growing Victoria Together (GVT). GVT provided a framework to drive government performance towards achieving 10 goals. GVT was initially designed as a 10-year vision until 2010. Annual progress was reported against 36 GVT progress measures in budget papers.
## Attachment A – FMA Act Agencies (as at 15 February 2012)

### 20 Departments of State under the Public Service Act

<table>
<thead>
<tr>
<th>Department</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture, Fisheries and Forestry</td>
<td><a href="#">September 2012</a></td>
</tr>
<tr>
<td>Aboriginal Affairs Department</td>
<td><a href="#">January 2012</a></td>
</tr>
<tr>
<td>Department of Broadband, Communications and the Digital Economy</td>
<td><a href="#">November 2011</a></td>
</tr>
<tr>
<td>Department of Climate Change and Energy Efficiency</td>
<td><a href="#">February 2012</a></td>
</tr>
<tr>
<td>Department of Defence</td>
<td><a href="#">February 2012</a></td>
</tr>
<tr>
<td>Department of Education, Employment and Workplace Relations</td>
<td><a href="#">February 2012</a></td>
</tr>
<tr>
<td>Department of Finance and Deregulation</td>
<td><a href="#">February 2012</a></td>
</tr>
<tr>
<td>Department of Foreign Affairs and Trade</td>
<td><a href="#">February 2012</a></td>
</tr>
<tr>
<td>Department of Health and Ageing</td>
<td><a href="#">February 2012</a></td>
</tr>
<tr>
<td>Department of Human Services</td>
<td><a href="#">February 2012</a></td>
</tr>
<tr>
<td>Department of Infrastructure and Transport</td>
<td><a href="#">February 2012</a></td>
</tr>
<tr>
<td>Department of the Prime Minister and Cabinet</td>
<td><a href="#">February 2012</a></td>
</tr>
<tr>
<td>Department of Regional Australia, Local Government, Arts and Sport</td>
<td><a href="#">February 2012</a></td>
</tr>
<tr>
<td>Department of Sustainability, Environment, Water, Population and Communities</td>
<td><a href="#">February 2012</a></td>
</tr>
<tr>
<td>Department of the Treasury</td>
<td><a href="#">February 2012</a></td>
</tr>
<tr>
<td>Department of Veterans’ Affairs</td>
<td><a href="#">February 2012</a></td>
</tr>
<tr>
<td>Australian Federal Police</td>
<td><a href="#">September 2012</a></td>
</tr>
<tr>
<td>Australian Public Service Commission</td>
<td><a href="#">February 2012</a></td>
</tr>
<tr>
<td>Australian Security Intelligence Organisation</td>
<td><a href="#">February 2012</a></td>
</tr>
<tr>
<td>Australian Taxation Office</td>
<td><a href="#">February 2012</a></td>
</tr>
<tr>
<td>Attorney-General’s Department</td>
<td><a href="#">February 2012</a></td>
</tr>
</tbody>
</table>

### 67 prescribed agencies also encompass a “Statutory Agency” under the Public Service Act (PSA)

<table>
<thead>
<tr>
<th>Agency</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Attorney-General’s Department</td>
<td><a href="#">February 2012</a></td>
</tr>
<tr>
<td>Australian Federal Police</td>
<td><a href="#">September 2012</a></td>
</tr>
<tr>
<td>Australian Public Service Commission</td>
<td><a href="#">February 2012</a></td>
</tr>
<tr>
<td>Australian Security Intelligence Organisation</td>
<td><a href="#">February 2012</a></td>
</tr>
<tr>
<td>Australian Taxation Office</td>
<td><a href="#">February 2012</a></td>
</tr>
<tr>
<td>Attorney-General’s Department</td>
<td><a href="#">February 2012</a></td>
</tr>
</tbody>
</table>

### 4 Departments of the Parliament under the Parliamentary Service Act

<table>
<thead>
<tr>
<th>Department</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Office of the Attorney-General</td>
<td><a href="#">February 2012</a></td>
</tr>
<tr>
<td>Office of the Governor-General</td>
<td><a href="#">February 2012</a></td>
</tr>
<tr>
<td>Australian Federal Police</td>
<td><a href="#">September 2012</a></td>
</tr>
<tr>
<td>Australian Security Intelligence Organisation</td>
<td><a href="#">February 2012</a></td>
</tr>
</tbody>
</table>

### Key Symbols
- FMA Act agencies are those Departments of State, Departments of the Parliament and “other specified agencies” under the FMA Regulations.
- These agencies are all able to receive access to information under the FOI Act.
- Also, note that all SSA Act agencies are in the General Government Sector.
- “Prescribed agencies” are national universities or State government agencies that are not listed as “FMA Act agencies”.
- These agencies are all able to receive access to information under the FOI Act.
- The 20 Departments of State are “material in nature”, and are likely to advance bodies corporate forms under the Act.
- 17 agencies are comprehensively covered by the Act.
- All agencies are covered by the Act, including agencies that are specifically excluded from the Act.

### Footnotes
1. [September 2012](#) Reference to the date in the reference.
2. [February 2012](#) Reference to the date in the reference.
3. [November 2011](#) Reference to the date in the reference.
4. [October 2011](#) Reference to the date in the reference.
5. [August 2011](#) Reference to the date in the reference.
6. [July 2011](#) Reference to the date in the reference.
7. [June 2011](#) Reference to the date in the reference.
8. [May 2011](#) Reference to the date in the reference.
9. [April 2011](#) Reference to the date in the reference.
10. [March 2011](#) Reference to the date in the reference.
11. [February 2011](#) Reference to the date in the reference.
12. [January 2011](#) Reference to the date in the reference.
13. [December 2010](#) Reference to the date in the reference.
14. [November 2010](#) Reference to the date in the reference.
15. [October 2010](#) Reference to the date in the reference.
16. [September 2010](#) Reference to the date in the reference.
17. [August 2010](#) Reference to the date in the reference.
18. [July 2010](#) Reference to the date in the reference.
19. [June 2010](#) Reference to the date in the reference.
20. [May 2010](#) Reference to the date in the reference.
21. [April 2010](#) Reference to the date in the reference.
22. [March 2010](#) Reference to the date in the reference.
23. [February 2010](#) Reference to the date in the reference.
24. [January 2010](#) Reference to the date in the reference.
Attachment B – CAC Act Bodies (as at 15 February 2012)
Attachment C - Complete list of procurement-connected policies

- Coordinated procurement
- Trade sanctions
- Protective Security Policy Framework
- Information, Communications and Information Systems Security Manual
- National Waste Policy
- Competitive Neutrality Guidelines
- Commonwealth Fraud Control Guidelines
- Indemnities, guarantees, warranties and letters of comfort
- Packaging Covenant
- National Waste Policy
- Commonwealth Disability Strategy
- ICT SME Participation Policy
- Legal Services Directions
- Australian Industry Participation Plans
- Australian Industry Code of Practice
- ICT Sustainability Equal Opportunity for Women in the Workplace
- ICT Sustainability Plan
- Indigenous Opportunities Policy
- Energy Efficiency in Government Operations
- Foreign Exchange Risk Management Guidelines
- Public Private Partnerships Policy
- Limited liability in ICT contracts
- Fair Work Principles
- Equal Opportunity for Women in the Workplace
- Foreign Exchange Risk Management Guidelines
- Indigenous Opportunities Policy
- Energy Efficiency in Government Operations
- Foreign Exchange Risk Management Guidelines
- Public Private Partnerships Policy
- Limited liability in ICT contracts
- Fair Work Principles
## Attachment D – Reporting obligations for grants and procurement

<table>
<thead>
<tr>
<th>Report</th>
<th>Source of Reporting Requirement</th>
<th>What is Reported?</th>
<th>When is it Reported?</th>
<th>Where is it Reported?</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Grants</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Grants awarded (FMA Act Agencies)</td>
<td>Commonwealth Grants Guidelines</td>
<td>Detailed information on grants that have been awarded</td>
<td>No later than 7 working days after the grant funding agreement takes effect</td>
<td>Agency Website</td>
</tr>
<tr>
<td>Departmental and agency grants (FMA Act Agencies)</td>
<td>Senate Order 14</td>
<td>A list of all grants approved in each portfolio or agency and some details on the grant</td>
<td>Before each estimates hearing</td>
<td>Parliament</td>
</tr>
<tr>
<td>Annual Report (FMA Act Agencies)</td>
<td>Requirements for Annual Reports for Departments, Executive Agencies and FMA Act Bodies</td>
<td>Where information on grants for the financial year can be found on the agency’s website</td>
<td>Annually</td>
<td>Parliament</td>
</tr>
<tr>
<td><strong>Procurement</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Commonwealth contracts (FMA Act agencies and some CAC Act bodies)</td>
<td>Commonwealth Procurement Guidelines</td>
<td>Commonwealth contracts and agency agreements</td>
<td>Within 42 calendar days of entering into the arrangement</td>
<td>AusTender</td>
</tr>
<tr>
<td>Departmental and agency contracts (FMA Act Agencies)</td>
<td>Senate Order 11</td>
<td>Contracts which provides for a consideration to the value of $100,000 or more and their relevant details</td>
<td>Twice a year</td>
<td>Agency Website</td>
</tr>
<tr>
<td>Annual Report (FMA Act Agencies)</td>
<td>Requirements for Annual Reports for Departments, Executive Agencies and FMA Act Bodies</td>
<td>Assessment of department’s performance against the Commonwealth Procurement Guidelines requirements</td>
<td>Annually</td>
<td>Parliament</td>
</tr>
<tr>
<td>Annual Report (FMA Act Agencies)</td>
<td>Requirements for Annual Reports for Departments, Executive Agencies and FMA Act Bodies</td>
<td>Detailed information on consultancy services</td>
<td>Annually</td>
<td>Parliament</td>
</tr>
</tbody>
</table>
### Attachment D – Reporting obligations for grants and procurement (continued)

<table>
<thead>
<tr>
<th>Report</th>
<th>Source of Reporting Requirement</th>
<th>What is Reported?</th>
<th>When is it Reported?</th>
<th>Where is it Reported?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Annual Report (FMA Act Agencies)</td>
<td>Requirements for Annual Reports for Departments, Executive Agencies and FMA Act Bodies</td>
<td>Contracts &gt; $10,000 or a standing offer that has been exempted from being published in AusTender under Freedom of Information Act 1982 exemptions</td>
<td>Annually</td>
<td>Parliament</td>
</tr>
<tr>
<td>Annual Report (FMA Act Agencies)</td>
<td>Requirements for Annual Reports for Departments, Executive Agencies and FMA Act Bodies</td>
<td>Contracts of $100,000 or more that do not provide for the Auditor-General to have access to the contractor’s premises</td>
<td>Annually</td>
<td>Parliament</td>
</tr>
</tbody>
</table>

Note: Some entities may have reporting requirements under their enabling (or similar) legislation.
Attachment E – Scottish performance framework

The Scottish Government established a new national performance framework in November 2007. The framework is designed to provide a unified vision for Scotland, with quantifiable benchmarks against which future progress can be assessed. The whole of the Scottish public sector contributes to one overarching purpose.

Each part of the performance framework, is directed towards, and contributes to, the purpose. The approach focuses government on the key long-term challenges for Scotland and enables, and encourages, more effective partnership in working across the public sector and with stakeholders. As such, all performance management systems are aligned to a single, clear and consistent set of priorities. The hierarchy of indicators and measures, and some examples of each are shown below.

<table>
<thead>
<tr>
<th>Purpose</th>
<th>To focus government and public services on creating a more successful country, with opportunities for all of Scotland to flourish, through increasing sustainable economic growth</th>
</tr>
</thead>
<tbody>
<tr>
<td>Purpose Targets</td>
<td>Purpose targets include specific benchmarks for sustainable economic growth and to ensure that growth is shared by all of Scotland</td>
</tr>
<tr>
<td></td>
<td>Improving productivity and competitiveness</td>
</tr>
<tr>
<td>Strategic Objectives</td>
<td>Strategic objectives describe the kind of Scotland citizens want to live in</td>
</tr>
<tr>
<td></td>
<td>A wealthier and fairer Scotland</td>
</tr>
<tr>
<td>National Outcomes</td>
<td>National outcomes describe what the Government wants to achieve over the next ten years</td>
</tr>
<tr>
<td></td>
<td>Realise our full economic potential with more and better employment opportunities for our people</td>
</tr>
<tr>
<td>National Indicators</td>
<td>National indicators measure progress on national outcomes</td>
</tr>
<tr>
<td></td>
<td>Grow exports at a faster average rate than GDP</td>
</tr>
</tbody>
</table>

Attachment F – Managing money under the FMA Act and CAC Act

The table below shows the level of detail contained in the FMA Act and the CAC Act around managing and using money.

<table>
<thead>
<tr>
<th>FMA Act Agencies</th>
<th>FMA REGULATIONS</th>
<th>CAC Act Bodies</th>
<th>CAC REGULATIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>FMA ACT</strong></td>
<td>• Notional payments and receipts by Agencies</td>
<td>• Meaning of grant</td>
<td>• Banking and investment (authorities other than GBEs and SMAs)</td>
</tr>
<tr>
<td></td>
<td>• Agreements with banks about receipt, transmission etc of public money</td>
<td>• Allocation of certain persons</td>
<td>• Banking and investment (GBEs and SMAs)</td>
</tr>
<tr>
<td></td>
<td>• Official bank accounts</td>
<td>• Commonwealth Procurement Guidelines</td>
<td>• Credit cards and credit vouchers</td>
</tr>
<tr>
<td></td>
<td>• Public money must be promptly banked etc</td>
<td>• Commonwealth Grant Guidelines</td>
<td>• Misuse of credit cards or credit vouchers - criminal offence</td>
</tr>
<tr>
<td></td>
<td>• Public money not to be paid into non-official account</td>
<td>• Entering into an arrangement</td>
<td>• Compliance with government procurement requirements</td>
</tr>
<tr>
<td></td>
<td>• Receipt and spending of public money by outsiders</td>
<td>• Approval of spending proposals</td>
<td>• Commonwealth authority’s credit cards</td>
</tr>
<tr>
<td></td>
<td>• Money not to be withdrawn from official account without authority</td>
<td>• Arrangements beyond available appropriation</td>
<td>• Commonwealth authority’s credit vouchers</td>
</tr>
<tr>
<td></td>
<td>• Misapplication or improper use of public money</td>
<td>• Contingent liabilities</td>
<td>• Authorisation for use of Commonwealth authority credit cards and credit vouchers</td>
</tr>
<tr>
<td></td>
<td>• Liability for loss of public money</td>
<td>• Entering into loan guarantees</td>
<td>• Authorised expenditure using Commonwealth authority credit cards</td>
</tr>
<tr>
<td></td>
<td>• Special Instructions by Finance Minister about handling etc of special public money</td>
<td>• Recording approval of spending proposal</td>
<td>• Authorised expenditure using Commonwealth authority credit vouchers</td>
</tr>
<tr>
<td></td>
<td>• Accounts and records in relation to public money</td>
<td>• Relevant Agency receipts</td>
<td>• Compliance with government procurement requirements</td>
</tr>
<tr>
<td></td>
<td>• Establishment of Special Accounts by Finance Minister</td>
<td>• Guidelines on fraud</td>
<td>• Commonwealth authorities that must comply with CPGs</td>
</tr>
<tr>
<td></td>
<td>• Special Accounts established by other Acts</td>
<td>• Prompt banking of received money</td>
<td>• Wholly-owned Commonwealth companies that must comply with CPGs</td>
</tr>
<tr>
<td></td>
<td>• Disallowance of determinations relating to Special Accounts</td>
<td>• Public money in non-bankable currency</td>
<td>• Custody of securities requirements</td>
</tr>
<tr>
<td></td>
<td>• Drawing rights required for payment etc of public money</td>
<td>• Withdrawals involving internal transfers</td>
<td>• Finance Minister may approve act of grace payments</td>
</tr>
<tr>
<td></td>
<td>• Issue of drawing rights</td>
<td>• Withdrawals for payments or notional payments involving drawing rights</td>
<td>• Finance Minister may waive debts etc</td>
</tr>
<tr>
<td></td>
<td>• Repayments by the Commonwealth</td>
<td>• Custody of securities</td>
<td>• Presiding Officers may approve expenditure</td>
</tr>
<tr>
<td></td>
<td>• Repayments to the Commonwealth</td>
<td>• Credit cards</td>
<td>• Investment of public money</td>
</tr>
<tr>
<td></td>
<td>• Appropriations to take account of recoverable GST</td>
<td>• Investment of public money</td>
<td>• Notice of share acquisitions and other events</td>
</tr>
<tr>
<td></td>
<td>• Retaining prescribed receipts</td>
<td>• Misuse of Commonwealth credit card</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Transfer of Agency functions</td>
<td>• Finance Minister may approve act of grace payments</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Finance Minister may waive debts etc</td>
<td>• Finance Minister may waive debts etc</td>
<td></td>
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<tr>
<td></td>
<td>• Presiding Officers may approve expenditure</td>
<td>• Investment of public money</td>
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<td></td>
<td>• Investment of public money</td>
<td>• Notice of share acquisitions and other events</td>
<td></td>
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<tr>
<td></td>
<td>• Misuse of Commonwealth credit card</td>
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</tr>
</tbody>
</table>


### Attachment G – Options to upgrade the existing entity based framework

<table>
<thead>
<tr>
<th>Direction for reform</th>
<th>Option</th>
<th>Consequence</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Enhancing transparency and accountability</strong></td>
<td>Requirements for financial and performance information in appropriation bills, PB Statements, annual reports and audited financial statements are better aligned</td>
<td>Parliament and the public are better able to reconcile expected performance with actual performance</td>
</tr>
<tr>
<td></td>
<td>Finance develops guidance on establishing special appropriations</td>
<td>Accountability to Parliament and government operations is improved by increasing consistency in the use of different types of appropriations</td>
</tr>
<tr>
<td><strong>More effective governance arrangements</strong></td>
<td>FMA Act and CAC Act binary classification ['bifurcation'] is retained</td>
<td>Financial governance arrangements for entities remain subject to the binary model under FMA and CAC Acts. Taking into account current challenges, the model is reconfirmed as being the most appropriate for government operations going forward</td>
</tr>
<tr>
<td></td>
<td>Finance develops a framework for appropriating to the same outcome across multiple entities</td>
<td>Joint activities are better supported through improved administration in the appropriation framework</td>
</tr>
<tr>
<td></td>
<td>Statutory bodies can be established and abolished through regulation</td>
<td>More expediency in establishing and abolishing statutory bodies improves public administration</td>
</tr>
<tr>
<td><strong>Improving performance</strong></td>
<td>Chief executives and directors are responsible under legislation for the production of timely and quality budget estimates</td>
<td>Government operations and reporting to Parliament are improved. Obligations could relate to establishing systems and procedures for the production of estimates and take into account ‘materiality’ of changes</td>
</tr>
<tr>
<td></td>
<td>Finance develops guidance relating to a better practice resource management cycle</td>
<td>Efficiency in government operations is improved through enhanced resource management practices from initial planning through to reporting and evaluation</td>
</tr>
<tr>
<td></td>
<td>Chief executives and directors are responsible under legislation for developing performance information</td>
<td>Parliament and the public are better informed on expected performance of entities through the explicit recognition of existing accountabilities in legislation</td>
</tr>
<tr>
<td></td>
<td>Finance develops guidance to assist agencies produce robust and meaningful KPIs</td>
<td>There is improved consistency in practices across government</td>
</tr>
<tr>
<td></td>
<td>A systematic approach to evaluation [for programs funded via annual and special appropriations]</td>
<td>Judgments could be made about how programs are functioning on a regular and consistent basis. A stronger focus on evaluation ensures that areas for improvement can be identified while also recognising good practice</td>
</tr>
</tbody>
</table>
## Attachment G – Options to upgrade the existing entity based framework (continued)

<table>
<thead>
<tr>
<th>Direction for reform</th>
<th>Option</th>
<th>Consequence</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Engaging with risk</strong></td>
<td>Risk management expectations on chief executives and directors and other decision-makers are made explicit in legislation</td>
<td>There is greater consistency in the understanding of risk management obligations</td>
</tr>
<tr>
<td></td>
<td>Finance develops guidance on new legislative requirements</td>
<td>Support is provided to entities in line with an increased legislative focus on risk management</td>
</tr>
<tr>
<td><strong>Building capability and culture</strong></td>
<td>Finance provides greater support and guidance, including standardised tools and targeted training</td>
<td>Existing arrangements are updated and enhanced to improve resource management in the public sector and support a greater focus on building capability in the public sector</td>
</tr>
<tr>
<td></td>
<td>Finance improves access to web-based support and information on the financial framework</td>
<td>There is improved access to relevant information regarding the financial framework</td>
</tr>
<tr>
<td></td>
<td>Finance develops a whole-of-government assessment tool based on standard competencies to support assessment of an individual’s knowledge of the financial framework</td>
<td>The increased focus on capability is supported</td>
</tr>
<tr>
<td></td>
<td>Finance leads efforts to better reflect financial management as a key consideration in the public sector employment framework</td>
<td>Accountabilities for resource management, including risk management, are strengthened by linking expectations under the financial framework with staff selection and assessment processes. Within entities, accountability for material risks are assigned to members of senior management teams</td>
</tr>
<tr>
<td><strong>Simplifying requirements/clarifying obligations</strong></td>
<td>Universal requirements for drawing rights are removed (some mechanism may be required to address circumstances such as joint activities)</td>
<td>The complexity arising from the existing administrative practice is removed as it is generally redundant based on developments in technology and internal controls. The benefits of the current requirements in supporting joint activities could be maintained, but on a discretionary rather than a compulsory basis</td>
</tr>
<tr>
<td></td>
<td>FMA Regulation 9 and 10 requirements are simplified</td>
<td>Simplification of existing practices and procedures relating to approval of spending proposals improves administration of government operations. Principles underpinning existing accountability requirements are maintained</td>
</tr>
</tbody>
</table>
### Attachment G – Options to upgrade the existing entity based framework (continued)

<table>
<thead>
<tr>
<th>Direction for reform</th>
<th>Option</th>
<th>Consequence</th>
</tr>
</thead>
<tbody>
<tr>
<td>Simplifying requirements/clarifying obligations</td>
<td>Appropriation adjustments, including under the FMA Act, are simplified</td>
<td>Administration is improved and complexity associated with current arrangements is reduced</td>
</tr>
<tr>
<td>CAC Act bodies are directly appropriated (where relevant)</td>
<td>There is improved linkage between Parliament and the entities receiving appropriations and improved administration within government. Where required, Departments can still receive appropriations and enter into funding agreements with CAC Act bodies for operational purposes</td>
<td></td>
</tr>
<tr>
<td>Chief executives are provided with ‘operational powers’ under the FMA Act that are currently provided to the Finance Minister. The Finance Minister retains reserve power to restrict operations if warranted</td>
<td>Government administration and transparency of accountabilities to Parliament are improved through recognition that chief executives are responsible for operational activities that are routinely delegated by the Finance Minister</td>
<td></td>
</tr>
<tr>
<td>Procurement is recognised in primary legislation</td>
<td>Accountability around procurement obligations is enhanced</td>
<td></td>
</tr>
<tr>
<td>Procurement and grant reporting requirements have increased alignment</td>
<td>Government administration is improved</td>
<td></td>
</tr>
<tr>
<td>Penalties and sanctions are simplified by relying on the Criminal Code for criminal conduct and removing overlapping offences</td>
<td>The role of the Criminal Code in relation to the financial framework is better reflected, and the administration of the financial framework legislation is improved</td>
<td></td>
</tr>
<tr>
<td>There is greater consistency in language between the financial framework legislation and related legislation (e.g. the PS Act)</td>
<td>Public sector employees’ understanding of their obligations to Parliament in financial framework and other legislation is improved (i.e. obligations relating to the same activity, such as the use of resources, are covered by similar language in various Acts)</td>
<td></td>
</tr>
</tbody>
</table>
### Attachment H – Options to strengthen portfolio governance

<table>
<thead>
<tr>
<th>Direction for reform</th>
<th>Option</th>
<th>Consequence</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Enhancing transparency and accountability</strong></td>
<td>Annual appropriations automatically lapse after 3 years</td>
<td>Public administration is enhanced by having unspent appropriations automatically lapse, thereby reducing the need for complex tracking of unspent annual appropriations and ad hoc lapsing of unspent appropriations</td>
</tr>
<tr>
<td></td>
<td>To support portfolio arrangements, the Finance Minister has the power under legislation to move funding between entities within a portfolio</td>
<td>Budget administration is enhanced by executive government being able to move funding across entities within a portfolio, within parameters approved by Parliament</td>
</tr>
<tr>
<td><strong>More effective governance arrangements</strong></td>
<td>The CAC Act and the FMA Act are replaced by two new acts – the first applying to entities that are commercial in nature and the second applying to entities that are not commercial in nature. There would be scope to have governing boards under either Act</td>
<td>Financial governance administration is improved by providing consistent obligations based on functions.</td>
</tr>
<tr>
<td></td>
<td>Entities that are not commercial in nature are unable to hold money on their own account, unless specifically approved by the Finance Minister</td>
<td>Greater consistency could be established in the management of resources that have a direct economic consequence for the Commonwealth. However, for the limited circumstances where entities are required to hold money on their own account, these circumstances should be specifically provided for within legislation</td>
</tr>
<tr>
<td></td>
<td>Directors’ duties only apply to entities that are commercial in nature</td>
<td>The Australian Securities and Investments Commission could have the enforcement role for these duties irrespective of whether the entity is a company or a statutory corporation. Entities that are non-commercial in nature would have duties that reflect the connection of their entity to the economic performance of the Commonwealth (based on principles relating to issues such as applying care and diligence, acting for a proper purpose and use of information or position)</td>
</tr>
<tr>
<td></td>
<td>A common statement of core governance principles is placed in each Act</td>
<td>A sense of coherence and consistency in government operations is promoted, including that public entities are accountable to the government and Parliament. The principles would be established taking into account that risk associated with entity operations ultimately flows back to government and Parliament, including where there is a level of operational autonomy</td>
</tr>
<tr>
<td>Direction for reform</td>
<td>Option</td>
<td>Consequence</td>
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</tr>
<tr>
<td><strong>More effective governance arrangements</strong></td>
<td>Secretaries are provided under legislation with a clear role of supporting ministers with overall portfolio governance arrangements</td>
<td>Governance arrangements are enhanced through clear recognition of the role portfolio secretaries have in supporting their ministers with their responsibilities to Parliament, including by obtaining information from entities within the portfolio and undertaking other operational functions</td>
</tr>
<tr>
<td>Audit committees are at the portfolio level for non-material entities</td>
<td>Public sector administration is improved through a reduced administrative burden on non-material entities and improved access to the pool of suitably qualified members</td>
<td></td>
</tr>
<tr>
<td>Boards or other support structures can be used to assist departmental secretaries with broader portfolio responsibilities</td>
<td>Governance arrangements for portfolios are improved by legislation specifically recognising that other participants can support Secretaries. The establishment of such structures could allow for memberships from outside the public sector, improving access to a wider pool of skills and experiences</td>
<td></td>
</tr>
<tr>
<td>Appropriations are made to outcomes for joint activities with the capacity for the Finance Minister to determine specific allocations and reallocations to entities</td>
<td>Public sector administration is improved by funding for joint activities being able to be moved between entities covered by an outcome approved by Parliament. This would assist with the timely reallocation of funding reflecting that some joint operations require funding to be moved between entities to optimise outcomes</td>
<td></td>
</tr>
<tr>
<td><strong>Improving performance</strong></td>
<td>The Finance Minister has the power under legislation to roll over a defined percentage of appropriated funds to future years acting as an incentive to entities</td>
<td>Public sector management is improved by reducing the pressure for entities to spend within the current financial year</td>
</tr>
<tr>
<td>Tiered reporting requirements are introduced, with non-material entities’ reporting being consolidated into the relevant portfolio department’s reporting</td>
<td>Resource management is improved, and reporting to Parliament is enhanced, through the provision of reports containing more meaningful information</td>
<td></td>
</tr>
<tr>
<td><strong>Engaging with risk</strong></td>
<td>As well as at the entity level, risk is also considered at a portfolio level</td>
<td>Public sector performance is improved by considering risk profiles at portfolio level, with a view to better allocation of resources within the portfolio</td>
</tr>
</tbody>
</table>
## Attachment H – Options to strengthen portfolio governance (continued)

<table>
<thead>
<tr>
<th>Direction for reform</th>
<th>Option</th>
<th>Consequence</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Building capability and culture</strong></td>
<td>Minimum qualifications and/or experience for CFOs are specified in the framework</td>
<td>Financial management is improved through consistent qualifications/ experience requirements applying across all entities</td>
</tr>
<tr>
<td></td>
<td>Finance has greater involvement in recruitment of CFOs</td>
<td>Financial management is improved by establishing a direct connection between CFOs and Finance (which has whole-of government CFO obligations)</td>
</tr>
<tr>
<td><strong>Simplifying requirements/clarifying obligations</strong></td>
<td>The concept of public money is reconsidered with a view to simplifying or removing a range of provisions currently in the FMA legislation (for example sections 12, 28, 30, 30A and 31 and Regulation 9)</td>
<td>Public administration is improved through reduction in red tape</td>
</tr>
<tr>
<td></td>
<td>Appropriations are based on an entity’s cash flow statements</td>
<td>Accountability to Parliament and government administration is improved by clearly linking appropriations to amounts that are expected to be spent during the year</td>
</tr>
</tbody>
</table>
## Attachment I – Options to strengthen whole-of-government performance

<table>
<thead>
<tr>
<th>Direction for reform</th>
<th>Option</th>
<th>Consequence</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Enhancing transparency and accountability</strong></td>
<td>Outcomes rather than entities are appropriated</td>
<td>Parliament is more easily able to identify the spending priorities of government through outcomes being linked to fewer appropriations. Within outcomes, government has ability to reallocate funding with a view to providing funding to the entity best placed to contribute to the achievement of the outcome.</td>
</tr>
<tr>
<td></td>
<td>To support whole-of-government arrangements, the Finance Minister has the power under legislation to move funding between outcomes</td>
<td>Budget administration is enhanced by executive government being able to move funding across entities within a portfolio, within parameters approved by Parliament.</td>
</tr>
<tr>
<td><strong>More effective governance arrangements</strong></td>
<td>One new Act is established for all entities taking into account the diversity of government bodies and the level of operational independence provided by Parliament</td>
<td>The Act would provide a common set of principles for entities irrespective of type, establishing greater coherency in the expectations of Parliament. It would also provide greater support for fit-for-purpose governance arrangements including, in relation to multi-jurisdictional bodies, through entities being able to be established with a range of governance characteristics.</td>
</tr>
<tr>
<td></td>
<td>GBE governance-type principles are generally applied to all entities that are commercial in nature</td>
<td>Governance arrangements are strengthened through increased reporting obligations to Government and Parliament, reflecting that the further an entity is from government the more important its governance arrangements become.</td>
</tr>
<tr>
<td></td>
<td>A duty relating to insolvent trading, equivalent to the Corporations Act, is applied to statutory corporations engaged in market based activities</td>
<td>Governance arrangements for these types of statutory corporations are strengthened through having consistent obligations with directors of companies.</td>
</tr>
</tbody>
</table>
### Attachment I – Options to strengthen whole-of-government performance (continued)

<table>
<thead>
<tr>
<th>Direction for reform</th>
<th>Option</th>
<th>Consequence</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Improving performance</strong></td>
<td>A whole-of-government performance framework is developed, including a strategic plan for the Australian Government and a set of key national indicators.</td>
<td>Accountability to Parliament is improved by the establishment of expectations of future performance. Resource management is improved by entities being better able to align their activities with whole-of-government priorities.</td>
</tr>
<tr>
<td></td>
<td>Finance has a clear advisory role to government where entities show poor financial management</td>
<td>Poor financial performance is investigated with a view to allowing government to make informed decisions about future resource allocations to entities.</td>
</tr>
<tr>
<td><strong>Engaging with risk</strong></td>
<td>An overarching risk management framework is developed</td>
<td>Risk management practices and resource allocations are improved through greater consistency in assessing material business risks.</td>
</tr>
</tbody>
</table>