



Guide to the
Public Sectors
in Australia

Governance Institute of Australia

Governance Institute of Australia is the only independent professional association with a sole focus on the practice of governance. We provide the best education and support for practising chartered secretaries, governance advisers and risk managers to drive responsible performance in their organisations.

Copyright

Copyright strictly reserved. No part of these materials covered by copyright should be reproduced or copied in any form or by any means without the written permission of Governance Institute of Australia. Governance Institute of Australia has made every effort to contact copyright holders and request permission for all copyright material. However, despite our best efforts, there may be instances where we have been unable to trace or contact copyright holders. Governance Institute of Australia will, of course, be happy to acknowledge any copyright material, once contacted.

Contents

Introduction	iv
Chapter 1 — System of government	2
Parliament and executive government	2
Separation of powers — three arms of government	2
Three levels or tiers of government	2
Cooperation — Council of Australian Governments	2
Parliament	3
Parliamentary committees	3
Governor	3
Cabinet	4
Executive Council	4
Role of the minister	4
The interface with the public sector	5
The judiciary and our legal systems	5
Chapter 2 — The Commonwealth	6
At a glance	6
Parliament and the Commonwealth Government	6
Governance: a period of transition	7
Commonwealth entities and Commonwealth companies under the PGPA Act	10
Chapter 3 — New South Wales	12
At a glance	12
Parliament and governance	12
Controlled entities of the NSW Government	13
Main models for government business — a summary	13
Chapter 4 — Victoria	16
At a glance	16
Parliament and governance	16
The <i>Public Administration Act 2004</i>	17
Public entities of the Victorian public sector	17
Chapter 5 — Queensland	19
At a glance	19
Parliament	19
Executive government	19
The structure of the public sector	20
Policy and guidance on governance arrangements	22
Government boards	22
Integrity framework	23

Chapter 6 — Western Australia	24
At a glance	24
Parliament and governance	24
Ministerial relationships	24
Agencies	24
Other government entities as at 30 June 2013	26
Governance and organisational performance	26
Strategic plans	26
Performance	26
Bureaucracy	26
Financial management	27
Record-keeping	27
State government boards	27
Chapter 7 — South Australia	28
At a glance	28
Parliament and governance	28
Legislation governing the public sector	29
State strategic plan	29
Key public sector reform programs	29
High performance framework	29
Auditor-general	29
Boards and committees	30
Chapter 8 — Tasmania	31
At a glance	31
Parliament	31
The state service	32
The structure of the public sector	32
GBEs	33
SOCs	33
Government oversight	33
Parliamentary oversight	34
Local government	34
Financial and asset management	34
Controlled entities (or subsidiaries)	34
Chapter 9 — Australian Capital Territory	35
At a glance	35
Parliament and governance	35
Governance arrangements: the chief minister and chief minister's directorate	35
The Executive	36
The ACT public service	36
Government entities	36
Performance management and reporting	37
Policy and guidance on governance arrangements	37

Chapter 10 — Northern Territory	38
At a glance	38
Government	38
Parliament	38
NT public sector	39
Chapter 11 — Integrity and accountability bodies	44
Introduction	44
The role of the auditor-general	44
The role of the ombudsman	45
Anti-corruption bodies	45
Integrity commissions	45
Public sector commissions	46
Information commissions	46
Regulatory bodies	46
Administrative law	47
Glossary of terms	48

Introduction

The public sectors of Australia are large and disparate conglomerations of various public sector entities including statutory bodies, departments, controlled entities (for example, companies), government-owned enterprises and public sector officials. Determining the corporate governance arrangements for the various public sectors of Australia is about understanding the interactions on stewardship and accountability matters between parliament, the portfolio (or responsible) minister, the treasurer or finance minister, secretaries or directors-general of departments, chief executives and the board of directors.

The purpose of this guide is to provide readers with a holistic picture of the public sectors in Australia through an analysis of the framework at the Commonwealth, state and territory levels. The guide provides a general 'descriptive' window into the structure of the public sector in each jurisdiction and the high-level governance arrangements that are in place, and is by no means exhaustive. Instead, the guide seeks to explore the variety in the size, scope of business activity, purpose and accountability mechanisms which exist in each of the public sector jurisdictions in Australia.

In reading the whole document, what becomes apparent is that when you compare and contrast the operations of the public sector across jurisdictions, the public sector is not just one thing. There are differences in the governance arrangements and structures within and across jurisdictions. In some instances these differences are 'fit for purpose', while in others, differing arrangements pose significant challenges. Indeed, Governance Institute recognises that the overarching message of this guide is that there is not a single model of corporate governance for the public sector.

This guide however, lays the foundation for a better understanding of governance in the public sectors in Australia and provides a starting point for discussions on improving the governance framework for all public sectors in Australia. Governance Institute is committed to exploring this idea further by looking at the possibility of establishing governance principles for the public sector.

The challenge remains however, to accommodate the differences in each jurisdiction and to understand why such processes have developed. I commend this guide as an excellent starting point for anyone looking to better understand governance in the public sectors in Australia.

Alan Evans FGIA
President

Note: This guide is current as at early 2014. Numbers of agencies and their governance arrangements will change over time. Governance Institute wishes to thank the members of the Public Sector Governance Committee, who gave freely of their time to develop and review the content of the guide.

Scale and diversity of public sectors in Australia

Table 1.1: Guide to the public sectors in Australia — Comparative table

	Source	CTH	NSW	VIC	QLD	WA	SA	TAS	ACT	NT
Population (30 June 2013 resident estimate '000)	1	23,130.9	7,407.7	5,737.6	4,658.6	2,517.2	1,670.8	513.0	383.4	239.5
% Total population		100.0%	32.0%	24.8%	20.1%	10.9%	7.2%	2.2%	1.7%	1.0%
Area (km ²)	2	7,692,024	800,642	227,416	1,730,648	2,529,875	983,482	68,401	2,431	1,349,129
% Total area		100.0%	10.4%	3.0%	22.5%	32.9%	12.8%	0.9%	0.0%	17.5%
Gross state product (2012–13 \$m)	3	1,521,465	476,434	337,493	290,158	242,697	95,123	24,360	35,088	20,113
Gross state product per capita (2012–13 \$)	4	66,397	64,789	59,404	62,889	98,069	57,233	47,551	92,406	84,894
Government finance statistics (GFS) as at 30 June 2013										
GFS revenue (\$m)	5	375,829	76,379	54,037	50,391	42,393	18,192	8,601	4,327	5,709
GFS expenses (\$m)	5	397,228	75,364	55,144	56,486	42,729	18,844	8,699	4,705	5,739
GFS comprehensive result (\$m)	5	-21,399	1,015	-1,107	-6,094	-336	-652	-98	-379	-30
GFS assets (\$m)	5	471,311	321,163	238,058	316,168	175,471	77,683	28,065	26,588	18,533
GFS liabilities (\$m)	5	670,597	156,783	116,236	140,693	62,108	38,310	16,251	11,044	10,669
GFS net worth (\$m)	5	-199,287	164,380	121,822	175,475	113,363	39,373	10,015	15,545	7,864
GFS net debt (\$m)	5	143,701	40,908	17,691	29,975	18,188	5,652	929	-1,303	2,277
GFS net lending (+)/ borrowing (-) (\$m)	5	-24,262	-1,049	-10,679	-11,030	-3,327	-975	-215	-694	-489
Net financial worth (\$m)	5	-313,437	-109,473	-70,708	-64,983	-33,460	-24,061	-11,721	-5,665	-7,019
Total members of Australian parliament		226	60	49	42	27	23	17	4	4
- Senate		76	12	12	12	12	12	12	2	2
- House of Representatives		150	48	37	30	15	11	5	2	2
Total members of state parliament		598	135	128	89	95	69	40	17	25
House of Assembly/ Legislative Assembly		443	93	88	89	59	47	25	17	25
Legislative Council		155	42	40		36	22	15		
Electoral term House of Assembly/ LA		3 yr (not fixed)	4 yr fixed	4 yr fixed	3 yr (not fixed)	4 yr fixed	4 yr fixed	4 yr (not fixed)	4 yr fixed	4 yr fixed
Members of state and federal parliament per 100,000 population		3.56	2.63	3.08	2.81	4.85	5.51	11.11	5.48	12.11
Number of local governments		560	152	79	77	139	68	29	na	16

The data presented in the above table is intended to highlight for the reader the scale and diversity of the various public sectors within Australia. The data has been sourced from a variety of publications and therefore may not be directly comparable. Reference should be made to the original source publication for information on data definitions and limitations in the data sets.

1 Source: Australian Bureau of Statistics (ABS), 2013, 3101.0 — *Australian Demographic Statistics*, Jun 2013, released 17 December 2013

2 Total mainland plus island area in square kilometres (km²). Source: Australian Government Geoscience Australia, www.ga.gov.au/education/geoscience-basics/dimensions/area-of-australia-states-and-territories.html

3 Source: ABS, 2013, 5220.0 — *Australian National Accounts, 2012–2013*, released 28 November 2013, gross state product, current prices at page 13

4 Source: Ibid, Gross State Product Per Capita, Current prices, p 14

5 Source: ABS, 2014, 5512.0 — *Government Finance Statistics, Australia, 2012–13*, Latest issue released at 11:30am (Canberra time) 28/05/2014 (downloads data cubes — table 190. Total public sector — Commonwealth and tables 291–298. Total public sector – states and territories (New South Wales, Victoria, Queensland, South Australia, Western Australia, Tasmania, Northern Territory and Australian Capital Territory))

6 Numbers quoted are indicative only. Information has been sourced from a variety of state websites including: electoral commissions, local government departments and local government associations.

Chapter 1 — System of government

Parliament and executive government

Australia's system of government comprises a federation of six states, together with two self-governing territories, each having their own constitutions, parliaments, governments and laws. Each respective state or Commonwealth constitution provides the basis for the exercise of power. Local government, while not part of these constitutional arrangements, forms the 'third tier' of government.

At the heart of the governance arrangements of our government system is the separation of powers of the parliament, the executive government and the judiciary, or the 'three arms of government'. While this separation is laid out in the Constitution of Australia, many aspects of our system of government are based on custom and convention.

Separation of powers — three arms of government

The three 'arms' of government have distinct responsibilities:

- Parliament is responsible for debating and voting on new laws consistent with its constitution.
- Executive government is responsible for enacting and upholding the laws established by parliament.
- An independent judiciary is responsible for enforcing the laws and deciding whether the other two arms have acted within their power.

The role and powers of each of the three arms have been set out and established over an extended period, to provide a balance of functionality, independence and accountability.

Members of executive government, however, come from within the parliament and are responsible to the parliament. This is central to our Westminster-style government, in contrast to other systems of government such as that of the United States of America, where the executive is quite separate and not directly answerable to parliament.

Three levels or tiers of government

The Australian/Commonwealth or Federal Government is regarded as the first tier or level of government. It passes laws and is responsible for regulation which affects our whole country, but limited to within the powers outlined in s 51 of the Constitution.

The second tier of Australian government consists of six states, namely Western Australia, South Australia, New South Wales, Tasmania, Victoria and Queensland, and two self-governing territories — the Northern Territory and the Australian Capital Territory.

Local governments, also called councils or the third tier or level of government, are responsible for and deliver many community services (such as public transport, waste disposal and development assessment). Their establishment, powers and responsibilities are defined in state-based legislation.

Cooperation — Council of Australian Governments

In an effort to achieve a more whole-of-government collaborative approach, there exists a number of Australian groups/forums consisting of representatives across Commonwealth and state jurisdictions. These include:

- **Council of Australian Governments (COAG)** — the peak intergovernmental forum in Australia, comprising the prime minister, state and territory premiers and chief ministers and the president of the Australian Local Government Association. COAG pursues a number of reform agendas which are deemed to be vital to Australia's future, including those aimed at improving economic and social participation, strengthening the national economy, creating a more sustainable and liveable Australia, delivering better health services and closing the gap in Indigenous disadvantage.

- **Note:** The Constitution is the document that sets out the rules for our system of government.

The Constitution sets up the parliament, the courts and the executive (the ministers who control the public service) and how they all operate. It is sometimes considered the strongest law, which permits all other laws to exist.

-
- **Australian Council of Auditors-General (ACAG)** — established following the 19th Biennial Conference of Australian Area Auditors-General in Perth in 1993. ACAG provides a forum for the sharing of information between members, supports the development of effective and efficient auditing methods and practices by members, and represents, where appropriate, the collective opinion of the auditors-general on financial accounting and auditing standards and related issues.

Parliament

Australia's governments are based on popularly elected parliaments generally comprising two chambers or houses: the House of Representatives (Legislative Assembly or Lower House) and the Senate (Legislative Council/House of Review or Upper House).

Parliament itself comprises the Queen, represented by the governor-general (or, in the case of the states, governors) and both houses. Proposed laws have to be agreed to by both Houses of Parliament and receive royal assent and proclamation before becoming law.

Parliament is a key plank in the separation of powers doctrine that underpins our Westminster-based system of government.

The parliament itself uses various devices to hold a government accountable. Debate in the house on legislation being processed is one mechanism. Question time is another. Motions within the parliament are another.

Parliaments in each jurisdiction also make various uses of committees to oversight the activities of the government of the day and the public sector bodies.

Parliamentary committees

A strong, active committee system is an asset in any functioning parliamentary democracy. Committees investigate specific issues and report to the parliament. Some committees also have continuing roles to monitor and review public sector organisations or keep areas of the law or activity under review. A comprehensive system of parliamentary committees provides greater accountability by making the policy and administrative functions of government more open and accountable. Committees provide a forum for investigation into matters of public importance and give members the opportunity to enhance their knowledge of such issues.

In short, they allow the parliament to ensure that the right decisions are being made at the right time and for the right reasons. At the same time, they effectively enhance the democratic process by taking the parliament to the people and giving them a role in its operations.

Examples of parliamentary committees include estimate committees (or similar), where scrutiny of the annual budget occurs, and legislative review committees, where legislation is reviewed in detail.

Parliaments also make use of house inquiries to delve into current contentious matters. Typically these are Senate inquiries where an upper house exists, but lower house inquiries may also be established.

In more recent times, some parliaments have established ethics committees. These committees deal with complaints about the ethical conduct of particular members of parliament, and with alleged breaches of parliamentary privilege by members of the Legislative Assembly and other persons.

Governor

In the Australia, the governor-general performs the functions of head of state on behalf of the Queen. When the Queen is in Australia, the governor-general does not act in this capacity. The governor-general is also commander-in-chief of the Australian Defence Force.

Each state has a governor who acts in a similar role. While in practice sometimes regarded largely as a ceremonial role, all executive government powers are exercised by the governor in his or her name, principally on the advice of the prime

- **Note:** The Governor in Council is a title used when the governor is acting by and with the advice of the executive council.

minister, premiers or executive councils. Unlike the states, the Northern Territory has an Administrator of the Northern Territory appointed by the Governor-General in Council on the recommendation of the chief minister to perform duties analogous to a state governor.

The role of a governor includes:

- granting royal assent to bills passed by the Legislative Assembly — thus an act of parliament becomes law
- summoning, proroguing and dissolving parliament on the advice of the premier/prime minister
- swearing-in the new ministry at Government House
- presiding over meetings of, and taking the advice of, the executive council, in which the governor is titled 'Governor in Council'
- on the advice of the government, issuing writs for state elections, and
- granting a pardon, commuting a sentence, or relieving the execution of a sentence.

Cabinet

The prime minister or premier/chief minister, appointed by the governors, are the substantive head of their respective governments. As heads of governments (rather than head of state or the Queen's representative), they will have effectively appointed ministers (and assistants such as parliamentary secretaries), allocated portfolio responsibilities and finally decided on the administrative arrangements for the public sector. Premiers or chief ministers are appointed by the relevant state governors or territory administrators, where applicable.

Cabinets, consisting of ministers selected by the prime minister, premiers and chief ministers, are the governments' policy and decision making bodies. Other topics discussed in Cabinet include matters that have a significant impact on the public or private sectors, matters that have a significant impact on the budget, proposals that require new or amended legislation, and significant appointments such as appointing someone to a board or tribunal. Apart from those decisions announced or published, Cabinet discussions and papers are not disclosed. Cabinet solidarity and confidentiality is upheld by its members.

- **Note:** Cabinet confidentiality poses some governance conundrums for the public service. Accountable officers or CEOs of departments are often central to the development of policy and legislative reform for government. It is the public service and public servants that typically draft legislation and submissions to cabinet or its subcommittees and central agencies (such as Treasury) that critique those submissions, yet it is ultimately cabinet that makes decisions.

Executive Council

Established under each state's Constitution, invariably the council comprises members of the ministry formed by the leader of the dominant party in the Legislative Assembly.

The governor summons meetings of the council and presides over them. Executive Council gives formal, legal effect to the decisions made in cabinet. Each cabinet minister is sworn in as a member of the executive council, and once a person is no longer a minister, they must resign from that body. Proceedings include formal approval and signature of the governor of such instruments (proclamations, orders in council, regulations, commissions, for example) which require royal assent (or legislation to be issued by the governor in council including senior appointments of public sector officials, appointment of judges, deeds, leases, and approval of certain government expenditure).

Role of the minister

Minister of the Crown is the formal constitutional term used, indicating that the minister serves at the Queen's pleasure and provides advice on how to exercise Crown prerogatives relative to the minister's department or portfolio. Ministers are appointed by the governor-general or, where applicable, the governor. A minister is assigned a portfolio of public sector entities to represent and is accountable to parliament. The responsibilities of a minister include the functions and duties imposed on them under the acts of parliament they administer within the portfolio. Additional responsibilities may be conferred by various agreements, including those with the Commonwealth.

The Office of the Minister refers to the administrative unit established to support the minister in the performance of the minister's duties. The office consists of the minister and all ministerial staff, including staff employed on a contract or consulting basis, who directly support the minister in the carrying out of their function as a minister of the Crown.

The interface with the public sector

While maintaining ultimate accountability to parliament, ministers delegate substantial powers to their agencies and the staff, who are accountable for administering government policies. Accountabilities therefore exist:

- between the executive (ministers individually and collectively) and parliament
- within the executive, between:
 - individual ministers and Cabinet
 - departmental chief executives and the premier/ministers
 - boards of statutory bodies and controlled entities (for example, companies), and
 - employees and chief executives.

Departments are usually headed by the departmental chief executives, who are responsible for managing the day-to-day operations of departments, ensuring the efficient and effective delivery of department services and providing effective advice to the minister on policy matters requiring ministerial attention.¹

Parliamentary committees may hold departmental chief executives responsible for all that occurs within their departments, but chief executives and directors-general are not always subject to personal consequences which might arise.²

The judiciary and our legal systems

The Australian Constitution defines exclusive powers (investing the federal government with the exclusive power to make laws on matters such as trade and commerce, taxation, defence, external affairs, and immigration and citizenship) and concurrent powers (where both tiers of government are able to enact laws). The states and territories have independent legislative power in all matters not specifically assigned to the Federal Government. Where there is any inconsistency between federal and state or territory laws, federal laws prevail. Federal laws apply to the whole of Australia.

In effect, Australia has nine legal systems — the eight state and territory systems and one federal system. However, it is the state and territory civil and criminal laws that mainly affect the day-to-day lives of most Australians.

Each of the federal and state systems incorporates three separate branches of government — legislative, executive and judicial. Parliaments make the laws, the executive government administers the laws, and the judiciary independently interprets and applies them.

Court systems in Australia within each jurisdiction generally include inferior, intermediate, superior and appeals divisions as well as other specialist courts such as tribunals, for example the Victorian Civil and Administrative Tribunal (VCAT) and the Queensland Civil and Administrative Tribunal (QCAT). At the inferior level, most jurisdictions have the local or magistrates courts, which also include specialist courts such as children's or drug courts. At the intermediate level, the court system includes district and county level courts, and at the superior level, each state and territory has a supreme court with an appeals court, sometimes known as the full court.

All state and territory court systems lead to the High Court of Australia.

Commonwealth courts include:

- Federal Magistrate's Court
- Family Court
- Federal Court of Australia
- High Court

1 Office of Public Service Merit and Equity, *Queensland Accountability Frameworks*, 2004, pp 8–9

2 Canadian Centre for Management Development, *Building a Strong Foundation*, 2002

Chapter 2 — The Commonwealth

At a glance

Population	23,130,900 at 30 June 2013 ³	
Area	7,692,024 square kilometres ⁴	
Gross domestic product	\$1,521,465 ⁵	
Gross domestic product per capita	\$66,397 ⁶	
Government finance statistics as at 30 June 2013 ⁷	Revenue (\$m)	375,829
	Expenses (\$m)	397,228
	Comprehensive result (\$m)	-21,399
	Assets (\$m)	471,311
	Liabilities (\$m)	670,597
	Net worth (\$m)	-199,287
	Net debt (\$m)	143,701
	Net lending (+) / borrowing (-) (\$m)	-24,262
	Net financial worth (\$m)	-313,437

Parliament and the Commonwealth Government

The Parliament of Australia consists of the Queen, represented by Australia's governor-general, the Australian Senate and the Australian House of Representatives.⁸

The governor-general is appointed by the Queen on the advice of the prime minister.⁹ The appointment is at the Queen's pleasure. The role of the governor-general extends to the execution and maintenance of the Constitution, and of the laws of the Commonwealth.¹⁰

The Australian Senate consists of 76 senators, twelve from each of the six states and two from each of the mainland territories. Senators are elected for a period of six years, but a system of rotation ensures that half the Senate retires every three years. The Senate shares its law-making powers with the House of Representatives.¹¹

The House of Representatives is the house in which government is formed. It consists of 150 representatives elected by the Australian people, with each member representing an electoral division. Members are elected by a preferential voting system, and each House of Representatives may continue for up to three years, after which new elections must be held.¹²

The Commonwealth consists of ministers and officials who comprise the executive arm of government, as opposed to the parliament, which comprises the legislative arm, and the courts, which comprise the judicial arm. The executive arm of government also encompasses other Australian government bodies, in particular statutory authorities created by the parliament for a public purpose, including statutory corporations that are legally separate from the Commonwealth.

3 ABS, 2013, 3101.0 — *Australian Demographic Statistics*, June 2013, released 17 December 2013

4 Geoscience Australia, www.ga.gov.au/education/geoscience-basics/dimensions/area-of-australia-states-and-territories.html

5 ABS, 2013, 5220.0 — *Australian National Accounts and State Accounts*, June 2013, gross state product, p 13

6 Ibid, gross state product per capita, p 14

7 ABS, 2014, 5512.0 — *Government Finance Statistics, Australia, 2012–2013*, released 27 May 2014

8 Parliament of Australia, www.aph.gov.au/About_Parliament/Work_of_the_Parliament/Forming_and_Governing_a_Nation

9 Parliament of Australia, www.aph.gov.au/About_Parliament/Work_of_the_Parliament/Forming_and_Governing_a_Nation

10 s 61 of the constitution

11 Parliament of Australia, www.aph.gov.au/About_Parliament/Senate/About_the_Senate

12 Parliament of Australia, www.aph.gov.au/About_Parliament/House_of_Representatives/About_the_House_of_Representatives

There are approximately 250,000 people employed by the Commonwealth Government.¹³ For employment purposes, the Commonwealth public sector is made up of two groups:

- those included in what is deemed to be the core public service (for example, departments) and those agencies that are legally and financially integrated with the Commonwealth, which employ staff under the *Public Service Act 1999* (Public Service Act), and are usually referred to as the Australian Public Service (APS)
- those working in other administrative or regulatory statutory authorities, government business enterprises (GBEs) and government-owned corporations (GOCs), which sometimes (although not always) employ staff outside the Public Service Act, for example under their own legislation.

Governance: a period of transition

The Commonwealth's financial framework provides rules for the governance of Commonwealth entities and for the proper management and use of public resources.¹⁴ This financial framework is in a period of transition, moving from a bifurcated model based on both the *Financial Management and Accountability Act 1997* (FMA Act) and the *Commonwealth Authorities and Companies Act 1997* (CAC Act) to the *Public Governance, Performance and Accountability Act 2013* (PGPA Act).

FMA Act agencies and CAC Act entities

Under the FMA Act–CAC Act framework the classification of Commonwealth entities was based on the notion of ownership of money or property.¹⁵

The division broadly splits across those agencies that operate financially under the FMA Act as distinct from the financially separate bodies governed by the CAC Act.

Most agencies subject to the FMA Act are also subject to the Public Service Act. The FMA Act applies to agencies that are financially integrated with the Commonwealth. As at the date of publication there are 109 agencies existing under the FMA Act. In addition, there are also 66 statutory authorities under the CAC Act and 20 Commonwealth companies.¹⁶

There are also 122 agencies or bodies subject to the Public Service Act. The range of Australian public service agencies consists of:

- **departments of state:** secretaries of departments are appointed by the prime minister for a period of up to five years
- **statutory agencies** with all staff employed under the Public Service Act, for example, Administrative Appeals Tribunal. Statutory agencies are bodies or groups of persons declared by an act to be a statutory agency for the purpose of the Public Service Act. The enabling legislation also sets out the arrangements for the appointment and termination of the agency head and their specific powers, responsibilities and accountability requirements
- **statutory agencies** with the capacity to employ staff under the Public Service Act as well as their own enabling legislation (dual staffing bodies)
- **executive agencies**, which are generally non-statutory bodies established by the governor-general on the advice of the prime minister. The agency head is appointed by, and directly accountable to, the minister responsible for the agency. The purpose of this type of entity is to provide a degree of separation from departmental management, where that is appropriate

13 ABS Employment and Earnings, Public Sector, Australia 2011–2012, www.abs.gov.au/ausstats/abs@.nsf/mf/6248.0.55.002

14 Explanatory Memorandum to the Public Governance, Performance and Accountability Bill 2013

15 Explanatory Memorandum to the FMA Bill 1996

16 Department of Finance and Deregulation, <http://finance.gov.au/publications/flipchart/docs/FMACACFlipchart.pdf?v=1>

- **bodies** with staff employed under the Public Service Act which operate with some degree of independence (for example, some have their own enterprise agreement and/or are identified separately under the FMA Act or the CAC Act), but are not separate Australian public service agencies as defined in the Public Service Act.¹⁷

The FMA Act focuses primarily on the obligations and responsibilities of chief executives and the way that officials handle public money, public property and other resources of the Commonwealth. The FMA Act tends to allow the government to more readily set policies affecting a body's financial management, noting that formal responsibility lies with the chief executive of the relevant agency to properly manage Commonwealth resources.

The CAC Act requires directors and officers to exercise their powers and duties in the best interests of the body and for a proper purpose. Directors' and officers' duties apply to help ensure that prudent decisions are made about the resources that, as a matter of law, the body holds in its own right. In these respects, the CAC Act is modelled closely on the *Corporations Act 2001* (Corporations Act) and thus directors have a fiduciary duty to control the destiny of the company not for their own benefit but as stewards of its property and operations, and they bear individual liability for board decisions. The CAC Act devolves financial governance responsibility to the directors to properly govern the relevant body in line with their legal responsibilities.

It may be considered that the CAC Act best suits activities that could create financial risk for the Commonwealth. However, the relationship between the Commonwealth and a statutory corporation (or a company that the Commonwealth controls) differs in some respects from the relationship between a private sector entity and one of its subsidiaries. For example, if the government seeks to minimise its financial risk exposure to a body's activities, it may make more sense to control the finances of that body closely rather than simply assuming that the entity will protect the Commonwealth from any relevant risk.

Often, the FMA Act will be a preferred approach.

Table 2.1: A summary of the key governance characteristics of the FMA Act and the CAC Act

Issue/s	FMA Act	CAC Act
Role of the finance minister and the responsible minister	<p>There are clear lines of accountability and reporting for FMA chief executives to the finance minister (and the responsible minister).</p> <p>Generally, there is significant scope for the responsible minister to direct the agency, unless constrained by the agency's enabling legislation.</p> <p>The finance minister, as custodian of the consolidated revenue fund, has primary control over public money and the handling of public money by agencies.</p> <p>The minister can request information from the chief executive.</p>	<p>Executives are accountable to the board, with the board accountable to the responsible minister.</p> <p>The scope of any power of direction that the responsible minister may have is determined by the body's enabling legislation (or company constitution).</p> <p>The finance minister may issue directions to comply with general policies of the Australian Government. The finance minister also has a power of direction with respect to procurement, in relation to particular bodies that have been prescribed under the CAC Regulations.</p>

¹⁷ APSC, www.apsc.gov.au/publications-and-media/current-publications/australian-public-service-agencies

Table 2.1 (continued)

Issue/s	FMA Act	CAC Act
		<p>The finance minister and the responsible minister can request information from the directors.</p> <p>Directors have a positive obligation to keep the responsible minister informed of the operations of the body and its subsidiaries.</p>
Flexible regime for acting efficiently and effectively	<p>The FMA Act provides sufficient flexibility to encourage entrepreneurial activity while at the same time promoting efficient, effective and ethical financial management practices.</p>	<p>The board of a CAC Act body can determine the body's strategic direction (allowing a large degree of flexibility for the body to act in an entrepreneurial fashion), and the responsible minister may be required to approve the body's corporate plan (depending upon the body's enabling legislation).</p>
Nominees on committees or boards	<p>Representational appointments to an advisory council, including from industry and state governments, may be made.</p>	<p>Governing board appointments should be skills-based rather than representational.</p>
Financial framework	<p>The FMA Act prescribes rules governing the financial management practices of agencies.</p> <p>FMA Act agencies do not hold money on their own account, but rather hold public money (ie, money that forms part of the consolidated revenue fund).</p> <p>Chief executives are accountable for the expenditure and handling of any money under the FMA Act.</p> <p>Bodies that fall within the general government sector should generally be prescribed agencies under the FMA framework, unless there are strong reasons for a governing board.</p>	<p>The board largely determines the financial management practices of a CAC Act body.</p> <p>CAC Act bodies hold money on their own account and are accountable for the expenditure of that money through annual reports and other reports as requested by the minister.</p> <p>A CAC Act body could either fall within or outside of the general government sector depending upon whether the body is wholly or substantially funded by the government.</p> <p>Bodies that require a governing board for effective governance should be CAC Act bodies.</p> <p>The CAC Act framework is generally well suited to commercial or entrepreneurial activities.</p>

Table 2.1 (continued)

Issue/s	FMA Act	CAC Act
Independence	<p>The extent of ministerial direction is determined by the enabling legislation of the FMA Act agency.</p> <p>The ANAO, ATO and ACCC are all statutorily independent bodies (ie, they are not subject to government interference in the performance of their functions), and also prescribed under the FMA Act.</p>	<p>Generally, there is a substantial degree of financial independence. These bodies are legally and financially separate from the Commonwealth, although the level of independence can be determined by enabling legislation (eg, by providing for ministerial powers of direction). General policies can be notified to most bodies, but after a consultation process.</p>
Governance structure	<p>The FMA Act framework does not easily accommodate a governing board. The chief executive is accountable under the FMA Act.</p> <p>However, an advisory council may be created, which would instead advise the chief executive.</p> <p>There are no duties for members of an advisory board equivalent to those that exist under the CAC Act. Duties would be negotiated in an instrument of engagement.</p> <p>Where members are required to perform statutory functions, a commission structure may be appropriate.</p>	<p>A governing board is the appropriate governance structure for a CAC Act body.</p> <p>A CAC Act body may also have an advisory board. The advisory board's role would be to advise the governing board.</p> <p>There may be a risk of a conflict of duties where a public servant is a board member.</p> <p>Directors and officers have legal duties under the CAC Act and Corporations Act, with penalties attaching to breaches of these duties.</p> <p>Governing boards should govern a body (such as setting strategy). Performing statutory functions is generally not considered to be governing a body.</p>

Commonwealth entities and Commonwealth companies under the PGPA Act

The PGPA Act, whose substantive provisions commenced on 1 July 2014, divides Commonwealth bodies into:

- **Commonwealth entities** comprising
 - **non-corporate Commonwealth entities** that are not bodies corporate and therefore part of the commonwealth, so subject to greater financial controls
 - **corporate Commonwealth entities** that are legally separate from the commonwealth but are not commonwealth companies
- **Commonwealth companies** being Corporations Act companies that the commonwealth controls.

- **Note:** These types of entities might include departments of state, executive agencies and statutory authorities established by parliament.

This categorisation is based on the legal character of a body as determined by its enabling legislation rather than any notion of ownership of money or property.¹⁸

The accountable authority of each Commonwealth entity will have a number of responsibilities, including responsibilities relating to the manner in which the entity is governed,¹⁹ the establishment and maintenance of systems of risk²⁰ and keeping ministers and the parliament informed of its activities.²¹ The PGPA Act also establishes a uniform set of duties applicable to all officials of Commonwealth entities.²² The duties of officials are based on the fiduciary duties contained in the Corporations Act.²³

In relation to Commonwealth companies the provisions of the PGPA Act reflect that the primary regulatory framework is the Corporations Act. The PGPA creates duties applicable to the directors of wholly-owned Commonwealth companies to keep the responsible minister and finance minister informed,²⁴ ensure the company has an audit committee,²⁵ prepare corporate plans²⁶ and budget estimates²⁷ and provide annual reports to the responsible minister.²⁸

The PGPA Act provides that the finance minister may make an order that specifies a policy of the Australian Government that is to apply to one or more wholly-owned Commonwealth companies.²⁹

18 Explanatory Memorandum to PGPA Bill

19 s 15 PGPA Act

20 s 16 PGPA Act

21 s 19 PGPA Act

22 Division 3, part 2-2, chapter 2, PGPA Act

23 Explanatory Memorandum to PGPA Bill

24 s 91 PGPA Act

25 s 92 PGPA Act

26 s 95 PGPA Act

27 s 96 PGPA Act

28 s 97 PGPA Act

29 s 93 PGPA Act

Chapter 3 — New South Wales

At a glance

Population	7,439,200 at 30 September 2013 ³⁰	
Area	800,642 square kilometres ³¹	
Gross state product	\$476,434,000,000 ³²	
Gross state product per capita	\$64,7896 ³³	
Government finance statistics as at 30 June 2013 ³⁴	Revenue (\$m)	76,379
	Expenses (\$m)	75,364
	Comprehensive result (\$m)	1,015
	Assets (\$m)	321,163
	Liabilities (\$m)	156,783
	Net worth (\$m)	164,380
	Net debt (\$m)	40,908
	Net lending (+) / borrowing (-) (\$m)	-1,049
Net financial worth (\$m)	-109,473	

Parliament and governance

The NSW Parliament is the oldest parliament within Australia and comprises the Legislative Assembly (lower house) and the Legislative Council (upper house). The Legislative Assembly has had members directly elected since 1856. Currently there are 93 members elected for four years from electorates within the state. The Legislative Council currently has 42 members representing a range of political parties in proportion to the votes cast across the state.

The NSW Government is the largest employer in Australia. There are more than 400,000³⁵ people employed in a range of occupations within the NSW public sector. This represents slightly more than 11 per cent of the NSW workforce.

Like the Commonwealth, organisations within the public sector at the state level are managed using a variety of governance arrangements. These arrangements reflect what are termed as reporting entities. These are entities over which a statutory body, a department or a minister has control as defined in the Australian Accounting Standards.

It should also be noted that in NSW there are 152 local government councils which are legislated under the *Local Government Act 1993*. In addition, there are 12 special purpose councils and the NSW Aboriginal Land Council.

In recent years, there has been a trend to amalgamate NSW public sector entities and this is continuing. Organisations are also managed using a variety of other arrangements. In many cases, this involves the use of a board or committee.

There are currently approximately 4,000 government boards and committees with more than 10,000 members.³⁶ These boards are diverse in terms of functions, form, size and the way in which they operate. They encompass boards of government trading enterprises, marketing boards, trusts, tribunals, advisory councils and committees.

30 ABS, 2013, 3101.0 — *Australian Demographic Statistics*, September 2013

31 Geoscience Australia, www.ga.gov.au/education/geoscience-basics/dimensions/area-of-australia-states-and-territories.html

32 ABS, 2013, 5220.0 — *Australian National Accounts and State Accounts*, June 2013, gross state product, p 14

33 ABS, 2013, 5220.0 — *Australian National Accounts and State Accounts*, June 2013, gross state product per capita, p 14

34 ABS, 2014, 5512.0 — *Government Finance Statistics, Australia, 2012–2013*, released 27 May 2014

35 Source: NSW Public Service Commission — *Workforce Profile 2012 Report*

36 Source: NSW Department of Premiers and Cabinet Office, www.boards.dpc.nsw.gov.au

One of the most complex challenges posed by the governance arrangements within the NSW and broader public sector is that of understanding the control relationships that underpin the financial and operational characteristics of entities.

According to the Australian Accounting Standards Board (AASB), 'control is presumed to exist when the parent owns, directly or indirectly through subsidiaries, more than half of the voting power of (a subsidiary) in all but exceptional circumstances. Control is also presumed to exist where a controlling entity has power over more than half the voting rights of a subsidiary, can govern the financial and operating policies under statute, can appoint a majority of votes at a meeting of the board of directors (or equivalent)'.³⁷

In the public sector, control may also be exercised through legislative or executive authority, by administrative arrangements or where there is power to give policy directions.

Controlled entities of the NSW Government

The following illustrates some common examples of controlled entities within the NSW Government.

Departments controlled by ministers

Departments are administrative units of the Crown and are not separate legal entities. This is supported by the Australian Accounting Standards Board: AASB 101 *Presentation of Financial Statements*, which defines a government department as 'a government controlled entity, created pursuant to administrative arrangement or otherwise designated as a government department by the government which controls it'. As such, in NSW they are established by order under the *Government Sector Employment Act 2013*. Department heads are responsible to a particular minister for the performance of their department. Therefore, the minister controls the department directly through the department head.

Statutory bodies controlled by ministers

The enabling legislation of statutory bodies generally gives those statutory bodies particular functions for which they are accountable to a particular minister. The same minister is usually empowered to appoint and dismiss board members. In such cases, the minister controls the statutory body directly by controlling the board (not through a department). These arrangements, however, depend on the enabling legislation. It is a fundamental principle of accountability under the *Public Finance and Audit Act 1983* that every statutory body in NSW must prepare separate financial reports in accordance with Australian Accounting Standards. This enables boards of statutory bodies to discharge their financial accountability requirements to supply information to users including parliament, the government and the community. Information contained in financial reports facilitates decision making concerning the allocation of resources.

- **Note:** Another key regulatory framework is the Australian Accounting Standards, which have the force of law under the Corporations Act.

- **Note:** The NSW Auditor-General is required to audit the financial reports of all statutory bodies and departments.

The *Annual Reports (Departments) Act 1985* requires all departments to prepare annual reports.

All statutory bodies are required to prepare annual reports under the *Annual Reports (Statutory Bodies) Act 1984*.

³⁷ Australian Accounting Standards Board: AASB 127 *Consolidated and Separate Financial Statements*

Statutory bodies controlled by departments

In some cases, in conjunction with the governing board being abolished, the chief executive officers (CEOs) of statutory bodies are made accountable to the CEO of a department. In such cases, the statutory body is controlled by the department (irrespective of whether the statutory body has an advisory board/committee).

- **Note:** Government departments and statutory authorities can also set up subsidiary companies as a vehicle for conducting some government activities.

The same natural person may control two entities

The same natural person can be in control of more than one entity. This does not, of itself, mean that one entity controls the other. For example, the director-general of a department may also be appointed chief executive officer (CEO) of a statutory body. In such cases, separate financial reports must be prepared by each entity.

Main models for government business — a summary

Table 3.1 on the following page shows the main types of models used for government business in NSW. Here, government businesses are defined as:

- commercial public trading enterprises (or public non-financial corporations). State-owned corporations (SOCs) are included in this classification and are distinguished by their corporatised status
- non-commercial public trading enterprises, including government businesses providing public transport and social housing. These enterprises receive budget funding to meet policy objectives with the government as the income from customers is insufficient to meet operating expenses and/or capital expenditure
- public financial enterprises (or public financial corporations), and
- general government businesses (or general government agencies), which are also non-budget dependent.

Public trading enterprises (PTEs) are government-owned or controlled entities that provide goods and services to the public market on a commercial basis by substantially or fully recovering their costs. These enterprises are outside the general government sector and are separate from government financial enterprises in related sectors.

The wide governance arrangements in operation across the range of boards and committees often cause a lack of clarity about the respective roles, powers, responsibilities and accountabilities of the minister/s, the board and the CEO. This is partly due to the differing governance arrangements set out in relevant legislation.

Under current arrangements, governing boards of SOCs have accountabilities to shareholding ministers and portfolio accountabilities. SOC boards are accountable to the shareholding ministers for financial and operational performance, and to the portfolio minister for performance related to the delivery of social policies and use of community service obligation funds. Non-corporatised government businesses have different accountability and control arrangements. The large numbers of statutory and non-statutory bodies and authorities have a wide array of governance arrangements which are largely at the discretion of the minister.

Table 3.1: Commercial and non-commercial PTEs

State-owned corporations	Other PTEs	
	Commercial PTE	Non-commercial PTE
Ausgrid	Cobbora Holding Company Pty Ltd	City West Housing Pty Ltd
Essential Energy	Sydney Catchment Authority	NSW Land and Housing Corporation
Endeavour Energy	Zoological Parks Board	Teacher Housing Authority
Transgrid	Waste Assets Management Corporation	State Transit Authority
Delta Electricity	Forests NSW	Country Rail Infrastructure Authority
Macquarie Generator	Parramatta Stadium Trust	Rail Corporation New South Wales
Sydney Water Corporation	Sydney Cricket Ground and Sports Ground Trust	Transport Construction Authority
Hunter Water Corporation	Sydney Opera House	Sydney Ferries
State Water Corporation	Illawarra Venues Authority	Public Transport Ticketing Corporation
Sydney Ports Corporation	Sydney Harbour Foreshore Authority	
Newcastle Port Corporation	Hunter Region Sporting Venues Authority	
Port Kembla Port Corporation	Venues NSW	
Landcorr		

Chapter 4 — Victoria

At a glance

Population	5,737,600 at 30 June 2013 ³⁸	
Area	227,416 square kilometres ³⁹	
Gross state product	\$337,493,000,000 ⁴⁰	
Gross state product per capita	\$59,404 ⁴¹	
Government finance statistics as at 30 June 2012 ⁴²	Revenue (\$m)	54,037
	Expenses (\$m)	55,144
	Comprehensive result (\$m)	-1,107
	Assets (\$m)	238,058
	Liabilities (\$m)	116,236
	Net worth (\$m)	121,822
	Net debt (\$m)	17,691
	Net lending (+) / borrowing (-) (\$m)	-10,679
Net financial worth (\$m)	-70,708	

Parliament and governance

The Victorian Parliament comprises the Legislative Assembly (lower house) and the Legislative Council (upper house). Currently there are 88 members elected for four years from electorates within the state. The Legislative Council currently has 44 members representing a range of political parties in proportion to the votes cast across the state.

There are more than 200,000 people employed in a range of occupations within the Victorian public sector.⁴³

Like the Commonwealth, organisations within the public sector at the state level are managed using a variety of governance arrangements. These arrangements reflect what are termed as reporting entities. These are entities over which a statutory body, a department or a minister has control as defined in the Australian Accounting Standards.

Victoria has 79 local councils and went through a period of amalgamations in the early 1990s which reduced numbers significantly. Local councils are governed by the provisions of the *Local Government Act 1989*.

There are currently approximately 1800 public entity employers in Victoria.⁴⁴ These boards are diverse in terms of functions, form, size and the way in which they operate. They encompass boards of government, business enterprises, marketing boards, trusts, statutory authorities, advisory committees and committees of management established under the *Crown Lands (Reserves) Act 1979*.

One of the most complex challenges posed by the governance arrangements within the Victorian and broader public sector is that of understanding the control relationships that underpin the financial and operational characteristics of entities.

38 ABS, 2013, 3101.0 — *Australian Demographic Statistics*, June 2013, released 17 December 2013

39 Geoscience Australia, www.ga.gov.au/education/geoscience-basics/dimensions/area-of-australia-states-and-territories.html

40 ABS, 2013, 5220.0 — *Australian National Accounts and State Accounts*, June 2013, gross state product, p 14

41 ABS, 2013, 5220.0 — *Australian National Accounts and State Accounts*, June 2013, gross state product per capita, p 14

42 ABS, 2014, 5512.0 — *Government Finance Statistics, Australia, 2012–2013*, released 27 May 2014

43 www.ssa.vic.gov.au/images/stories/non_products/statevps_diagram.pdf

44 www.ssa.vic.gov.au/images/stories/non_products/statevps_diagram.pdf

As noted on p 13, the AASB sets out a definition of 'control' in AASB 127 *Consolidated and Separate Financial Statements*.⁴⁵

In the public sector, control may also be exercised through legislative or executive authority, by administrative arrangements or where there is power to give policy directions.

Broadly speaking, 'control' as an accounting concept defined in AASB 127 is not generally used in determining whether a public entity is subject to public sector legislation. Most pieces of Victorian public sector governance legislation contain different control tests to determine whether a particular public entity falls under that piece of legislation. Accordingly, care needs to be taken about the context in which control is being discussed. For example, the main piece of public sector legislation, the *Public Administration Act 2004* (PAA) defines a public entity as being an entity established under an act or by a minister, where the minister has the right to appoint at least half of the directors of the board and has a public function. In contrast, the *Independent Broad Based Anti-Corruption Commission Act 2011* defines a public entity according to a list, including any body performing a public function on behalf of a public body or the state. The concept of control is not relevant.

The Public Administration Act 2004

The PAA is the only piece of governance legislation in Australia which potentially applies to all public entities, not just GBEs. The act has two basic functions, namely to provide the employment framework for the core public sector and to provide minimum governance standards for the wide range of public entities in Victoria. The act also provides a comprehensive taxonomy of the various bodies and offices which exist in the public sector.

Sections 4, 5 and 6 provide a taxonomy of the public sector through the definitions of public sector body, public entity, special body, exempt body and administrative office.

Part 3 of the Act provides heads of public sector bodies with powers to employ, manage misconduct, effect transfers and deal with executives, and is underpinned by the codes of conduct issued by the Public Sector Standards Commissioner.

Part 5 of the Act establishes a basic governance framework for new public entities including directors' duties, relationships with the minister, duties of the chair and other requirements modelled on the Corporations Act and Australian Standard AS 8000–2003: Corporate governance. Part 5 also contains mechanisms for applying part 5 to existing public entities that are not currently subject to it.

Public entities of the Victorian public sector

The following illustrates some common examples of public entities within the Victorian public sector:

Departments

Departments are established by an order in council under the PAA and are not separate legal entities. Department heads are responsible to a particular minister for the performance of their department. Therefore, the minister controls the department directly through the department head. Departments do, however, have an independent employment function, supported by the merit principles found in the *Victorian Public Sector Code of Conduct*.

- **Note:** The Victorian auditor-general is required to audit the financial reports of all statutory bodies and departments.

The *Financial Management Act 1994* requires all departments to prepare annual reports.

⁴⁵ Australian Accounting Standards Board: AASB 127 *Consolidated and Separate Financial Statements*.

Administrative offices

Administrative offices are established by an order in council under the PAA and are linked to a department. Although autonomous in their own right, the head is responsible to the head of the department. Examples include Chief Parliamentary Counsel and the Environmental Protection Authority.

Bodies under the *State Owned Enterprises Act 1992*

The *State Owned Enterprises Act 1992* (SOE Act) is a standard piece of legislation relating to GBEs, allowing the corporatisation of public bodies, or the preparation of them for sale. There are three main types of body:

- **state body:** this is a custom-designed statutory authority which is established by order in council. The SOE Act merely provides a limited framework for the creation of such a body. The governance details are found in the order. State bodies are subject to ministerial direction
- **state business corporations:** state business corporations (SBCs) are statutory authorities that have been converted to a corporate model, including a board, limited directors' duties and other governance arrangements. SBCs are only subject to direction by the minister for non-commercial functions and
- **SOCs:** SOC are statutory authorities that have been converted to a full company type model including a standard constitution, share capital and, generally, shares held by the relevant minister. These bodies are not subject to direction, although the board is appointed by the minister.

Other statutory bodies controlled by the executive

In Victoria there is a plethora of these types of bodies, including cemetery trusts, statutory authorities, advisory committees and committees of management. These bodies have a wide range of functions and are subject to differing levels of control by the executive. Broadly speaking, bodies with regulatory or quasi-judicial functions tend to be free of executive control at least with respect to those functions.

Non-statutory bodies controlled by the executive

Victoria also has a number of non-statutory bodies such as advisory committees, inter-jurisdictional committees and taskforces. These bodies, although controlled by the executive, are generally only advisory in nature and usually don't have a budget or staff.

Chapter 5 — Queensland

At a glance

Population	4,658,600 at 30 June 2013 ⁴⁶	
Area	1,730,648 square kilometres ⁴⁷	
Gross state product	\$290,158,000,000 ⁴⁸	
Gross state product per capita	\$62,889 ⁴⁹	
Government finance statistics as at 30 June 2013 ⁵⁰	Revenue (\$m)	50,391
	Expenses (\$m)	56,486
	Comprehensive result (\$m)	-6,094
	Assets (\$m)	316,168
	Liabilities (\$m)	140,693
	Net worth (\$m)	175,475
	Net debt (\$m)	29,975
	Net lending (+) / borrowing (-) (\$m)	-11,030
Net financial worth (\$m)	-64,983	

Parliament

Unlike other states, Queensland has a unicameral parliament, consisting only of the Legislative Assembly (the lower house). It first met on 22 May 1860 and in 2014 comprises 89 directly elected members, each representing a Queensland state electoral district. The Queensland Constitution declares that the maximum term of each parliament is three years.

Following the state election in 2012, ten parliamentary committees were established. Queensland does not have a separate public accounts committee; rather, this work is conducted through the Finance and Administration Committee, and includes oversight of the functions of the auditor-general and the integrity commissioner.

- **Note:** Queensland's Legislative Council (the upper house) was abolished on 23 March 1922. The history and governance peculiarities that led to that outcome are outlined at: www.parliament.qld.gov.au/documents/explore/education/factsheets/Factsheet_3.20_AbolitionOfTheLegislativeCouncil.pdf

Executive government

The premier (the leader of the majority political party elected by the state's voters) forms government. While statutes and Legislative Assembly standing orders give the office of premier statutory effect and confer upon the holder of that office certain privileges in relation to the business of the Legislative Assembly, no Queensland legislation prescribes privileges in relation to the functions of a premier.

The allocation of ministerial portfolios, the composition of cabinet and its subcommittees and the structure of the Queensland government is largely at the prerogative of the premier. However, no legal rule makes the premier dominant over the ministers in their cabinet and the appointment and allocation of responsibility of the public business of the state to the various ministers under the constitution is by administrative arrangements order of the governor in council. As at early 2014, there were 19 ministers and 12 assistant ministers. Each minister, including the premier, heads up one or more portfolios or areas of responsibility. All ministers currently are part of Cabinet and by custom are also members of the Executive Council.

46 ABS, 2013, 3101.0 — *Australian Demographic Statistics*, June 2013, released 17 December 2013

47 Geoscience Australia, www.ga.gov.au/education/geoscience-basics/dimensions/area-of-australia-states-and-territories.html, total mainland plus island area

48 ABS, 2013, 5220.0 — *Australian National Accounts and State Accounts*, June 2013, gross state product, p 13

49 ABS, 2013, 5220.0 — *Australian National Accounts and State Accounts*, June 2013, gross state product per capita, p 14

50 ABS, 2014, 5512.0 — *Government Finance Statistics, Australia, 2012–2013*, released 27 May 2014

The structure of the public sector

There are currently approximately 510 public sector entities in Queensland. Responsibilities of ministers and details of their portfolios are contained in the Administrative Arrangements Orders, which are reissued or amended when a change in the structure of government, known as the 'machinery of government', occurs. For every ministerial portfolio there are government departments and agencies allocated to administer Queensland legislation, implement government policies and deliver state services. Collectively these departments and agencies are known as the public sector or public service.

What constitutes a public sector entity is set out in the *Auditor-General Act 2009* and refers to:

- a department
- a statutory body
- a local government
- a government-owned corporation (GOC)
- a controlled entity (for example, company, trust, joint venture).

Government departments

A department is an administrative arrangement; an entity is declared to be a department by the Governor in Council. Departments are made operational by Gazette Notice. The Gazette Notices are collated into a single document titled Administrative Arrangements Order, which is administered by the Department of the Premier and Cabinet. Following the 2012 state elections, Queensland has 20 government departments. The structure of government departments generally mirrors the core portfolio responsibilities of ministers, although some ministers are responsible for more than one departmental portfolio. The number of departments established under the *Public Service Act 2008*, each headed by a director-general (DG) (or chief executive officer), varies with successive governments.

The primary principles-based governance, financial and performance requirements for the Queensland public sector are set out in the Public Service Act and the *Financial Accountability Act 2009* and supporting regulations, for example, the *Financial and Performance Management Standard 2009*.

Typically, the director-general does not report to an advisory board or committee but is responsible to the minister. The minister in turn reports to cabinet and/or its subcommittees and accounts for their portfolio responsibilities to parliament and its committees.

Statutory bodies

As well as the core government departments, there is an array of statutory bodies which come within the wider portfolio responsibilities of ministers. Statutes confer powers on officials or bodies, corporate or unincorporated, within the minister's department, responsibility or administration.

These statutory bodies have been established under their own separate legislation, and are responsible for specific aspects of government administration. They include authorities, boards, commissions, committees, councils, corporations and trusts and all must report through the responsible minister on their operations.

Local government

Local governments are established under the *Local Government Act 2009*. There are currently 73 of these in Queensland. While local governments usually have reporting obligations to the relevant state minister, a local government's performance is effectively judged by the community at each local government quadrennial election. A distinguishing feature of local governments in Queensland is the existence of five mega-councils in South East Queensland. Brisbane City Council, for example,

- **Note:** Machinery of government changes have a big practical impact on public servants and cause confusion and disruption for many private sector entities that interact with government on a day-to-day basis, but often go unreported and are outside the sphere of influence/relevance to the community. Costs and impacts are largely unknown.
- **Note:** Every year the government's budgets are subject to scrutiny by the Parliamentary Estimates Committee. Budget information includes performance measures by output. Performance data may be subject to external scrutiny by the auditor-general.

- **Note:** The existence of statutory bodies reflects decisions where it has been deemed desirable for particular activities to operate outside a traditional departmental structure.

is the largest council in Australia, while in contrast Sydney has 38 local councils and Melbourne 28. Many argue that this scale in local government in South East Queensland has improved decision-making, cross-sector planning and community outcomes.

Government-owned corporations

Queensland presently has 12 significant GOCs (and their related entities) which operate in the energy, transport, funds management and water resources sectors. These GOCs are companies incorporated under the Corporations Act but established and operated as set out under the state's *Government Owned Corporations Act 1993* (GOC Act). The intent of corporatisation through the establishment of GOCs was to provide the appropriate organisational structures and incentive frameworks for these businesses to operate to their full commercial potential, while maintaining public ownership and control. The state's ownership interest in the companies is generally held equally by two shareholding ministers.

GOC board members must meet their obligations under the corporations law but are also subject to specific state policy and legislation, namely the GOC Act and, for certain GOCs, the *Right to Information Act 2009* and the *Crime and Misconduct Act 2001*.

GOCs generally implement a corporate governance framework consistent with the ASX Corporate Governance Council's *Corporate Governance Principles and Recommendations*. Annually they must prepare a statement of corporate intent, corporate plan, and employment and industrial relations plan. GOCs additionally are subject to written direction by their shareholding minister under the GOC Act. The Office of Government Owned Corporations which operates within the Queensland Treasury and Trade (Queensland Treasury) assists in policy development and provides oversight on behalf of the shareholding ministers.

- **Note:** www.ogoc.qld.gov.au/goc-policies/index.shtml

Controlled entities

Controlled entities of departments, statutory bodies, local governments and GOCs normally consist of companies, trusts and joint ventures. They are called 'controlled' because the government agency is able to significantly dominate decision making, directly or indirectly, in relation to the financial and operating policies of another entity so as to enable the other entity to operate with it in pursuing the objectives of the controlling entity.

Public service offices

Public service offices are identified as public service organisations created under their own specific legislation, where the head (and maybe a board or commissioners) are appointed under that specific legislation. The existence of statutory bodies reflects decisions where it has been deemed desirable for particular activities to operate outside a traditional departmental structure. Statutory bodies generally have a primary role that they are established to carry out, subject to varying degrees of ministerial control specified in the enabling legislation. Statutory bodies are usually established for the following reasons:

- a need for some operational independence from the state government
- independent funding arrangements not reliant on annual appropriations processes, or
- a need to establish a separate legal entity.

Policy and guidance on governance arrangements

Queensland, as with other states, has a long history of public governance through bodies outside the traditional portfolio departments, giving rise to a local diversity of form and diverse governance arrangements. The Queensland Treasury and Department of the Premier and Cabinet provide policy and guidance to public sector agencies through publications such as:

- *Public Interest Map* – provides criteria on establishing a non-departmental body⁵¹
- *Financial Accountability Handbook*⁵²
- *Statutory Body Guide*⁵³
- the policy and regulatory framework for GOCs published by the Office of Government Owned Corporations⁵⁴
- *Welcome Aboard: A Guide for Members of Queensland Government Boards, Committees and Statutory Authorities*⁵⁵
- the framework for the establishment of commercialised business units.⁵⁶

Queensland Government agencies report on a regular annual cycle. Queensland Treasury sets financial reporting requirements for Queensland Government agencies (through, for example, Treasury circulars and accounting policy guidelines).⁵⁷ The Department of the Premier and Cabinet outlines the annual reporting guidelines for government agencies,⁵⁸ and while agencies are required to publish performance data, performance measures are not subject to independent verification or audit.

Government boards

Similar to other states, a broad distinction can be drawn between those which provide governance (direction and control) and those which provide policy and management advice. The functions and general powers are usually set out in the enabling legislation (the act of parliament which establishes the entity).

In Queensland, bodies are, in most cases, established by or under an act of parliament. These bodies are usually administered by a number of people appointed by a minister or by the Governor in Council upon the recommendation of Cabinet.

Members are appointed for a fixed period of time and together make up a government board, committee or statutory authority. Members of boards are responsible to a minister for the general direction, control and operations of the board.

It is useful to examine to whom the board is responsible in determining its type and function. It may be the case that the board is responsible to the relevant department and/or portfolio minister. A good test is to determine whether the minister can intervene in board decisions or policy, can give the board directives, or set the strategic direction/policy direction of the board.

It may be the case that the board has statutory independence or must act in accordance with public directions.

51 www.premiers.qld.gov.au/government/boards-committees/public-interest-map-policy.aspx

52 www.treasury.qld.gov.au/office/knowledge/docs/financial-accountability-handbook/index.shtml

53 www.treasury.qld.gov.au/office/knowledge/docs/stat-bodies-op-guide/stat-bodies-op-guide.pdf

54 www.treasury.qld.gov.au/services/government-owned-businesses/documents/corporate-governance-guidelines.pdf

55 www.premiers.qld.gov.au/publications/categories/policies-and-codes/handbooks/welcome-aboard.aspx

56 www.treasury.qld.gov.au/office/knowledge/docs/commercialisation-policy-framework/commercialisation-policy-framework.pdf

57 www.treasury.qld.gov.au/office/knowledge/docs/fin-reporting-req/index.shtml

58 www.premiers.qld.gov.au/publications/categories/guides/annual-report-guidelines.aspx

As with other jurisdictions, this fragmented governance model can pose challenges for whole-of-government oversight and coordination, for delivery of cost-effective governance and for accountability.

Integrity framework

Queensland's integrity framework consists of a number of bodies set out in the comparative analysis table in Chapter 11.

Chapter 6 — Western Australia

At a glance

Population	2,517,200 at 30 June 2013 ⁵⁹	
Area	2,529,875 square kilometres ⁶⁰	
Gross state product	\$242,697,000,000 ⁶¹	
Gross state product per capita	\$98,069 ⁶²	
Government finance statistics as at 30 June 2013 ⁶³	Revenue (\$m)	42,393
	Expenses (\$m)	42,729
	Comprehensive Result (\$m)	-336
	Assets (\$m)	175,471
	Liabilities (\$m)	62,108
	Net Worth (\$m)	113,363
	Net Debt (\$m)	18,188
	Net Lending (+) / borrowing (-) (\$m)	-3,327
Net financial worth (\$m)	-33,460	

Parliament and governance

Western Australia (WA) inherited the English system of government and law when it was colonised in 1829.

According to constitutional documents, the WA Parliament consists of His Excellency the Governor (representing Her Majesty the Queen), the Legislative Council and the Legislative Assembly. All three components work together to carry out the functions of parliament.

The Executive Council is the supreme executive authority in WA and is chaired by the governor; it includes at least two members of the ministry and has as its secretary the Director-General of the Department of the Premier and Cabinet.⁶⁴

Ministerial relationships

Section 74 of the *Public Sector Management Act 1994* (PSM Act) requires a minister to establish protocols that set out the nature of communication arrangements to be maintained between the minister's office and each portfolio agency. The Public Sector Commissioner's Circular number 2009–10: *Communication Arrangements between Ministers and Agencies* provides direction to agencies on these arrangements. A range of other compliance instruments regulate the management of other types of information.

Agencies

The public sector structure is outlined in Table 6.1. Some independent statutory office holders, such as the auditor-general and the Public Sector Commissioner, have a statutory obligation to report directly to parliament. As these office holders are generally supported by an administrative organisation, they are counted in the figures in the table.

59 ABS, 2013, 3101.0 — *Australian Demographic Statistics*, June 2013, released 17 December 2013

60 Geoscience Australia, www.ga.gov.au/education/geoscience-basics/dimensions/area-of-australia-states-and-territories.html

61 ABS, 2013, 5220.0 — *Australian National Accounts and State Accounts*, June 2013, gross state product, p 14

62 ABS, 2013, 5220.0 — *Australian National Accounts and State Accounts*, June 2013, gross state product per capita, p 14

63 ABS, 2014, 5512.0 — *Government Finance Statistics, Australia, 2012–2013*, released 27 May 2014

64 www.parliament.wa.gov.au/WebCMS/webcms.nsf/content/about-parliament

Table 6.1: Public sector structure and number of entities as at 30 June 2011, 30 June 2012 and 30 June 2013

Description	Examples	30 June 2011	30 June 2012	30 June 2013
<p>Departments Primarily responsible for providing policy advice and administrative support to ministers. Departments are established, divided, abolished and renamed under section 35 of the PSM Act.</p>	<p>Department of the Attorney General</p> <p>Department of the Premier and Cabinet</p> <p>Department of Commerce</p>	37	37	38
<p>SES organisations Established under a written law to perform statutory functions, and generally responsible through a board to a minister. Senior executive services (SES) organisations are specified in schedule 2 of the PSM Act.</p>	<p>Rottneest Island Authority</p> <p>Botanic Gardens and Parks Authority</p> <p>Tourism WA</p>	41	40	48
<p>Non-SES organisations Established under a written law to perform specific statutory functions, generally responsible through a board to a minister</p>	<p>Forest Products Commission</p> <p>Swan River Trust</p> <p>Western Australia Sports Centre Trust</p> <p>Legal Aid Commission</p>	30	29	33
<p>Statutory boards and committees Established under law to perform statutory functions such as guidance and direction for an organisation; regulation, registration and appeal; coordination of policies and projects; and advisory functions</p>	<p>Road Safety Council</p> <p>Building Services Board</p> <p>Swan River Trust</p>	33*	156	

* The 33 boards and committees included in 2011 numbers were those that had notified the Public Service Commission that they were covered by the *Public Interest Disclosure Act 2003*. For more information about the number of boards and committees, see the 'Governance and organisational performance' section, below.

Other government entities as at 30 June 2013

Description	Examples
Schedule 1 entities The remaining bodies and organisations constituted by law to undertake specific public functions. They operate at arm's length to the government and often in a commercial/semi-commercial environment. Entities included in schedule 1 to the PSM Act are not part of the 'public service' as defined in that act.	Public universities Water Corporation Port authorities LandCorp Police force Courts and tribunals
Local government authorities There are 140 elected councils, shires or local councils. Services provided by local government include road management, waste collection, recreation, medical and other human services.	City of Perth Town of Cambridge Shire of Brookton

Governance and organisational performance

The framework for governance and organisational performance in the WA public sector is established by various acts, standards and instructions. The principles of public sector administration and management in s 7 of the PSM Act and the functions of CEOs and chief employees in s 29 are at the core of this framework. These provisions also reference other legislation and obligations associated with the management of finances, assets, procurement, records and information management.

Strategic plans

Strategic plans articulate how agencies intend to meet responsibilities established by resource agreements and government policies, provide direction to employees and communicate their goals and plans to stakeholders. Operational plans translate strategic goals into practical objectives, activities and outputs that can be measured and monitored. The WA Public Service Commission through its annual agency survey notes that all large and most medium-sized WA agencies report a high level of maturity in this area of governance.⁶⁵

Performance

The general principles of public administration and management contained in s 7 of the PSM Act emphasise agency responsiveness and flexibility, service to the community, structures that ensure judicious decision making and continued improvement in efficiency and effectiveness. Consistent with these principles, key performance indicators (KPIs) are used to measure and report organisational performance as well as to improve the efficiency of service delivery to the community. The WA performance framework requires agencies to connect strategies and activities to measurable outcomes. While acknowledging the challenges which this can present, the annual agency survey reports a high percentage of agencies achieving high levels of maturity in their performance systems.

- **Note:** High-level KPIs are also audited annually by the Auditor-General and included in departmental annual reports.

Bureaucracy

WA, like many governments, is pursuing specific red tape reduction initiatives designed to limit the regulatory 'footprint' established through legislation and regulation. Red tape reduction initiatives across the government sector aim to reduce the burden and improve overall efficiency consistent with broader principles of administration and management.

⁶⁵ Public Service Commission, 2013, *State of the Sector 2013*, www.publicsector.wa.gov.au/publications-resources/psc-publications/state-sector-report/state-sector-report-2013

Financial management

The general principles of public administration outlined in s 7 of the PSM Act require proper standards of financial management and accounting to be maintained at all times. These principles are aligned to the requirements of the *Financial Management Act 2006* (FM Act), Treasurer's instructions and related guidelines and standards. Treasurer's instructions set minimum requirements to be met on core financial management matters, including accounting for revenue, expenditure, assets, standards of reporting and such other matters necessary to ensure good financial management and governance. As they are expressed in terms of control objectives rather than prescribed techniques or procedures, agencies have flexibility in how they are applied.

All public sector agencies have their financial statements audited annually by the Office of the Auditor-General. However, effective financial control and governance requires agencies to monitor their finances throughout the year. The annual agency survey reports well developed and implemented financial management and accounting controls across the sector.

The FM Act requires agencies to effectively manage the administration of public finances and report accurately and consistently.

Record-keeping

The management of information and effective record-keeping are important elements of administrative governance and underpin transparency and accountability, particularly through the accurate recording of communications that have led to significant decisions.

The *State Records Act 2000* (Records Act) was enacted primarily to strengthen accountability and transparency in record-keeping practices and promote best practice in records management by state and local government agencies in WA. The Records Act empowers the State Records Commission to establish principles and standards to govern record-keeping by government organisations, produce guidelines outlining the requirements for government organisations' record-keeping plans, and to inquire into breaches or possible breaches of the Records Act.

State government boards

In terms of the roles they perform and the means by which they are established, government boards are as diverse as the public sector itself. Different types of boards include: governing bodies of SES and non-SES organisations; boards regulating a specific industry; policy and strategic 'think tanks'; and boards that provide community and industry input to the management of local areas and projects. There are also boards of a judicial and quasi-judicial nature. Boards, particularly governing boards, fulfil a vital role in supporting the performance of the agencies they govern and their ability to meet required outcomes.

The Department of Premier and Cabinet maintains the State Government Boards and Committees Register (the register). During 2012, the Public Service Commission assisted the department with a review of boards and committees to be included on this register. As part of the review, the Public Service Commission surveyed all ministerial portfolios.

The Public Service Commission and other oversight bodies have reviewed or conducted inquiries into a number of circumstances and events relating to board governance arrangements. The outcomes of these reviews and inquiries indicate the need to improve the level of understanding and application of:

- clearly defined lines of authority, responsibility and accountability between the responsible minister, the board and the executive management of the agency governed by the board
- the public sector ethical framework, particularly the management of conflicts of interest and public interest considerations
- the role and responsibilities of board members
- core legislative accountability requirements.

In addition to providing advice, the Public Service Commission is developing a training program to assist boards in improving their governance capability

Chapter 7 — South Australia

At a glance

Population	1,670,800 at 30 June 2013 ⁶⁶	
Area	983,482 square kilometres ⁶⁷	
Gross state product	\$95,123,000,000 ⁶⁸	
Gross state product per capita	\$57,233 ⁶⁹	
Government finance statistics as at 30 June 2013 ⁷⁰	Revenue (\$m)	18,192
	Expenses (\$m)	18,844
	Comprehensive result (\$m)	-652
	Assets (\$m)	77,683
	Liabilities (\$m)	38,310
	Net worth (\$m)	39,373
	Net debt (\$m)	5,652
	Net lending (+) / borrowing (-) (\$m)	-975
Net financial worth (\$m)	-24,061	

Parliament and governance

The Parliament of South Australia makes the laws that govern the state. The South Australian parliamentary system is based on the British Westminster system, which divides the parliament into two houses — the House of Assembly and the Legislative Council.

Every member of parliament must take an oath, or make an affirmation, of allegiance to the Queen of England. There must be a session of parliament at least once in every year, and the maximum life of a parliament is four years.

The government is formed by the party or grouping having the majority of the seats in the House of Assembly, or by a coalition (the combination of parties to form a majority).

South Australia operates under responsible Cabinet government: the governor acts on the advice of the ministers (that is, the Cabinet), headed by the premier.

The ministers are each in charge of government departments; and they are members of parliament on the government side of the chamber. Every minister is also a member of the Executive Council. The Executive Council is presided over by the governor, and is the formal executive arm of the government, giving legal force to certain cabinet decisions, appointments and similar matters. These and other provisions are established by convention.⁷¹

66 ABS, 2013, 3101.0 — *Australian Demographic Statistics*, June 2013, released 17 December 2013

67 Geoscience Australia, www.ga.gov.au/education/geoscience-basics/dimensions/area-of-australia-states-and-territories.html

68 ASB, 2013, 5220.0 — *Australian National Accounts and State Accounts*, June 2013, gross state product, p 14

69 ABS, 2013, 5220.0 — *Australian National Accounts and State Accounts*, June 2013, gross state product per capita, p 14

70 ABS, 2014, 5512.0 — *Government Finance Statistics, Australia, 2012–2013*, released 27 May 2014

71 www.parliament.sa.gov.au/AboutParliament/Pages/AbouttheSouthAustralianParliament.aspx

Legislation governing the public sector

The key governing legislation for the public sector includes:

- *Public Sector Act 2009*⁷²
- *Public Finance and Audit Act 1987*⁷³
- *Public Corporations Act 1993*⁷⁴

Treasurer's instructions require South Australian agencies to implement compliance programs to provide assurance over financial management. The Financial Management Toolkit provides guidance in relation to implementing the treasurer's instructions.⁷⁵

State strategic plan

The South Australian state strategic plan sets out the seven strategic priorities which will drive the work of the government, and include:

- creating a vibrant city
- safe communities, healthy neighbourhoods
- an affordable place to live
- every chance for every child
- growing advanced manufacturing
- realising the benefits of the mining boom for all
- premium food and wine from our clean environment.⁷⁶

Key public sector reform programs

The South Australian Government is committed to public sector renewal; however, the benefits achieved through renewal programs are not always obvious to the community. The Change South Australia program is designed in part to propel the delivery of the priorities of the State Strategic Plan.⁷⁷

High performance framework

The high performance framework is a systemic approach to organisational performance management and continuous improvement for the South Australian public sector.

The high performance framework was developed by the Public Sector Performance Commission as part of an ambitious reform agenda to improve performance and promote collaboration across the public sector.⁷⁸

Auditor-general

The South Australian Auditor-General's Department provides the parliament (and consequently the people of South Australia) and public sector entities with independent professional opinions on matters related to financial management, compliance with legislative requirements and, where appropriate, comments on the efficiency and economy with which public sector resources are utilised.

72 www.legislation.sa.gov.au/LZ/C/A/Public%20Sector%20Act%202009.aspx

73 www.legislation.sa.gov.au/LZ/C/A/PUBLIC%20FINANCE%20AND%20AUDIT%20ACT%201987.aspx

74 www.legislation.sa.gov.au/LZ/C/A/Public%20Corporations%20Act%201993.aspx

75 www.treasury.sa.gov.au/_data/assets/pdf_file/0005/1121/financial-management-toolkit.pdf

76 <http://saplan.org.au/>

77 <http://change.sa.gov.au/>

78 www.hpf.sa.gov.au/

A wide range of statutory provisions have a direct influence on the operations of the Auditor-General's Department. The majority of those are the statutes that appoint the auditor-general as the auditor of public sector agencies.

Other legislation includes that which embodies special Commonwealth/state financial arrangements, the financial law of South Australia (for example, Supply Acts, Appropriation Acts) and the corporations law.

Boards and committees

As in other states, a number of part-time government boards and committees exist to provide oversight of various functions. A database of such entities is maintained by the Department of Premier and Cabinet.⁷⁹

⁷⁹ http://dpc.sa.gov.au/sites/default/files/pubimages/documents/boards-committees/BC_AR-2013.pdf

Chapter 8 — Tasmania

At a glance

Population	513,000 at 30 June 2013 ⁸⁰	
Area	68,401 square kilometres ⁸¹	
Gross state product	\$24,360,000,000 ⁸²	
Gross state product per capita	\$47,557 ⁸³	
Government finance statistics as at 30 June 2013 ⁸⁴	Revenue (\$m)	8,601
	Expenses (\$m)	8,699
	Comprehensive result (\$m)	-98
	Assets (\$m)	28,065
	Liabilities (\$m)	16,251
	Net worth (\$m)	10,015
	Net debt (\$m)	929
	Net lending (+) / borrowing (-) (\$m)	-215
	Net financial worth (\$m)	-11,721

Parliament

Tasmanian Parliament consists of three parts: the Crown, the Legislative Council (15-member upper house) and the House of Assembly (25-member lower house). These three acting together make state laws for Tasmania.

There are four standing committees of the Tasmanian Parliament which are established by statute to report upon matters of particular concern to the parliament.⁸⁵ These committees are:

- **Integrity:** monitors and reviews the performance of the Integrity Commission's powers, including examining the annual reports, and reviewing the functions and operation of the Integrity Commission
- **Public accounts:** examines appropriation amounts granted by parliament to meet public expenditure and such other accounts laid before the parliament as it sees fit, reporting to the parliament on any matters arising from its enquiries
- **Public works:** examines proposed public works in excess of \$5,000,000 (or other projects referred to it), reporting to the parliament on the results of its enquiries. It is provided with plans, specifications and other related material from the relevant department, and may also summon witnesses
- **Subordinate legislation:** reviews delegated legislation, that is, to examine the provisions of every regulation (which includes bylaws), and to make such reports and recommendations to the Legislative Council and to the House of Assembly and relevant local government or marine board authorities, as it thinks desirable. The committee also has the power to recommend to the parliament the disallowance of any regulation.

In addition, each House of Parliament establishes its own standing committees concerning privileges and standing orders.⁸⁶

- **Note:** In contrast, in the Commonwealth Parliament, Tasmania is represented by five members in the lower house and 12 members in the upper house.

80 ABS, 2013, 3101.0 — *Australian Demographic Statistics*, June 2013, released 17 December 2013

81 Geoscience Australia, www.ga.gov.au/education/geoscience-basics/dimensions/area-of-australia-states-and-territories.html

82 ABS, 2013, 5220.0 — *Australian National Accounts and State Accounts*, June 2013, gross state product, p 14

83 ABS, 2013, 5220.0 — *Australian National Accounts and State Accounts*, June 2013, gross state product per capita, p 14

84 ABS, 2014, 5512.0 — *Government Finance Statistics, Australia, 2012–2013*, released 27 May 2014

85 www.parliament.tas.gov.au/ctee/About%20Parliamentary%20Committees.pdf

There are also a number of select and sessional committees, including the Government Business Scrutiny Committee of the Legislative Council and of the House of Assembly.

The state service

The constitution of the state service (as opposed to the public service, the term used in some other state jurisdictions) is set out in s 6 of the *State Service Act 2000*. The state service is defined as consisting of heads of agencies, holders of prescribed offices, senior executives and employees. These agencies are listed in Schedule 1 to the act and may be changed by *State Service (Agencies and Heads of Agencies) Orders* to amend the list or *State Service (Restructuring) Orders* to establish, abolish or change the name of a government department and state authority. These orders are made by the Governor.

Under *State Service Act 2000*, the head of the state service, on behalf of the minister administering the State Service Act, is responsible for ensuring that the state service is run effectively and efficiently.

The Secretary, Department of Premier and Cabinet has been appointed as the head of the state service to have responsibility for the employer role on behalf of the minister (the Premier).⁸⁷ The State Service Management Office (formerly Public Sector Management Office) now undertakes this role on a day-to-day basis. Among other things, the head of the state service compiles the State Service Annual Report and reports to parliament on the performance and exercise of the employer's functions and powers. A key component of evaluating performance will be the annual employee survey to be conducted in May/June each year. The first annual report of the department was produced for the 2012–13 year.

The Tasmanian state service is made up of 18 agencies and authorities.⁸⁸

The structure of the public sector

At 30 June 2013, the state service comprised nine government departments, one government agency (Tasmanian Audit Office), and nine state authorities, including the Public Trustee and the Integrity Commission.

In addition to the state service, Tasmania has government business enterprises (GBEs) and SOCs.

The *Tasmanian Government Businesses Governance Framework Guide* of October 2008⁸⁹ outlines the governance framework for Tasmanian government businesses, specifically GBEs (five, excluding the Public Trustee, which is now included as part of the state service) and SOCs (currently, eight).

86 www.parliament.tas.gov.au/ctee/comminte.htm

87 www.dpac.tas.gov.au/divisions/ssmo/governance_arrangements

88 www.dpac.tas.gov.au/_data/assets/pdf_file/0014/212270/2013_TSS_Workforce_Snapshot.pdf

89 [www.treasury.tas.gov.au/domino/df/df.nsf/LookupFiles/Governance-Framework-Guide.pdf/\\$file/Governance-Framework-Guide.pdf](http://www.treasury.tas.gov.au/domino/df/df.nsf/LookupFiles/Governance-Framework-Guide.pdf/$file/Governance-Framework-Guide.pdf)

GBEs

Governance arrangements are provided by the following:

- **Government Business Enterprises Act 1995⁹⁰**: provides for the establishment, commercial operation and accountability of GBEs, the relationship between GBEs and the government and the payment of financial returns to the state by GBEs
- **Government Business Enterprises Sale Act 2003⁹¹**: authorises, enables and facilitates the sale of assets of the businesses prescribed in the Act, and provides for the repeal of the Portfolio Acts of those GBEs and for related purposes
- **Portfolio Acts of Government Business Enterprises⁹²**: provides links to the establishing legislation for each GBE.

SOCs

Governance arrangements are provided through the following:

- **Portfolio Acts of State-owned Companies⁹³**: provides links to the establishing legislation for each SOC
- **Corporations Act 2001⁹⁴**: SOCs are subject to the provisions of the *Corporation Act 2001*, in line with their private sector counterparts.

Government oversight

The Treasurer's instructions⁹⁵ are issued under s 114 of the *Government Business Enterprises Act 1995*⁹⁶ and cover the principles, practices and procedures to be observed in the financial management of GBEs. Some Treasurer's instructions are also applicable to SOCs through their various Portfolio Acts.

Table 8.1: Summary of governance arrangements⁹⁷

	GBE	SOC
Establishment	<i>Government Business Enterprises Act 1995</i> and Portfolio Act	<i>Corporations Act 2001</i> and Portfolio Act
Objectives	<i>Government Business Enterprises Act 1995</i> , Portfolio Act and Ministerial Charter	Portfolio Act and constitution
Minister expectations	Ministerial Charter and Treasurer's instructions	Shareholder's statement of expectations
Policy	Treasurer's instructions and <i>Guidelines for Tasmanian Government Businesses</i>	Treasurer's instructions and <i>Guidelines for Tasmanian Government Businesses</i>

90 www.thelaw.tas.gov.au/linkto.w3p;cond=;doc_id=22++1995+AT@EN+CURRENT

91 www.thelaw.tas.gov.au/linkto.w3p;cond=;doc_id=39++2003+AT@EN+CURRENT

92 www.treasury.tas.gov.au/domino/DTF/DTF.nsf/2da16819cf6513cdca256dd5000010c0/5314f1bb3ce2b186ca256db900092e4f?OpenDocument

93 www.treasury.tas.gov.au/domino/DTF/DTF.nsf/4fd752e16a6a34814a256819001cada9/e0e88df71fe51fcdca256db9000a14c1?OpenDocument

94 www.austlii.edu.au/au/legis/cth/consol_act/ca2001172/

95 www.treasury.tas.gov.au/domino/DTF/DTF.nsf/07fb401d83488ae8ca2571cc000a6dd9/414754c305e33befca25720a00163919?OpenDocument

96 www.thelaw.tas.gov.au/linkto.w3p;cond=;doc_id=22++1995+AT@EN+CURRENT

97 Governance Framework Guide, Department of Treasury and Finance, Oct 2008, P 5

Parliamentary oversight

Each portfolio minister of the GBEs and SOCs is required to table an annual report on the relevant GBE and SOC with parliament. Parliament is also kept informed by conducting an annual inquiry into the performance of GBEs and SOCs through the Government Businesses Scrutiny Committees.

The financial statements of every GBE and SOC (and their subsidiaries) are required to be audited by the Tasmanian Auditor-General. The results of these audits are reported by the Auditor-General under s 29 of the *Audit Act 2008*.

Local government

There are currently 29 local councils which are subject to audit by the Tasmanian Auditor-General.

The Tasmanian Parliament has passed the *Local Government (Miscellaneous Amendments) Act 2013*⁹⁸ which provides:

- for improvements in local government financial and asset management capacity and practices
- councils with the power to take action to rectify issues with dilapidated buildings, and
- councils with enhanced powers to deal with local nuisances.

Financial and asset management

The legislation incorporates a number of amendments to the *Local Government Act 1993* including requiring councils to:

- maintain long-term financial management and strategic asset management plans (ten years) and financial and asset management strategies
- review their long-term financial management and strategic asset management plans, financial management and asset management strategies and asset management policy every four years
- report financial and asset management sustainability indicators in their financial statements, and
- develop their strategic plan every ten years, as opposed to at least every five years, to align and coordinate with the financial and asset management planning process.

Controlled entities (or subsidiaries)

Controlled entities or subsidiaries of departments, statutory bodies, local governments, GBEs and SOCs normally consist of companies, trusts and joint ventures. These are subject to audit by the Tasmanian auditor-general.

98 www.dpac.tas.gov.au/divisions/local_government/local_government_miscellaneous_amendments_bill_2012_-_including_new_nuisance_provisions

Chapter 9 — Australian Capital Territory

At a glance

Population	383,400 at 30 June 2013 ⁹⁹	
Area	2,431 square kilometres ¹⁰⁰	
Gross state product	\$35,088,000,000 ¹⁰¹	
Gross state product per capita	\$92,406 ¹⁰²	
Government finance statistics as at 30 June 2013 ¹⁰³	Revenue (\$m)	4,327
	Expenses (\$m)	4,705
	Comprehensive result (\$m)	-379
	Assets (\$m)	26,588
	Liabilities (\$m)	11,044
	Net worth (\$m)	15,545
	Net debt (\$m)	-1,303
	Net lending (+) / borrowing (-) (\$m)	-694
	Net financial worth (\$m)	-5,665

Parliament and governance

The Australian Capital Territory (ACT) is often described as a city-state. Canberra, its capital, has a multiple identity as the national capital, as a regional hub to the surrounding areas of NSW, and as a local community in its own right. The ACT Government and supporting public service is unusual in Australia in that it provides services at municipal, state and regional levels. A unicameral parliament, it acts like a state in matters such as education and health, but performs functions such as land-use planning, library services, and parks and waste management, normally the realm of a local council.

Under the *Australian Capital Territory (Self-Government) Act 1988* (Commonwealth) the ACT is a self-governing territory and separate legal identity. This act provides for the overarching governance framework for the territory. This includes the Legislative Assembly's constitution, procedures and powers and for the executive's general powers and membership, and the means of appointing the chief minister and ministers for the territory.

The ACT Legislative Assembly is made up of 17 members who serve a fixed four-year term. The Assembly is unusual because the Crown does not play a direct role in the creation of legislation. In other parliaments the Crown representative (usually the governor) assents to each bill as the final stage of the creation of an act of parliament.

Governance arrangements: the chief minister and chief minister's directorate

The chief minister is the head of the government, appointing up to four ministers to assist in making decisions on the day-to-day running of the territory. The chief minister fulfils the roles of both a state premier and a local council mayor.

- **Note:** 'Canberra' is derived from the Aboriginal word 'Kamberra', which means 'meeting place'.
- **Note:** Prior to self-government on 11 May 1989 the ACT was administered by the Federal Government under s 122 of the Constitution
- **Note:** Until December 2011 the Australian Governor-General had the power to disallow an enactment by the ACT Legislative Assembly. Only once during self-government has this power been exercised. On 13 June 2006 the *Civil Union Act 2006* was disallowed. Currently to overturn an ACT law requires a majority of both houses of federal parliament.

99 ABS, 2013, 3101.0 — *Australian Demographic Statistics*, June 2013, released 17 December 2013

100 Geoscience Australia, www.ga.gov.au/education/geoscience-basics/dimensions/area-of-australia-states-and-territories.html

101 ABS, 2013, 5220.0 — *Australian National Accounts and State Accounts*, June 2013, gross state product, p 13

102 ABS, 2013, 5220.0 — *Australian National Accounts and State Accounts*, June 2013, gross state product per capita, p 1

103 ABS, 2014, 5512.0 — *Government Finance Statistics, Australia, 2012–2013*, released 27 May 2014

The Executive

Together the ministers and the chief minister form the Executive (or Cabinet). It is the Executive whose function it is to collectively govern and administer the territory, implement all territory law, and develop and manage the budget. As the territory has no governor or administrator there is no executive council as in the other states and the Northern Territory.

The ACT public service

Like all other states, the PSM Act provides the main governance and employment framework for the ACT public service. For instance, the allocation of ministerial responsibility for administrative units (for example, a department or directorate) is provided for by s 14 of the PSM Act. The positions of Commissioner for Public Administration, Head of Service and directors-general of administrative units are also provided for under this act.

The ACT public service was created on 1 July 1994 from the Commonwealth public service, of which it had previously been a part. Staff are employed within the ACT government single department (comprising a number of directorates), statutory authorities and territory-owned corporations, with the majority employed in the government department and statutory authorities.

The Chief Minister's Department leads the ACT public service and provides strategic advice to the ACT Government on policy development, service delivery and whole-of-government issues.

The executive serves the ACT community through the ACT-government workforce.

Government entities

In the ACT, public sector 'entities' includes all administrative units (directorates or agency), territory instrumentalities (as defined for the purposes of the PSM Act) and territory-owned corporations. These public sector entities (departments, directorates, agencies, statutory bodies and corporations) have different legislative standings and, therefore, their respective legal underpinnings also vary.

However, the *Annual Reports (Governing Agencies) Act 2004* refers to two main kinds of reporting entities. Administrative units (directorates/agencies), defined under Administrative Arrangement Orders made under the PSM Act, and public authorities. For the purposes of the act, public authorities fall into three categories:

- those reporting to a minister
- those providing reports to a chief executive for attachment to a departmental report, and
- those providing information to a chief executive for inclusion in a departmental report.

In addition to these entities, s 18 of the PSM Act provides for the establishment of the statutory office of Commissioner for Public Administration, with responsibility for advising the chief minister on the management of the public service as a whole.

- **Note:** Other key public sector accountability, financial and performance management legislation in the ACT public service includes:

- *Public Sector Management Standards 2006*
- *Financial Management Act 1996*
- *Territory-owned Corporations Act 1990*
- *Territory Records Act 2002*
- *Auditor-General Act 1996*
- *Freedom of Information Act 1989*

- **Note:** ACT government directorates

- Chief Minister and Treasury
- Commerce and Works
- Community Services
- Economic Development
- Education and Training
- Environment and Sustainable Development
- Health
- Justice and Community Safety
- Territory and Municipal Services
- Capital Metro Agency

Territory-owned corporations include:

- ACT Totalisator Agency Board (ACTTAB) Limited
- ACT Electricity and Water (ACTEW) Corporation Limited

- **Note:** Examples of public authorities include:

- ACT Auditor-General's Office
- ACT Building and Construction Industry Training Fund Authority
- Canberra Institute of Technology
- Exhibition Park in Canberra
- Independent Competition and Regulatory Commission

104 2012–2013 ACT Public Service State of the Service Report Commission for Public Administration 19 September 2013 (p 68 Full-time equivalent (FTE) workforce of 19,793.3 (up from 19,344.4 as at June 2012), and headcount of 22,671 (up from 21,955 as at June 2012).

Performance management and reporting

The government's long-term vision for the ACT community is outlined in *The Canberra Plan: Towards Our Second Century and Measuring Our Progress*. It is the ACT Government's online report card.¹⁰⁵

Each year the ACT Government announces its Annual Statement of Intent and reports its progress towards government priorities in an annual Statement of Achievement.

ACT agency performance is reported in agency annual reports and corresponds with agency corporate plans. Similarly, accountability indicators identified in the budget papers are reported in annual reports. Accountability indicators are audited by the ACT auditor-general.

ACT agencies also report performance in terms of social, economic and environmental considerations. Agencies are required to summarise their 'triple bottom line' in their annual reports using an indicator scorecard.

Policy and guidance on governance arrangements

In September 2010, the chief minister of the ACT commissioned a report on the effectiveness, capacity and structure of the ACT public service. The 2011 report *Governing the City State: One ACT Government — One ACT Public Service* details the key findings and recommendations of that review. In response the ACT Government published its *Strengthening Performance and Accountability: A Framework for the ACT Government*, outlining its strategies to:

- improve community outcomes
- enhance the efficiency and effectiveness of government operations, and
- guide continuous improvement.

As a result the ACT public service was restructured as a single department, to reflect its city-state nature.

Nine directorates sit within the single department, each headed by a director-general, but reporting to a single chief executive — the head of service. The head of service also serves as director-general of the Chief Minister's Department.

An ACT Public Service Strategic Board, chaired by the head of the service and comprising all other directors-general, meets regularly to ensure greater coordination and alignment of effort across the 'one government' model.

Recent policy initiatives arising from this review include the adoption of new ACT public service values and signature behaviours, which were enshrined in the *ACT Public Service Code of Conduct* in October 2012.

Additionally, the *ACT Public Service Whole of Government Performance Framework Policy* and supporting *Guidance Statement 2013* sets out a common approach to performance management across agencies and is underpinned by the ACT public service values and signature behaviours. It defines staff work performance in terms of:

- **services, projects, outputs and deliverables:** the work that staff do, the services delivered and the outputs produced;
- **behaviour:** how staff do their work and interact with people; and
- **knowledge and skills:** the knowledge, skills and capabilities that staff need in order to do their jobs well.

¹⁰⁵ See www.measuringourprogress.act.gov.au. Background on this initiative can also be found in the Allen Consulting Group Report, *Performance and Accountability in the ACT: Towards a New Framework 2009* review commissioned by the chief minister's department.

Chapter 10 — Northern Territory

At a glance

Population	239,500 at 30 June 2013 ¹⁰⁶	
Area	1,349,129 square kilometres ¹⁰⁷	
Gross state product	\$20,113,000,000 ¹⁰⁸	
Gross state product per capita	\$84,894 ¹⁰⁹	
Government finance statistics as at 30 June 2013 ¹¹⁰	Revenue (\$m)	5,709
	Expenses (\$m)	5,739
	Comprehensive result (\$m)	-30
	Assets (\$m)	18,533
	Liabilities (\$m)	10,669
	Net worth (\$m)	7,864
	Net debt (\$m)	2,277
	Net lending (+) / borrowing (-) (\$m)	-489
Net financial worth (\$m)	-7,019	

Government

In January 1911, the Northern Territory, having ceded from the control of South Australia, was taken under the supervision of the Commonwealth pursuant to the *Northern Territory (Administration) Act 1910*, and the *Northern Territory Acceptance Act 1910*.

While the Northern Territory Government exercises similar powers to those of the states, it does so by delegation from the Commonwealth rather than by constitutional right. That delegation is embodied in the Commonwealth's *Northern Territory (Self-Government Act) 1978*.

Parliament

Reflecting the legal basis upon which the body politic that is the territory rests, there are some differences as outlined below:

- the Crown is represented by the administrator who is appointed by the governor-general. This can be contrasted with the position of the states, where the Crown is represented by respective governors, each of whom is appointed by the Queen
- the Parliament of the Northern Territory is the Legislative Assembly. It consists of a single chamber comprising 25 members.

The administrator is the governor-general's representative in the Northern Territory and is appointed for a term which is usually between two and four years. The administrator reviews laws passed by the Legislative Assembly for assent, and may return the proposed law to the assembly with amendments that he/she recommends. The administrator may also reserve legislation for the governor-general to review and provide recommendations.

¹⁰⁶ ABS, 2013, 3101.0 — *Australian Demographic Statistics*, June 2013, released 17 December 2013

¹⁰⁷ Geoscience Australia, www.ga.gov.au/education/geoscience-basics/dimensions/area-of-australia-states-and-territories.html

¹⁰⁸ ABS, 2013, 5220.0 — *Australian National Accounts and State Accounts*, June 2013, gross state product, p 14

¹⁰⁹ ABS, 2013, 5220.0 — *Australian National Accounts and State Accounts*, June 2013, gross state product per capita, p 14

¹¹⁰ ABS, 2014, 5512.0 — *Government Finance Statistics, Australia, 2012–2013*, released 27 May 2014

NT public sector

The structure of the public sector does not differ significantly from other jurisdictions and consists of:

- 33 agencies (this category includes the equivalent of departments in other jurisdictions, together with other entities that are deemed to be agencies. In essence, an agency is any entity prescribed in an administrative arrangements order made by the administrator)
- statutory bodies established pursuant to specific acts of parliament
- companies.

Companies have been used on a limited basis in the Northern Territory public sector. At present, there are four, three of which are wholly-owned subsidiaries of the Power and Water Corporation.

The Commissioner for Public Employment is the chief executive of the agency and, under s 12 of the *Public Sector Employment and Management Act (PSEMA)*, is deemed to be the employer of all employees in the Northern Territory public sector.

The government is the largest employer in the NT.¹¹¹

The taxonomy of the public sector that is used by the territory for the purposes of budgeting and financial reporting is that adopted by the Australian Bureau of Statistics' *Government Finance Statistics Australia: Concepts Sources and Methods*. This approach classifies the public sector into three primary sectors:

- general government
- public non-financial corporations, and
- public financial corporations.

This approach is also used by each other jurisdiction as the basis for reports prepared for the Australian Bureau of Statistics and has also been adopted for the purposes of the Australian Accounting Standard AASB 1049 *Financial Reporting by Governments and the General Government Sector*.

The first two sectors listed above are consolidated to give a non-commercial sector that is further consolidated with the public financial corporations sector to form the whole of government.

Table 10.1: The structure of the NT public sector, based on the most recent Administrative Arrangements Order

Minister of the Territory	Agency	Examples of principal areas of government*
Chief Minister		Constitutional development
	Auditor-General's Office	Audit
	Northern Territory Electoral Commission	Elections and electoral matters
	Ombudsman's Office	Ombudsman for the Northern Territory
	Department of the Chief Minister	Coordination and development of government policy Coordination of government administration and activities AustralAsia Railway Corporation Darwin Waterfront Corporation Remuneration Tribunal

*Note: The content of the principal areas of government have been abbreviated.

¹¹¹ Office of the Commissioner for Public Employment, Annual Report 2012–2013, Northern Territory Government of Australia 2013

Table 10.1 (continued)

Minister of the Territory	Agency	Examples of principal areas of government*
	Department of the Legislative Assembly	Legislative Assembly
Minister for Northern Australia Development	Department of the Chief Minister	Policy development and coordination
Minister for Economic Development and Major Projects	Department of the Chief Minister	Economic policy
	Darwin Port Authority	Darwin ports
	Land Development Corporation	Development of residential land
Minister for Asian Engagement and Trade	Department of the Chief Minister	Asian engagement
Minister for Police, Fire and Emergency Services	Police Civil Employment Unit	Police Force of the Northern Territory Fisheries protection and enforcement
	Northern Territory Emergency Service	Emergency services
	Northern Territory Fire and Rescue Service	Fire and rescue services
Minister for Strategic Defence Liaison	Department of the Chief Minister	Strategic defence liaison
Treasurer		Territory Insurance Office Utilities Commission of the Northern Territory
	Department of Treasury and Finance	Financial management Budget management Economic policy and analysis
Minister for Business	Department of Business	Northern Territory Licensing Commission Work Health Authority Business name registration Incorporated associations Procurement policy
Minister for Employment and Training	Department of the Chief Minister	Major project facilitation and economic development
Minister for Local Government and Regions	Department of Local Government and Regions	Local government funding
	Northern Territory Electoral Commission	Local government elections and electoral matters
Minister for Defence Industries and Community Support	Department of Business	Development of defence-related industries

*Note: The content of the principal areas of government have been abbreviated.

Table 10.1 (continued)

Minister of the Territory	Agency	Examples of principal areas of government*
Minister for Alcohol Policy	Department of Business	Alcohol policy
Minister for Corporate and Information Services	Department of Corporate and Information Services	Corporate tax policy Government office accommodation Public sector corporate services
Attorney-General and Minister for Justice	Northern Territory Legal Aid Commission	Legal aid
	Department of the Attorney-General and Justice	Administration of justice Consumer affairs Crime prevention Criminal prosecutions Land titles registration Legal profession Privacy
Minister for Public Employment	Office of the Commissioner for Public Employment	Public sector
Minster for Children and Families	Department of Children and Families	Child protection Family and parent support services Family violence services
Minister for Correctional Services	Department of Correctional Services	Correctional services Prisons Youth detention
Minister for Health	Menzies School of Health Research	University medical education and research
	Department of Health	Health Mental health services Food standards Water quality
	Department of the Attorney-General and Justice	Health and Community Services Complaints Commission
Minister for Alcohol Rehabilitation	Department of Health	Alcohol treatment and rehabilitation
Minister for Disability Services	Department of Health	Services to the disabled
Minister for Education	Charles Darwin University	University education and research
	Batchelor Institute of Indigenous Tertiary Education	Education and vocational training programs for Indigenous people
	Department of Education	Distance education Grants for educational organisations Student assistance schemes Planning, development and administration of pre-school, transition, primary, middle, secondary and vocational education and training

*Note: The content of the principal areas of government have been abbreviated.

Table 10.1 (continued)

Minister of the Territory	Agency	Examples of principal areas of government*
Minister for Lands, Planning and the Environment	Department of Lands, Planning and the Environment	Conservation Land Corporation Darwin Waterfront Corporation Northern Territory Environment Protection Authority Climate change Environmental assessment Lands administration Land use planning and development assessment
Minister for Primary Industry and Fisheries	Department of Primary Industry and Fisheries	Animal welfare Fisheries management Primary industry biosecurity Primary production and industry development
Minister for Mines and Energy	Department of Mines and Energy	Energy (oil, gas and geothermal) policy Mining development Environmental management of mining operations Mining titles administration Petroleum titles administration
Minister for Land Resource Management	Power and Water Corporation	Electricity generation and supply Public sewerage and supply operations Public water supplies operations
Minister for Central Australia	Department of the Chief Minister	Central Australian matters
Minister for Housing	Department of Housing	Chief Executive Officer (Housing) Community and social housing Indigenous housing Homelessness
Minister for Tourism	Tourism NT	Territory tourism Tourist strategy and infrastructure
Minister for Sport, Recreation and Racing	Department of Sport, Recreation and Racing	NT Institute of Sport Sport and recreation Sporting events
Minister for Arts and Museums	Department of Arts and Museums	Museums and Art Galleries Board of the Northern Territory Archives management Arts and cultural development
Minister for Transport	Department of Transport	The Australasia Railway Corporation Aviation industry Domestic and international air services Freight industry Logistics industry Maritime industry Road network management Transport assets Transport policy and planning
	Darwin Port Corporation	Darwin Ports harbourmaster
Minister for Infrastructure	Department of Infrastructure	Assets and program management Infrastructure provision Procurement

*Note: The content of the principal areas of government have been abbreviated.

Table 10.1 (continued)

Minister of the Territory	Agency	Examples of principal areas of government*
Minister for Multicultural Affairs	Department of the Chief Minister	Multicultural affairs
Minister for Senior Territorians	Department of the Chief Minister	Senior territorians policy
Minister for Young Territorians	Department of the Chief Minister	Youth affairs
Minister for Community Services	Aboriginal Areas Protection Agency	Aboriginal sacred sites
	Department of Community Services	Community development for remote communities and homelands Coordination of funding of essential services to remote Indigenous communities Interpreting and translating services Men's policy
Minister for Women's Policy	Department of Community Services	Women's policy
Minister for Parks and Wildlife	Parks and Wildlife Commission of the Northern Territory	Botanic gardens Management of territory parks and reserves Wildlife management Territory Wildlife Park and Alice Springs Desert Park
Minister for Statehood	Department of the Attorney-General and Justice	Constitutional development Statehood
	Department of the Legislative Assembly	Constitutional conventions

*Note: The content of the principal areas of government have been abbreviated.

Chapter 11 — Integrity and accountability bodies

Introduction

The most distinguishing difference for governance and accountability in the public sector compared to the private sector is parliament (as described on p 3). The influence of parliament, its powers and its processes are without equivalent in the private sector. In addition, the Commonwealth and states have a raft of integrity and accountability bodies which provide a sound foundation for ethical and accountable government.

The role of the auditor-general

The auditor-general was the first officer of the parliament created in the colonial government to provide the parliament with a means of holding the agencies of government accountable at a more detailed level.

Governments are obliged to account to their citizens, through parliament, for the management of public funds and for the achievement of agreed outcomes. They must ensure that funds are properly raised, protected from loss and spent with maximum efficiency and effectiveness for the purposes approved by parliament. This duty to account is discharged, in part, by the introduction of annual financial statements. Financial statement audits are an independent examination of the financial accounting and reporting of public sector entities. The results of the examination are presented in an auditor's report, which expresses an opinion on whether the financial statements fairly reflect the results of each entity's operation and its financial position. Auditors-general also have, variously, mandates for performance audits. These examine aspects of efficiency, effectiveness, economy and compliance. Some auditors-general also have powers to audit the appropriateness and integrity of performance indicators and audit performance data used by agencies for their public reporting. Some have also been given powers to follow the money trail and audit the application and disposition of funds beyond their jurisdiction.

The auditor-general in each state and the Commonwealth is responsible for ensuring that this is done in relation to the operation of the public sector in their respective jurisdictions.

The auditors-general are responsible for audits under their respective financial management, audit and government corporation legislative frameworks, which constitute the main laws governing the appointment, tenure, duties, responsibilities and authority of the auditor-general.

They provide the legal basis for the auditor-general's access to all government information and the freedom to report findings arising from audits to parliament. Auditors-general are also responsible for audits under other relevant legislation governing GBEs, SOCs, local government and the Corporations Act.

The auditor-general also has audit responsibilities in respect of Commonwealth grants and payments to states under Commonwealth legislation.

The Office of the Auditor-General in each jurisdiction is an agency established to assist the auditor-general in meeting his/her statutory requirements. The auditor-general is the administrative head of the office and may engage private sector firms as his/her agents in conducting audits of government entities.

The auditor-general in the Commonwealth and each state and territory is responsible for the administration of their respective financial management and audit acts as they relate to audit matters. They are not part of the government itself. This independence from the executive government of the day is vital if the auditor-general is to perform effectively and make independent and unbiased judgments.

The auditor-general is an independent officer of the parliament and is not subject to control or direction either by the parliament or the government. The auditor-general typically reports to the Public Accounts Committee in parliament.

The role of the ombudsman

Another officer of the parliament is the ombudsman. The ombudsman's office exists in the Commonwealth, states and territories. Generally, these offices handle complaints, conduct investigations, perform audits and inspections, encourage good administration, and carry out specialist oversight tasks. They investigate complaints about the decisions of state government agencies and work with them to improve decision-making. The ombudsman's office in each jurisdiction is usually the last line of assistance to individuals and will not normally investigate a complaint until the individual has exhausted all regular avenues of appeal or review available. The ombudsman does not provide legal advice, representation or act as an advocate. Typically, the ombudsman will have a parliamentary committee that oversees their operations.

Anti-corruption bodies

Across the states there are a variety of anti-corruption bodies which provide for independent reviews of aspects of the public sector. Typically, these bodies will have a parliamentary committee that oversees their operations. Some examples of these types of bodies include:

- **Crime and Misconduct Commission (Queensland):** an independent statutory body, established under the *Crime and Misconduct Act 2001* (Qld) to fight major crime, promote public sector integrity and protect witnesses. The commission came into existence on 1 January 2002 with the merger of the Criminal Justice Commission and the Queensland Crime Commission. The act gives the commission powers to gather vital evidence and information to combat crime and misconduct falling within their jurisdiction. These include a range of search, surveillance and seizure powers as well as the power to conduct coercive hearings.
- **Independent Commissioner Against Corruption (New South Wales) — ICAC:** established by the NSW Government in 1989 in response to growing community concern about the integrity of public administration in NSW. Its principal functions are set out in the *Independent Commission Against Corruption Act 1988*, and include:
 - investigation and uncovering of corrupt conduct in the NSW public sector
 - active prevention of corruption through advice and assistance, and
 - education of the NSW community and public sector about corruption and its effects.

The jurisdiction of the ICAC extends to all NSW public sector agencies (except the NSW Police Force) and employees, including government departments, local councils, members of parliament, ministers, the judiciary and the governor. The ICAC's jurisdiction also extends to those performing public official functions.

Integrity commissions

In a similar manner, some jurisdictions have integrity commissions set up to improve the standard of conduct and ethics of public sector entities.

Integrity commissions may also work towards enhancing public confidence that misconduct in the public sector will be appropriately investigated and dealt with. Integrity commissions are generally also responsible for taking on an educative, preventative and advisory role through educating the public about integrity and misconduct, as well as making findings and recommendations in relation to investigations.

Some examples of these types of bodies include:

- **Integrity Commissioner (Queensland):** an officer of the Queensland parliament, who is independent and whose role and functions are set out in a statute. Empowered under the *Integrity Act 2009*, which came into force on 1 January 2010, the Integrity Commissioner provides advice on integrity and ethics issues and is responsible for maintaining the lobbyists register.
- **Integrity Commission (Tasmania):** an independent body established on 1 October 2010 under the *Integrity Commission Act 2009*, the commission focuses on prevention and education, assisting the public sector to deal with misconduct and educating public officers and the public about integrity. The commission also deals with allegations and complaints of misconduct about public officers, making findings and recommendations as a result of their investigations.

Public sector commissions

In each of the state and territory jurisdictions there may be public sector commissions or equivalent bodies which generally provide advice to the premier and government on the administration of the public service and the management and employment of public service employees.

Commissions also ensure that the public service has the human resource and organisational capacity to deliver on government outcomes.

Commissions establish policies, guidelines and procedures which support government agencies to attract, recruit and maintain a high-performing workforce. The policies and guidelines are underpinned by principles of public service management and employment. The commissions also provide a framework for ethical decision making and coordinate sector-wide training and development programs, including programs for heads of departments.

Information commissions

These generally exist in each state and most territories to promote and enhance freedom of information and privacy, as well as functions relating to information policy. They promote access to government-held information, and protect people's personal information held by the public sector.

The office of the commissioner may provide the following to individuals (depending on the authority provided by government):

- an understanding of their privacy rights and responsibilities
- mediation of privacy complaints which individuals have not been able to resolve with the government agency involved
- reviews and audits of privacy compliance
- provision of compliance notices for serious, flagrant or recurring breaches of the privacy principles, and
- waiving or modifying an agency's privacy obligations for a particular purpose or project.

Regulatory bodies

Similar to the private sector, a raft of regulatory bodies (usually topical or function-specific) have been established to provide oversight of specific areas deemed to be high risk or requiring closer accountability than the more general processes provide — for example, liquor and gaming regulation bodies. Regulatory bodies exist as a whole class of government agency and the tendency has been for more of them to be created over time. These may take many administrative forms, and in some jurisdictions there are hundreds.

Administrative law

Another important component of public sector accountability is provided via administrative law, typically through quasi-judicial bodies such as the Administrative Appeals Tribunal, or Administrative Decisions Judicial Review. These bodies provide protection from the abuse of power by public servants in the exercise of their often significant administrative powers (such as licencing and approvals). They typically provide for a lower cost and relatively faster channel of review for disputants than through the civil courts.

Table 11.1: Comparative analysis of integrity arms of government

Integrity officer/body	Cth	NSW	QLD	SA	TAS	VIC	WA	ACT	NT
Auditor-General	✓	✓	✓	✓	✓	✓	✓	✓	✓
Independent anti-corruption body/commission (public sector anti-corruption body or police anti-corruption body)		✓	✓	✓		✓	✓		
Integrity Commissioner	✓	✓	✓		✓			✓*	✓*
Ombudsman	✓	✓	✓	✓	✓	✓	✓	✓	✓
Information Commissioner (including privacy)	✓	✓	✓		✓**	✓		✓	✓
Public Service Commissioner/Commission	✓	✓	✓	✓	✓	✓	✓		✓
Health and quality complaints		✓	✓	✓	✓	✓	✓		✓
Anti-Discrimination Commissioner	✓	✓	✓	✓	✓	✓	✓	✓	✓

* The National Integrity Commission Bill 2012 includes a provision which allows for the ACT and NT to contract the National Integrity Commission to operate in respect of their territory.

** The Tasmanian Ombudsman may receive and investigate complaints in relation to information and privacy concerns.

Glossary of terms

Term	Description
Appropriation	<p>For departments, an amount for a financial year under an annual appropriation Act which:</p> <p>(a) authorises the treasurer to pay from the consolidated fund; and</p> <p>(b) appropriates for the financial year an amount to be applied to the departmental services, administered items and equity adjustment of each department</p>
Cabinet	Term used to describe the meeting of all the (or subset of) ministers of the Crown in a central collective body, the functions of which are the initiation, direction and co-ordination of government policy
Executive	Term applied to heads of government departments who are responsible to the relevant minister for the work performed within his/her portfolio. Although ministers are held responsible to the parliament for their portfolios, the executive are utilised by ministers to assist them in the administration of their parliamentary duties.
Executive Council	<p>Consists of ministers of the Crown appointed by the governor. The Executive Council exists to advise the governor on the exercise of the powers of the governor in council. The term 'Governor in Council' means 'the governor acting with the advice of the executive council'.</p> <p>The Governor in Council gives legal effect to many of the decisions and actions of government. For example, it makes subordinate legislation for the state, including regulations.</p> <p>Administrative action under numerous acts, such as appointments and approving deeds and leases, can only be carried out by the governor in council.</p>
Parliament	Consists of the Queen (normally executed by the state governor or governor-general) and the Legislative Assembly. Consists of the appointed members of parliament and is usually chaired by the speaker, who is nominated by the party in the majority to exercise impartiality in his/her control of the parliamentary debates and in his/her judicial role of enforcing and interpreting the standing orders. Parliament may also consist of a Senate or House of Review.
Prime minister/ premier	Leader to the reigning political party elected by the voters. He/she is commissioned by the governor to form a government. The allocation of ministerial portfolios, however, is the sole prerogative of the premier or, where applicable, chief minister.

Term	Description
Statutory body	<p data-bbox="336 441 1000 667">Created under an act. The existence of statutory bodies reflects decisions where it has been deemed desirable for particular activities to operate outside a traditional departmental structure. Statutory bodies generally have a primary role that they are established to carry out, subject to varying degrees of ministerial control specified in the enabling legislation. Statutory bodies are usually established for the following reasons:</p> <ul data-bbox="336 678 979 837" style="list-style-type: none"><li data-bbox="336 678 979 741">• a need for some operational independence from the government<li data-bbox="336 748 979 810">• independent funding arrangements not reliant on annual appropriations processes, or<li data-bbox="336 817 979 837">• a need to establish a separate legal entity.

New South Wales & ACT

T (02) 9223 5744

F (02) 9232 7174

E nsw@governanceinstitute.com.au

Queensland

T (07) 3229 6879

F (07) 3229 8444

E qld@governanceinstitute.com.au

South Australia & Northern Territory

T (08) 8132 0266

F (08) 8132 0822

E sa@governanceinstitute.com.au

Victoria & Tasmania

T (03) 9620 2488

F (03) 9620 2499

E vic@governanceinstitute.com.au

Western Australia

T (08) 9321 8777

F (08) 9321 8555

E wa@governanceinstitute.com.au

governanceinstitute.com.au

