



ACT
Government



ACT GAMBLING AND RACING COMMISSION

Governance Framework

June 2023

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Foreword

This document describes the governance framework endorsed by the Chief Executive Officer of the ACT Gambling and Racing Commission (the Commission). It is provided to support and guide the Commission in the delivery of its responsibilities. This document:

- outlines the Commission's approach to governance including the arrangements which promote consistency, accountability, transparency, integrity, stewardship, leadership and efficiency, and
- assists in the maintenance of a robust system of governance within a set of principles for self-regulation.

The Governance Framework encompasses the principles and context which ensure that the Commission operates as an efficient, effective and well managed organisation. The Governance Framework Guide describes the processes, relationships and structures by which officers are guided and held to account. Together, the framework and guide assist officers of the Commission to plan and manage activities and to deliver on the expectations of Government and the ACT community.

The Governance Framework is designed to ensure that all officers managing the Commission's activities understand their personal accountabilities. Officers have legislated responsibilities as a member of the ACT Public Service under the *Public Sector Management Act 1994* and, where applicable, as a delegate of the Commission.

Structure

The Governance Framework is set out in two parts. The first part, the Governance Principles, provides the statement of purpose, the core principles of governance to which the Commission is committed and outlines the sources of accountability for members of the ACT Public Service and other officers.

The second part, the Governance Framework, provides further detail on how the Commission is structured to address and support accountability and decision making. The document also outlines the frameworks which assist decision makers in discharging their accountabilities.

Governance Principles

Introduction

As an independent body with the responsibilities conferred through *Gambling and Racing Control Act 1999*, the Commission must operate as an effective and well managed organisation. This framework outlines the elements of governance and is grounded in legislation that sets out the Commission's roles and responsibilities.

The Commission has put mechanisms in place that allow it to meet the two main requirements:

- performance, whereby the Commission uses governance arrangements to contribute to its overall performance against objectives and the delivery of its outcomes, and
- conformance, whereby the Commission uses governance arrangements to ensure it meets legislated requirements, published standards and community expectations of probity, accountability and openness.

Risk management underpins the Commission's approach to achieving both the performance and conformance objectives. An integrated risk management system has developed a control environment which provides reasonable assurance that the organisation will achieve its objectives with an acceptable degree of risk.

For the purpose of this framework, the Commission has chosen to use the definition of public sector governance that the Australian National Audit Office (ANAO) uses in *Public sector governance: strengthening performance through good governance*¹. The ANAO in this guide refers to public sector governance as the arrangements and practices which enable a public sector entity to set its direction and manage its operations to achieve expected outcomes and discharge its accountability obligations. It encompasses leadership, direction, control and accountability, and assists an entity to achieve its outcomes in such a way as to enhance confidence in the entity, its decisions and its actions.

Overview

The Commission has established this Governance Framework to provide robust and coherent arrangements for decision making, accountability and organisational management. In addition, the governance framework – delivered through the organisational structures, delegations and supporting materials – are intended to build a strong organisational culture of accountability.

The governance framework is also designed to provide the conditions for:

- unified leadership by providing management and officers with clearly defined responsibilities;
- high performance through integration of functions as well as strategic, operational and individual performance planning and management processes;
- a decision making environment that continually considers risk and provides appropriate transparency in managing situations that prevent us from meeting our objectives;
- a culture of working together to seek solutions and solve problems, and
- providing the foundations and arrangements that will embed risk management throughout the organisation at all levels.

¹<https://apo.org.au/sites/default/files/resource-files/2014-06/apo-nid40252.pdf>

Accountability

Accountability is central to ensuring the ACT Government performs its functions effectively, efficiently, ethically and in the best interests of the Territory community. The accountabilities of the Chair and Members of the Commission are described in the *Financial Management Act 1996*. Accountability in a public sector context defines the expectations of the public in relation to the responsible exercise of public power, on matters such as financial probity and behavioural integrity.

Accountability requires that public sector employees are answerable for their decisions and have appropriate mechanisms to ensure adherence to relevant standards.

ACT Public Service Accountability Framework

All ACT Public Service (ACTPS) employees work within an accountability framework comprising a continuum of accountability relationships:

- the ACT Government is accountable to the Legislative Assembly and ultimately to the community;
- Ministers are responsible for the overall administration of their portfolios and accountable to the ACT Government for the exercise of Ministerial authority;
- the Commission is responsible to the Minister and the ACT Government for the administration of the ACT gambling and racing legislation and the associated powers and functions;
- public servants are accountable to the Commission for the exercise of delegated authority and through them to the ACT Government; and
- public servants are also accountable for their performance through management systems. The ACTPS Values make specific reference to the broader accountability obligations of the ACTPS.

The continuum above is reflected in *Public Sector Management Act 1994* which states the ACTPS is accountable for its actions, within the framework of ministerial responsibility to the ACT Government, ACT Legislative Assembly and the ACT community.

Risk Management

The ACT Government is committed to robust risk management practices, recognising that risk management is an integral part of good management. The ACT Insurance Authority (ACTIA) has been tasked under the *Insurance Authority Act 2005* with promoting good risk management practices and giving advice to the Minister about the management of Territory risks. ACTIA promotes the adoption of good risk management practices throughout all ACT Government directorates and organisations.

A risk-based approach underpins the delivery of all government services and the implementation of policy initiatives. The Commission will achieve this through implementing the ACT Government's Risk Management Framework that is proactive, systemic, transparent and structured in its approach to managing risk.

Communication and consultation with external and internal stakeholders should take place during all stages of the risk management process and accordingly, plans should be developed at an early stage. All organisational decisions are to incorporate and reflect an objective assessment of the risks and opportunities that might arise in relation to each option put forward as part of the analysis.

Decision Making

The Commission, including officers, committees, and the supporting systems and frameworks provide mechanisms for direct decision making or escalation for decision. A risk-based decision-making approach requires a decision to be escalated when:

- a risk rating has changed or become very high or extreme;

- the progress of a project or operations that are major deliverables for the Commission is at risk, or subject to high levels of public scrutiny; or
- a significant implication occurs for the status of financial, people and information management.

Delegations

The scale and complexity of administrative work within the Commission means that some devolution of authority is necessary so that the Commission is able to function effectively. This typically occurs through delegation of authority. Delegation arrangements are primarily aligned to the organisation's structure and management levels.

The Board's decisions with regard to the extent to which some or all administrative responsibilities are delegated are reflected in the Financial Delegations approved by the Board.

Although the responsibilities for policy, program and project delivery are delegated, there is a clear expectation that sections will consult widely to manage risk, share knowledge and identify opportunities for improvement.

Statement of Commitment to Seven Core Governance Principles

The Commission is committed through this framework to the application of governance principles to support its officers in the execution of their powers and functions. These principles are drawn from the Australian National Audit Office. In addition, the final principle listed is adapted from the Australian Security Exchange (ASX) Corporate Governance principles and affirms the risk-based approach of the Commission. These seven core principles are further elaborated with statements of commitment.

Accountability: being answerable for decisions and having meaningful mechanisms in place to ensure the Commission adheres to all applicable standards. To achieve this the Commission will:

- organise itself in such a way that we understand its responsibilities and accountabilities;
- empower officers with the knowledge, skills and resources to exercise responsibilities consistent with their role and level; and
- establish frameworks and structures to provide escalation points to handle issues where the risk exceeds the responsibilities of an individual.

Fulfilling these commitments will enable the Commission to satisfy external scrutiny and be answerable for their decisions and actions.

Transparency: having clear roles and responsibilities and clear procedures for making decisions and exercising power. To achieve this, the Commission will:

- maintain accurate, accessible records of the reasons for our decisions and actions;
- be informed, when developing policies or projects by open, meaningful consultation with stakeholders; and
- provide well-founded frank and fearless advice to Government.

Fulfilling these commitments will ensure that stakeholders can have confidence in the decision-making processes and actions of the Commission.

Integrity: acting impartially, ethically and in the interests of the Commission, and not misusing information acquired through a position of trust. To achieve this, the Commission will:

- promote a culture of responsibility, prudence and probity and expect to communicate with officers and stakeholders in a straightforward, honest and objective way; and
- provide training and support to our officers to build their knowledge and skills.

Fulfilling these commitments will ensure that the Commission and its officers display high standards of propriety and probity in the stewardship of public funds and resources, and in managing the Commission affairs.

Stewardship: using every opportunity to enhance the value of the public assets and institutions that we have been entrusted to care for. To achieve this, the Commission will:

- recognise that the Commission exercises powers and manages resources on behalf of the Territory and that we are stewards of those powers and resources;
- seek to maintain or improve our capacity to serve the Government and the public over time by ensuring the financial sustainability of our programs and that risks are managed appropriately; and
- seek to build and maintain trust in our own organisation and the Government of the day.

Fulfilling these commitments will ensure that the capacity of the Commission to serve the ACT Government and that public interest is maintained and improved over time.

Leadership: achieving a Commission wide commitment to good governance through leadership from the top. To achieve this the Commission will:

- lead by example and support each other to follow the core principles and make appropriate choices;
- promote a culture that seeks solutions to difficult problems;
- be respectful of our people, recognising the skills and contributions that each individual can make; and
- balance concern for our people with the importance of management for the greater good of the Commission and the ACT community.

Fulfilling these commitments will ensure that the Commission is focused on developing a creative and innovative culture where people can achieve fulfilment in their work.

Efficiency: ensuring the best use of resources to further the aims of the organisation, with a commitment to evidence-based strategies for improvement. To achieve this, the Commission will:

- make best use of our resources to further the aims of the Commission by basing our decisions on evidence, risk assessments and the application of the merit principle; and
- make objective choices about our business and public appointments, awarding contracts and recommending individuals for reward or promotion based on merit and assessed on publicly declared criteria.

Fulfilling these commitments will ensure that the ACT community obtains value for the money it provides to enable the Commission to work for its benefit.

Recognise and manage risk: establish a sound system of risk oversight, management and internal control. Risk management can enhance the operating environment by identifying and capitalising on opportunities to deliver on the Commission's mandate. To achieve this the Commission will:

- take a risk-based approach to our activities and decisions;
- manage risk on a clear understanding of objectives and awareness of the multiple contexts in which the Commission and its stakeholders operate; and
- the Commission will utilise the ACT Government's Risk Management Framework to develop its risk management plan.

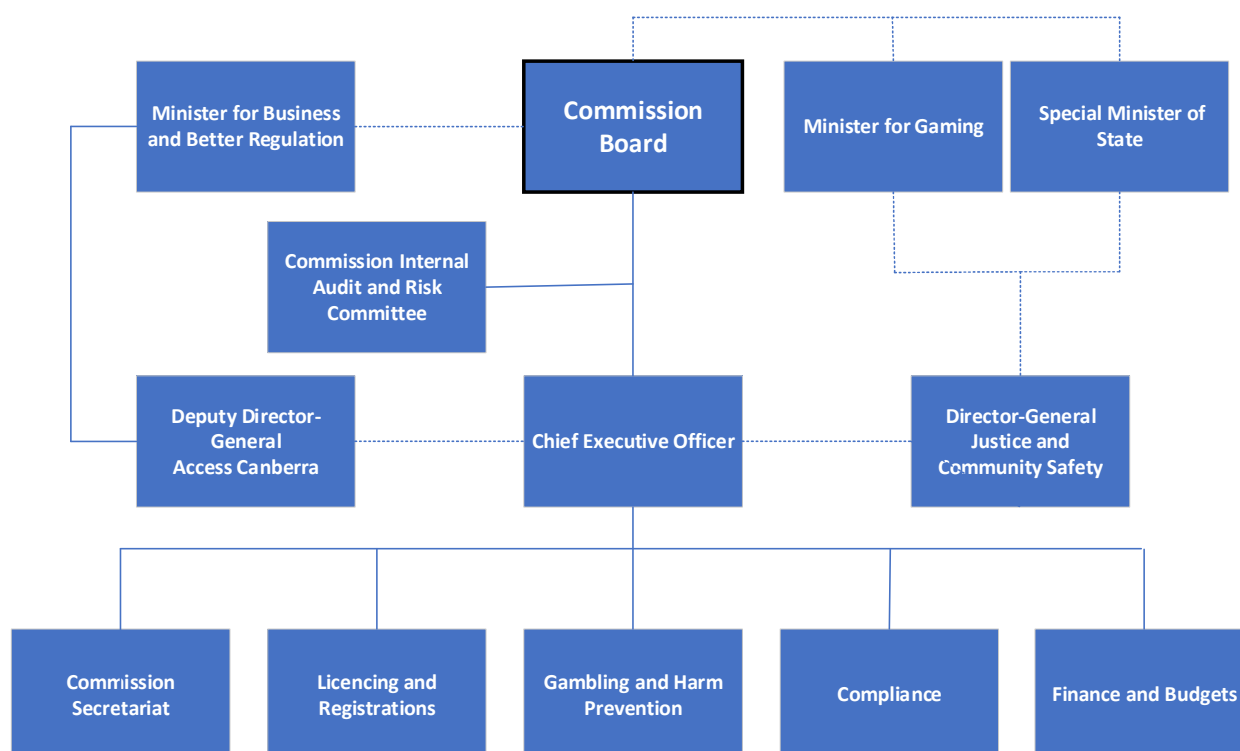
Fulfilling these commitments will ensure that the Commission is actively managing its responsibilities in the achievement of its objectives.

Governance Framework

This guide aims to elaborate on the features, responsibilities and governance structures that incorporate the Commission's Governance Framework. It is important that all officers understand the framework within which they work. This guide further details the Commission's arrangements, roles, responsibilities and specific legislative requirements.

Organisation Governance Structure

The following diagram depicts the Governance structure of the Commission, including the individual committees and functions.



ACT Gambling and Racing Commission

The Commission is an independent body established under section 5 of the *Gambling and Racing Control Act 1999*.

The Commission's functions and powers are specified in sections 6 through 8 of the *Gambling and Racing Control Act 1999*, as follows:

Section 6 (1) states that the functions of the Commission are:

- a) to administer the gaming laws;
- b) to control, supervise and regulate gaming in the ACT; and
- c) to exercise any other function given to the Commission under this Act or any other Territory law.

Section 6 (2) provides that the functions of the Commission include:

- a) regulating:
 - i. the activities of casinos;
 - ii. machine gaming;
 - iii. lotteries;
 - iv. racing, as provided in the *Racing Act 1999*;
 - v. betting; and
 - vi. interactive gambling.
- b) approving gaming and racing activities;
- c) monitoring and researching the social effects of gambling and of gambling harm;
- d) providing education and counselling services;
- e) engaging in community consultation, as appropriate, on matters related to its functions;
- f) reviewing legislation and policies related to gaming and racing and making recommendations to the Minister on those matters;
- g) monitoring, researching and funding activities related to gaming and racing;
- h) investigating and conducting inquiries into:
 - i. issues related to gaming and racing; and
 - ii. activities of people in relation to gaming and racing, for the purpose of exercising functions under a gaming law; and
- i) collecting taxes, fees and charges imposed or authorised by or under gaming laws.

Section 6 (3) allows the Minister to direct the Commission by way of:

- a) guidelines directing the way the commission is to exercise any of its functions; or
- b) directions in writing relating to particular matters.

Section 7 states that the Commission must exercise its functions in a way that best promotes the public interest, and in particular, as far as practicable:

- a) promotes consumer protection;
- b) minimises the possibility of the criminal or unethical activity; and
- c) reduces the risks and costs, to the community and individuals concerned, of gambling harm.

Section 8 requires the Commission to engage in community consultation when reviewing legislation and policies in providing recommendations to the Minister.

Section 10 allows the Commission to delegate the Commission's functions under the *Gambling and Racing Control Act 1999* or another territory law to a public servant.

Commission Board

The Board consists of the Chair and members and represents the independent body formed under the *Gambling and Racing Control Act 1999*. The Board as a collective has no powers to direct employees. A member's role is not to manage the day-to-day operations of the Commission. Rather, they put in place strategies, policies and directions to guide the officers of the Commission in their conduct of the Commission's operations to ensure that its objectives are met.

Under section 56 of the *Financial Management Act 1996* the Board is responsible to the Minister, for the efficient and effective financial management of the authority. Section 77 of the *Financial Management Act 1996* provides that a governing board has the following functions;

- a) setting the authority's policies and strategies;
- b) governing the authority consistently with the authority's establishing Act and other relevant legislation;
- c) ensuring, as far as practicable, that the authority operates in a proper, effective and efficient way; and
- d) ensuring, as far as practicable, that the authority complies with applicable governmental policies.

The Chair and members have collective decision making powers and with the exception of the Chief Executive, are non executives of the independent body. One member must have knowledge, experience or qualifications related to providing counselling services to problem gamblers.

The Chair of the Commission has no powers over and above those of ordinary members other than the authority to convene meetings and to preside at all meetings at which they are present.

Chief Executive Officer

The Chief Executive Officer (CEO) of the independent body has responsibilities under the *Financial Management Act 1996* and the *Public Sector Management Act 1994*. As such, the CEO is responsible for all decisions taken within, and for all actions subsequently taken by, the Commission.

The CEO has an important role in providing advice, implementing Board decisions and meeting the Commission's objectives within a whole of government context. The CEO is entrusted to build the organisation to support the Commission in administering the gambling and racing legislation and directs the staff of the Commission.

Accountability Roles

A number of accountability roles exist between the Commission and Access Canberra. These roles are based on an underlying organisation hierarchy of Access Canberra with appropriate accountability placed across the management structure. These roles exist to support the Board and CEO meet accountabilities and to support the strategy formulation and organisational policy making responsibilities.

Audit and Risk Committee

The Commission Board has established an Audit and Risk Committee as part of its responsibilities in relation to the corporate governance of the Commission. The objective of the Audit and Risk Committee is to provide assurance and assistance to the Board members and CEO on the Commission's risk, control and compliance framework, and its external accountability responsibilities, including providing assurance over the preparation of the Commission's Annual Financial Statements. Where management of risks is to a level that is not consistent with the Commission's risk appetite, they are escalated to the Board.

The Chair of the Board is not a member of the Internal Audit and Risk Committee.

Supporting Documents and Frameworks

Statement of Intent

In accordance with section 61 of the *Financial Management Act 1996*, the Commission prepares in consultation with the Minister for Business and Better Regulation an annual Statement of Intent. The Commission's Statement of Intent outlines the expected contribution to the Government's priorities over the next four years and includes the key performance expectations of the Commission in regard to these priorities. The Statement of Intent contains a baseline of forecast performance information against which Ministers, Members of Legislative Assembly and the public can assess the Commission's actual performance in contributing to the ACT Government's outcomes.

The CEO has responsibility for implementing the Statement of Intent and ensuring that targets are met; managing day-to-day operations and allocating resources within approved budget; and advising the Board about operations and financial performance and any significant events.

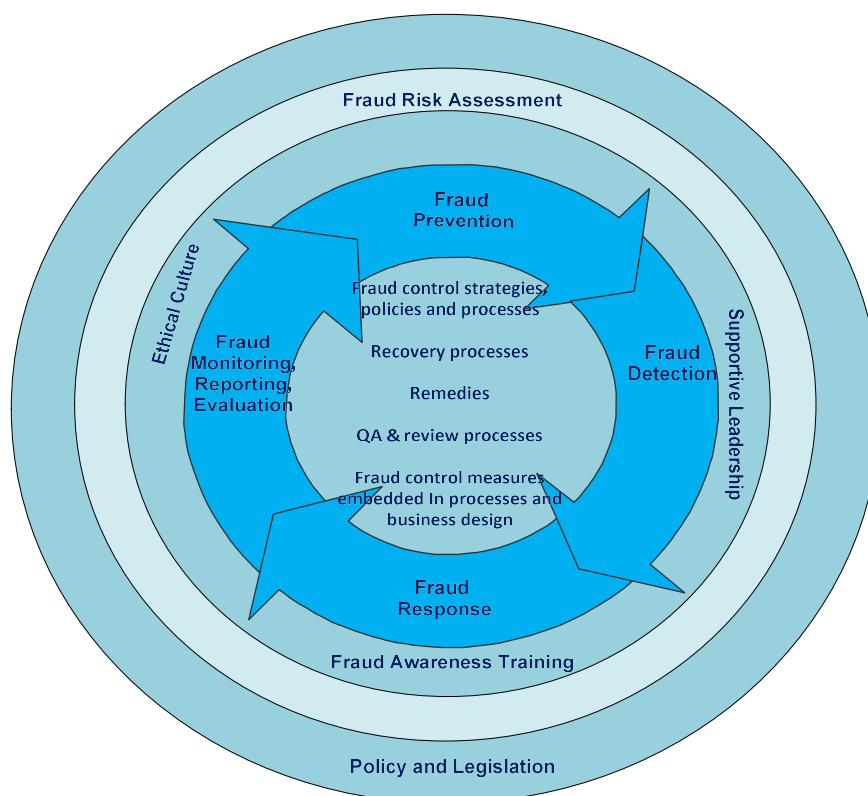
Risk Management Framework

The Commission utilises the Chief Minister, Treasury and Economic Development Directorate's Risk Management Framework and Policy. The Framework details the foundations and organisational arrangements for designing, implementing, monitoring, reviewing and continually improving risk management throughout the Commission.

The Risk Management Framework is consistent with the ACT Government Risk Management Policy 2019 and the AS ISO 31000:2018 Risk Management – Principles and Guidelines standard.

Fraud Control Measures

The Commission is committed to minimising the incidence of fraud through the identification of fraud risk and the development, implementation and ongoing review of our fraud control measures. These measures will include a series of fraud control prevention, detection and response strategies, as detailed in the diagram below.



The Commission recognises the responsibility of all ACT Government agencies to develop, encourage and implement sound financial, legal and ethical decision making practices.

The Commission has prepared a fraud control plan to holistically manage the prevention and detection of fraudulent activities. This plan has been developed in conjunction and with reference to the Commission's Risk Management Framework and incorporates fraud risks on a strategic operational and tactical level.

Business Planning and Performance Reporting Framework

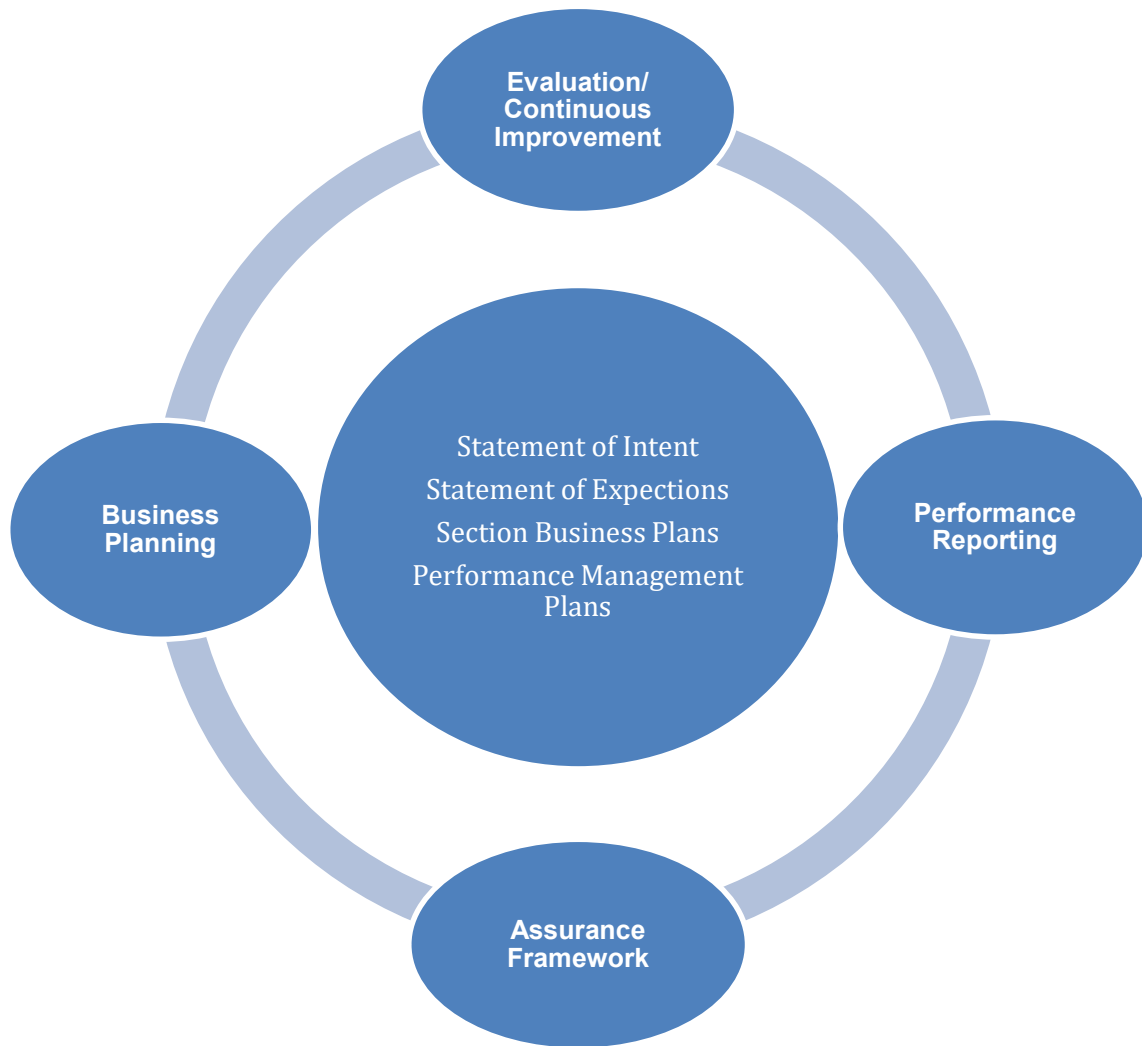
The Business Planning Framework articulates the outcome and objectives the Commission intends to achieve in the coming year, identifies how this will be achieved, the resources available and the identified risks to achieving this outcome.

The Business Planning Framework consists of a number of documents designed to articulate the business priorities and deliverables at the various levels within the Commission. The Business Planning Framework will be aligned with the internal resource allocation, individual performance and development framework, risk management and the internal reporting frameworks.

A business planning and management cycle helps to drive the process and sequencing interdependent activities that include:

- Statements of Intent and internal budget allocations;
- strategic planning;
- business planning;
- annual reporting; and
- performance management.

The following diagram illustrates the core activities that occur within the cycle.



Statement of Expectations

The Statement of Expectations proactively communicates the Commission's priorities for risk-based regulation, by developing and publishing a statement of expectation regarding regulatory priorities and areas of focus, with yearly reporting to occur against activities undertaken in line with the statement.

Section Business Plan

The Section Business Plan details the responsibilities, deliverables, products, performance measures and resource allocation to deliver the outputs which contribute to the Commission's outcome. It also outlines the operational requirements of the Section.

Performance Management Plan

Individual performance management plans reflect the individual contribution to the Commission's Annual Business Plan and Section Business Plan. A direct line of accountability should be able to be drawn between the Commission's outcome and the individuals' performance development plan.

Audit and Assurance

Audit and Risk Committee

The Commission Board has established an Audit and Risk Committee as part of its responsibilities in relation to the corporate governance of the Commission. The objective of the Audit and Risk Committee is to provide assurance and assistance to the Board members and CEO on the Commission's risk, control and compliance framework, and its external accountability responsibilities, including providing assurance over the preparation of the Commission's Annual Financial Statements. Where management of risks is to a level that is not consistent with the Commission's risk appetite, they are escalated to the Board.

The Chair of the Board is not a member of the Internal Audit and Risk Committee.

Audit and Assurance

Good governance requires that a high level of assurance is provided to the Board, CEO and other staff on the extent to which:

- objectives are being achieved;
- risk is being effectively managed; and
- systems of internal controls are operating as designed and in accordance with relevant legislation and policy.

The Commission's Financial Statements and Statement of Performance are subject to external scrutiny on an annual basis by the ACT Auditor-General. This is a mandatory requirement as outlined in section 29 and 30(C) of the *Financial Management Act 1996*. Under section 12 of the *Auditor-General Act 1996*, the Commission is also subject to ad hoc performance audits.

Record Management

Good governance requires that accurate records are maintained of decisions and the reasons why they were taken. The work of the Commission requires that a range of technologies be applied to support decision making and accountability requirements, as well as communications with Ministers and other stakeholders.

Keeping good records is essential to accountability and for responsibility delegated within the Commission. The purpose of good record management is to accurately guide the Commission's activities.

Responsibilities for records management in the ACT Government context are divided between the Territory Records Office and the Commission. The Commission is responsible for:

- creating and maintaining records of its business;
- creating information and records management policies and procedures;
- establishing clear lines of responsibility for records management;
- ensuring that officers are trained to carry out their records management responsibilities; and
- providing adequate resources for records management activities.

The Territory Records Office is responsible for the implementation of the *Territory Records Act 2002* and the regulation of recordkeeping across the ACT Government. The main purpose of the *Territory Records Act 2002* are:

- to encourage open and accountable government by ensuring that Territory records are made, managed and, if appropriate, preserved in accessible form;

- to support the management and operation of Territory agencies;
- to preserve Territory records for the benefit of present and future generations; and
- to ensure that public access to records is consistent with the principles of the *Freedom of Information Act 2016*.

The *Territory Records Act 2002* empowers the Territory Records Office to preserve the archival resources of the Territory agencies. Under the *Territory Records Act 2002* it is illegal to destroy records without the permission of the Territory Records Office, unless destruction is specified in another piece of legislation. The *Territory Records Act 2002* also establishes the right of public access to Territory records that are more than 20 years old.

The *Freedom of Information Act 2016* allows the public access to most Territory held documents. Against this background, ACTPS employees are also required to provide full and accurate information about the factual and technical background to policies and their administration.