

Governance Framework

2023

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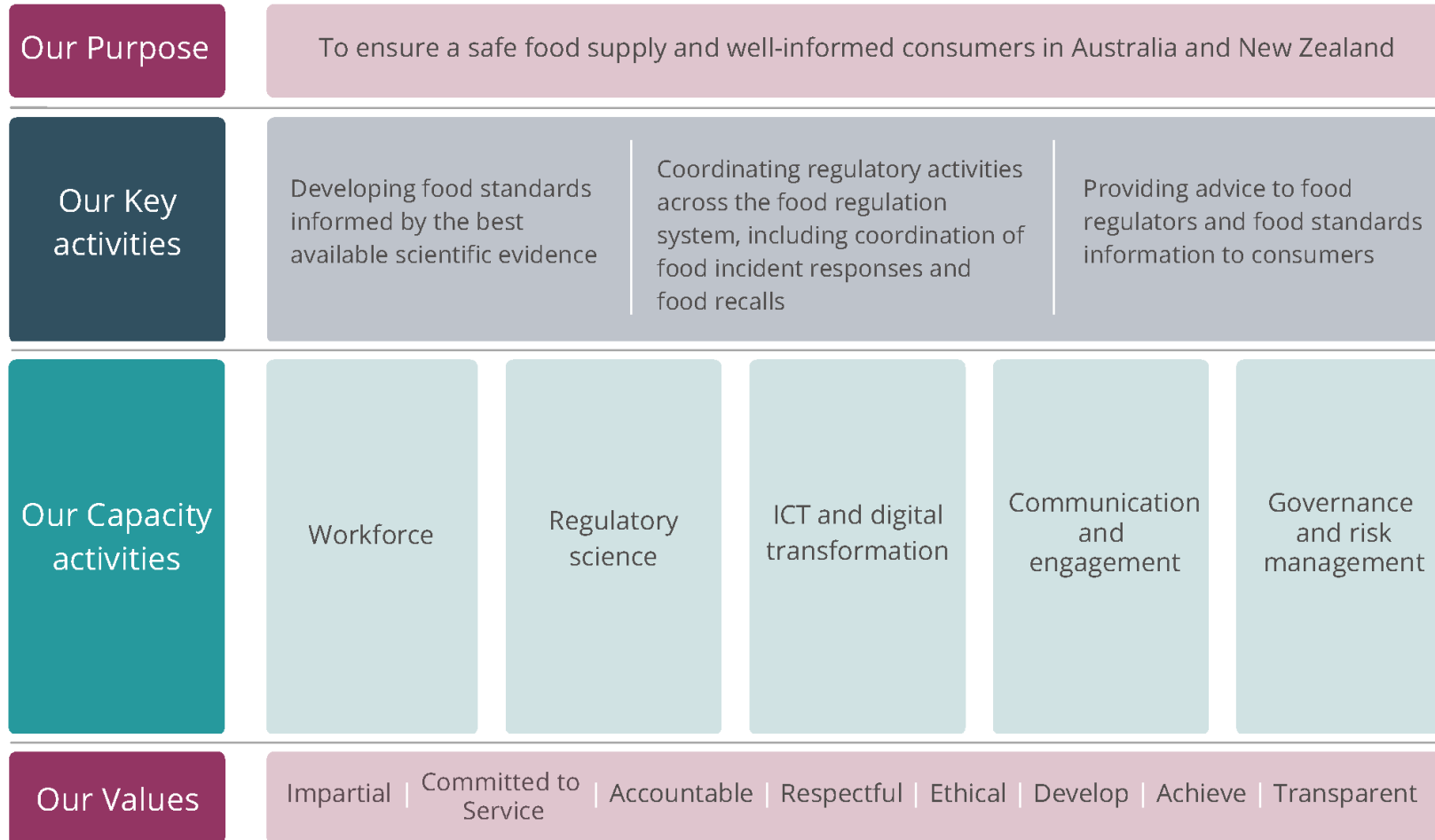
This document provides information on the governance of Food Standards Australia New Zealand.

The Governance Framework is one of a suite of documents that supports the Corporate Plan.

This Framework supports the governance enabler of the Corporate Plan.

Reviewed March 2022

FSANZ Governance at a Glance



1. Introduction

The Food Standards Australia New Zealand (FSANZ) Governance Framework sets out and describes the policy, legal and operational structures and components that define and enable effective agency governance. The Framework incorporates:

- the FSANZ Governance Policy Statement (Section 1.1)
- the sources of authority and accountability relevant to agency operations, including legislation, agreements between governments, subordinate instruments and policy and decision-making bodies (Section 2)
- the system the Board has established to assure itself and its stakeholders that it has good governance for high performance, including the principal operating elements of leadership, compliance, collaboration, risk management, accountability and planning (Section 3)
- programmed evaluation and review (Section 4).

1.1 The FSANZ Governance Policy Statement

The Board and Executive are committed to good governance and effective work processes. Governance arrangements are designed to ensure that:

- decision-making is authorised and accountable; and
- FSANZ contributes effectively to food regulation design and implementation.

Good governance requires:

- the Board and senior management guiding and monitoring our work;
- management and staff disclosing all material matters in a timely and accurate manner; and
- policies to manage our relationships with stakeholders—including employees, Parliament and the public.

2. The FSANZ legal and policy frameworks

The governance and financial management arrangements for FSANZ are determined by our legislative framework — the *Public Governance, Performance and Accountability Act 2013* (the PGPA Act), the *Public Service Act 1999* (the PS Act) and the *Food Standards Australia New Zealand Act 1991* (the FSANZ Act) — the Food Regulation Agreement and an agreement made under the *Agreement between the Government of Australia and the Government of New Zealand concerning a Joint Food Standards System*, which provides a basis for contractual arrangements with New Zealand for the delivery of specific services.

2.1 Public Governance, Performance and Accountability Act 2013

FSANZ is a Commonwealth corporate entity for the purposes of the PGPA Act. The CEO is a member of, and appointed by, the Board.

The Board is the accountable authority for FSANZ, and as such, must govern the entity in a way that promotes:

- the proper use and management of public resources;
- the achievement of the purposes of the entity, and

- the sustainability of the entity¹.

The Board has an agreed Charter which guides the Board's operations and governance of the agency (see section 3.5.1 below).

As we have enabling legislation, subsection 35(3) of the PGPA Act does not apply to the FSANZ Corporate Plan.

2.2 Public Service Act 1999

The Public Service Act (the PS Act) provides for a public service which has a strong performance orientation and is ethical in its approach to governance and program and service delivery.

The PS Act, particularly the Australian Public Service Values, the Australian Public Service Employment Principles and the Australian Public Service Code of Conduct, describes the framework for ethical standards and behaviour for APS employees. These APS Code of Conduct are replicated, in part, in individual employment agreements covering New Zealand-based employees, who are locally engaged employees under section 74 of the PS Act. In general, FSANZ expects locally engaged employees to adhere to standards similar to all other employees, unless modified by employment arrangements or law. Australia-based employees are engaged under section 22 of the PS Act and are APS employees.

The principles of good public administration are embodied in the APS Values. The values require that we are: committed to service; ethical; respectful; accountable; and impartial.

The APS Code of Conduct sets out the standard of conduct required of APS employees. The Code of Conduct is designed to protect the integrity of the APS and thereby maintain public confidence in public administration. The Code of Conduct is set out in section 13 of the PS Act.

The APS Employment Principles include the principle that decisions relating to engagement and promotion are based on merit. The APS recognises the diversity of the Australian community and fosters diversity in the workplace.

2.3 Food Standards Australia New Zealand Act 1991

2.3.1 Object of the FSANZ Act

The object of the FSANZ Act (the Act) is to ensure a high standard of public health protection throughout Australia and New Zealand by means of the establishment and operation of a joint body known as Food Standards Australia New Zealand to achieve the following goals²:

- a high degree of consumer confidence in the quality and safety of food produced, processed, sold or exported from Australia and New Zealand
- an effective, transparent and accountable regulatory framework within which the food industry can work efficiently
- the provision of adequate information relating to food to enable consumers to make informed choices

¹ Public Governance, Performance and Accountability Act, section 15

² FSANZ Act, section 3

- the establishment of common rules for Australia and New Zealand and the promotion of consistency between domestic and international standards applying to public health and consumer protection.

2.3.2 Functions

FSANZ's functions are set out in Section 13 of the Act. These legislative requirements determine the scope of our work: developing food standards for the food regulatory system and working with other parties in the food regulatory system to assure confidence in the safety of food sold in Australia and New Zealand. As a Commonwealth Corporate Entity FSANZ can only perform the functions listed in Section 13 or functions that are conferred under another Commonwealth law.

2.3.3 Powers

FSANZ has powers enabling it to do all things necessary or convenient to be done in connection with the performance of its functions. These powers are listed in section 14 of the Act. FSANZ is not empowered to do any act that is not listed in section 14.

2.3.4 Ministerial Direction

The Australian Minister may give FSANZ policy guidelines formulated by the Food Ministers' Meeting (FMM). These guidelines must be published on the FSANZ website.³

2.3.5 The Board

The affairs of FSANZ are to be conducted by the Board⁴. The Board is to hold such meetings as are necessary for the efficient performance of the Board's functions⁵. A majority of the members of the Board at the time constitute a quorum. Board members may attend Board meetings by telephone, video link or other means of communication⁶.

The Board may establish committees to assist it in carrying out its functions⁷.

2.3.6 The Chief Executive Officer

The Chief Executive Officer is appointed by the Board⁸ and is responsible for the day-to-day administration of FSANZ and the control of operations⁹. The Board may delegate some, but not all, of its powers to the Chief Executive Officer and to the staff of FSANZ¹⁰.

2.3.7 FSANZ Staff

FSANZ staff are engaged by the Chief Executive Officer under the PS Act.

2.4 The Food Regulation Agreement

The Food Regulation Agreement (the FR Agreement) is an intergovernmental agreement between the Commonwealth, the states and the territories which establishes, for Australia, a co-operative federal system of food regulation. The FR Agreement was made in recognition

³ FSANZ Act, subsection 18(3)

⁴ FSANZ Act, section 115 and PGPA Act, section 15

⁵ FSANZ Act, section 122

⁶ FSANZ Act, section 123

⁷ FSANZ Act, section 118

⁸ The appointment process is implemented in accord with the policy of the Australian Government.

⁹ FSANZ Act, section 129

¹⁰ FSANZ Act, section 129

of the need to implement a national system of food regulation and to ensure that all sectors in the food supply chain apply their own mechanisms to manage their food safety risks. The FR Agreement establishes the Food Ministers' Meeting and the Food Regulation Standing Committee, and authorises the Australian Government to establish FSANZ to perform specific functions in the system.

2.5 The Agreement between Australia and New Zealand Concerning a Joint Food Standards System

There is a treaty-level agreement between the Governments of Australia and New Zealand (the Agreement) that establishes FSANZ's role in setting and maintaining trans-Tasman food standards. The essential element of the Agreement is to extend elements of the Australian food regulation system, in particular the *Australia New Zealand Food Standards Code*, to include New Zealand.

The Agreement:

- provides that the joint food standards system will include the development and maintenance of joint food standards in the Australia New Zealand Food Standards Code, alongside Australia-only standards
- excludes, subject to opt-in, the specification of maximum residue limits and food hygiene provisions from the scope of the Agreement
- provides for New Zealand to determine that other standards shall not apply in New Zealand
- provides that the New Zealand minister shall make an agreement with FSANZ each year in relation to the services to be provided by FSANZ to New Zealand and the performance and accountability requirements relating to those services.

2.6 The Food Ministers' Meeting (FMM)

The FMM is established by the FR Agreement and has responsibility for the development of domestic food regulatory policy, the development of policy guidelines for setting domestic food standards, the promotion of harmonised food standards, the general oversight of domestic food regulation and standards, and the promotion of a consistent enforcement approach¹¹.

The FMM is advised by the Food Regulation Standing Committee (FRSC), which comprises senior government officials from the Commonwealth, New Zealand and the states and territories. The FMM will also consult with stakeholders on developing policy guidelines. The FSANZ Chair is an observer and technical adviser at FMM meetings.

Responsibility for developing new food standards sits with FSANZ, which also formally develops and reviews variations to the Food Standards Code. FSANZ must notify its decisions to the FMM. The FMM can, subject to observing procedural requirements, amend or reject a standard developed by FSANZ before the standard is notified.

Formal meetings of the FMM occur once or twice each year. They are organised by the Food Regulation Secretariat, based in the Commonwealth Department of Health and Aged Care. Policy guidelines issued by the FMM are published on the FSANZ and Department of Health and Aged Care websites.

¹¹ Clause 3 of the Agreement.

FSANZ must have regard to¹² the FMM's guidelines when it develops or reviews food standards.

2.7 Ministerial overarching strategic statement for the food regulatory system

The FMM has determined an [overarching strategic statement](#) for the food regulatory system (the Statement). The Statement provides a strategic context for the food regulatory system in Australia and New Zealand and notes the importance of facilitating FSANZ's independence as an evidence-based developer of food standards.

The Statement articulates:

- those who are collectively responsible for the food regulatory system
- the scope of the food regulatory system, and its broad objectives
- a means for deciding when regulatory intervention may be appropriate
- the specific characteristics of the food regulatory system that are considered desirable
- the partners, stakeholders, influencers and regulated bodies that interact with food regulators, and the nature of these relationships
- areas where there are opportunities for continued improvement.

2.8 The Food Regulation Standing Committee (FRSC)

FRSC has the functions of co-ordinating policy advice to the FMM and ensuring a consistent approach to the implementation and enforcement of food standards¹³. The FSANZ CEO attends FRSC meetings as a technical adviser and observer and provides direct input to FRSC policy development as an ex-officio member of the FRSC Strategic Policy Working Group.

¹² The Forum was given power to issue guidelines in order that it could direct, rather than react to, decisions of FSANZ. Guidelines must be consistent with the objectives set in subsection 18(1).

¹³ Clause 4 of the Food Regulation Agreement

3. The FSANZ Governance System

The FSANZ Governance System has been established by the Board to assure itself and its stakeholders that it has addressed major indicators of good governance in a manner contributing to high performance.

The principal elements of the governance system are leadership, compliance, collaboration, risk management, accountability and planning.

3.1 Leadership

The Board and the Executive are the principal leadership groups within FSANZ. They set the tone for the agency's operations by modelling good governance behaviours and demonstrating a commitment to achieving Government objectives through auditable processes.

Leaders have dual responsibilities around governance, including:

- ensuring implementation, evaluation and improvement of governance structures and processes
- enacting and influencing good governance through their own performance and behaviours.

The Board and Executive promote a learning environment that encourages innovation and continuous improvement to achieve better outcomes consistent with efficient, effective and ethical delivery.

3.2 Compliance

Performance of the standards-setting function demands strict compliance with the procedural requirements of the FSANZ Act. To assure compliance, FSANZ has developed systems and procedures to ensure the work it does complies with legislative requirements and statutory timeframes.

FSANZ has also invested heavily in financial and related corporate systems and processes to ensure compliance with PGPA Act requirements.

3.3 Collaboration

FSANZ has an open and transparent approach to collaboration. We actively seek and encourage a culture of cooperation with a wide range of stakeholders. Collaboration is a key consideration in developing standards and for all FSANZ decisions.

For successful food regulation, it is imperative to build and maintain stakeholder trust in the fairness and objectivity of the standards developing agency. FSANZ attempts to earn and maintain this trust by implementing a transparent approach to our dealings with:

- the public, consumer organisations and the media
- Australian, state and territory governments and the New Zealand Government
- primary producers and the manufacturing sector
- retail outlets and food services providers
- public health professionals
- international agencies and organisations

- our partners in the scientific community.

3.3.1 Minister and Parliamentary liaison

FSANZ provides advice and information to the office of the responsible Australian Government minister. We measure efficiency annually through the Portfolio Budget Statement (PBS) measures. We also provide information on FSANZ-related matters to other Commonwealth Government departments and agencies for inclusion in correspondence and briefings. There are established principles for communicating at this level and compliance with these principles is considered very important in governing this relationship effectively.

3.3.2 External stakeholder communication

FSANZ makes information available to all stakeholders in a number of ways including:

- Notification Circulars which include notices that are required to be given to the public, to submitters and appropriate government agencies, under the FSANZ Act
- email newsletters such as Food Standards News
- social media, including YouTube, Twitter, Facebook and Instagram
- on our website, including in ways that make content accessible to people with disabilities and language barriers.

3.3.3 Stakeholder groups

FSANZ has established three key stakeholder groups to exchange information and enhance our understanding of the issues facing these groups. These groups are the:

- Binational Food Industry Dialogue (industry representatives)
- Consumer and Public Health Dialogue (consumer and public health representatives)
- Jurisdictional Technical Forum (government representatives).

3.3.4 Internal stakeholder forums

Internal stakeholder engagement is a priority for FSANZ and is pivotal to communicating well with staff and supporting effective relationships in the agency.

There are two key internal stakeholder forums in FSANZ. They are the Workplace Consultative Committee and the People and Culture Forum.

The Workplace Consultative Committee is the principal forum for discussion of issues relating to the employment conditions of FSANZ employees (e.g. enterprise agreements and individual employee agreements) s. This committee includes management, employee representatives and representatives from relevant unions.

The People and Culture Forum is a consultative and advisory committee which provides a mechanism within FSANZ to facilitate the exchange of information between staff and management on workplace matters of relevance to staff. The Forum was established to discuss ideas, questions and concerns regarding preferred organisational culture, diversity initiatives and other matters in the workplace. A Forum representative meets regularly with the Executive to report on the Forum's activities.

3.4 Risk management

As a Commonwealth Corporate entity, FSANZ reviews and aligns its risk management frameworks and systems with the Commonwealth Risk Management Policy (the Policy), as mandated in the PGPA Act. The Policy states that the accountable authority of a Commonwealth entity must establish and maintain appropriate systems of risk oversight, management and internal control for the entity.

As FSANZ's accountable authority, responsibility for risk management in FSANZ sits with the Board. However, that responsibility cascades through the agency and is shared by all staff. All staff must be accountable for the effective and efficient use of Government resources. Good risk management supports this aim.

Food-related risks are analysed using internationally accepted methodologies that are described in the publication [Risk Analysis in Food Regulation](#).

The Board has established an integrated Risk Management Framework which provides the foundations and organisational arrangements for designing, implementing, monitoring, reviewing and continually improving risk management throughout the agency. This Framework defines procedures, roles and reporting requirements.

The Framework gives the Board, the Finance Audit & Risk Management Committee (FARMC, see section 3.5.1 below), Executive and staff a sound platform on which to coordinate activities to manage and control potential and identified risks.

3.4.1 Risk assessment

Risk assessment includes three specific processes; risk identification, risk analysis (including the establishment of likelihood, consequence and risk level) and risk evaluation.

Identified risks are initially assessed and analysed to ascertain likelihood, consequence and level of risk. Once the level of risk has been identified, decisions on which risks need treatment and the priority placed on them for treatment and implementation can be made.

Strategic risks are reported to the Board. The FARMC monitors and advises the Board on strategic and fraud risk management and senior management monitors the operational day to day risks of the agency. Strategic, operational and fraud risks are collated in risk registers to support ongoing monitoring, management and treatment of identified risks.

3.4.2 Fraud control

FSANZ fraud control policies and plans are incorporated into the integrated risk management system. We have a Fraud Policy Statement and Fraud Control Plan which outlines governance responsibilities relating to fraud prevention for all staff. Preparation of this plan represents one of FSANZ's obligations in complying with the Commonwealth Fraud Control Guidelines. The fraud control framework includes undertaking risk assessments, education and awareness, fraud recording, reporting and evaluation of the effectiveness of mitigation strategies. These actions underpin a robust approach to fraud prevention and ultimately, the promotion of voluntary compliance.

In an environment of increasing growth in business, ongoing Parliamentary and public scrutiny and an equally increasing sophistication in attempts to obtain fraudulent access to government services and resources, fraud control requires vigilance and robust prevention planning.

All members of FSANZ are responsible for fraud and corruption prevention within the agency.

3.4.3 Conflicts of Interests

Avoiding conflicts of interest is an important part of sound governance. Board members are required by law to declare any possible conflicts of interest and exclude themselves from any decision making that could be considered a conflict. Under subsection 125(6) of the FSANZ Act, entries recorded in the register of Board members' interests must be published on the website. The register is updated on a regular basis.

The Board Charter outlines the requirements for Board members regarding the declaration of conflicts of interest. At each meeting the Board considers declared conflicts of interest and determines an appropriate action in each case.

The Charter states that Board members will:

- for each meeting, consider each agenda item and identify any potential conflicts of interest and declare them to the Board before or at the start of each meeting
- follow the “*FSANZ Guide to Declarations of Interests*” for the declaration and registration of material personal interests, and act consistently with FSANZ Act and PGPA Act requirements in respect of member’s personal interests.

3.5 Accountability

FSANZ has incorporated its external reporting obligations into its daily operations. Through its website, it provides a high level of transparency about its operations, particularly in the performance of its standards setting function.

FSANZ also has a structure in place that supports separation of duties for the operational and strategic management of governance across the agency.

3.5.1 Internal Accountability – the Board, Finance, Audit and Risk Management Committee (FARMC) and People and Culture Committee (PCC)

Board

FSANZ has a twelve member Board, which is supported by a Charter. Members are appointed by the Australian Government and includes three members nominated by the New Zealand Government. The FSANZ CEO is an *ex officio* member of the Board.

The Board meets regularly and meeting outcomes are published on the FSANZ website.

FARMC

The Board has established the FARMC to fulfil its governance responsibilities relating to finance, audit and risk management monitoring, reporting and continuous improvement. The FARMC meets regularly ahead of Board meetings and is supported by a Charter.

PCC

The Board has established the PCC to assist the Board in fulfilling its governance responsibilities in relation to the people and culture functions of the agency. The PCC meets regularly ahead of Board meetings and is supported by a Charter.

3.5.2 External Accountability

Through the Department of Health and Aged Care, FSANZ must outline projected budget expenditure for program delivery in the annual Portfolio Budget Statements (PBS).

Program outcomes are reported to Parliament through the Annual Report which is also made available publicly after it has been tabled in Parliament.

The Board and Executive ensure full compliance with reporting requirements of the PGPA Act and the FSANZ Act.

3.6 Planning

3.6.1 Planning

FSANZ manages financial and enterprise or non-financial planning at the strategic and operational level. The process is overseen by the Board, the FARMC and Executive.

All Commonwealth entities must publish corporate planning and reporting documents under the Commonwealth Performance Framework (CPF), with specific requirements for each document.

Key components of the CPF include the PBS, the Corporate Plan and the annual performance statements (annual report). FSANZ has a statutory requirement to report on its performance as specified by the *PGPA Act* and the *PGPA Rule 2014*.

FSANZ has developed a Performance Planning and Reporting Framework that aligns to and better connects statutory CPF components with annual branch and section planning and quarterly and annual performance reporting.

The Framework streamlines, schedules and better aligns whole-of-agency performance planning, measurement and reporting to increase the maturity of our systems and Corporate Plan, better demonstrate how we meet our PBS purpose and outcomes, and maintain our reputation as a global leader in regulatory science and food safety.

3.6.2 Performance Monitoring

Performance against PBS outcomes and activities is reported and made available to the public through the annual performance statements that are published in FSANZ's Annual Report.

FSANZ has developed seven core performance areas to ensure we measure and monitor delivery of our key activities, achieve our purpose and strategic outcomes, realise our vision and mission and respond to the challenges and opportunities of our current environment.

3.6.3 Board performance

The Board Charter provides that the Board will review its performance¹⁴ and establishes a standard for that review. Reviews are conducted using a mix of external evaluation and facilitated self-assessment with appropriate input sought, as determined by the Board.

¹⁴ Board Charter, section 11.

4 Review and evaluation of FSANZ Governance Framework

Accountability for evaluating the governance framework sits with the General Manager, Corporate Services, in conjunction with Executive and relevant FSANZ staff.

Annual evaluation is part of the planning schedule. It is an important process that supports the ongoing maturity and effectiveness of FSANZ's risk management.

Independent review of FSANZ governance is provided through the internal audit program and periodic external audits. Reports from such reviews can be used as benchmark information and contribute to the continuous improvement of governance. The FARMC receives evaluation reports and outcomes are included in FSANZ's Annual Report.

5 Dealing with governance breaches and complaints

A balanced governance system has an effective management system, a dynamic risk management system and a robust internal audit program. FSANZ has mechanisms for detecting, recording and dealing with any governance breach or complaint.

The internal audit program and external audit functions are good mechanisms for measuring effective governance and assessing if a governance breach has occurred. The audit program can identify the cause and ultimately make recommendations for continuous improvement to reduce the chance of recurrence. This system has proven to be adequate for addressing any governance-related matters which have arisen.

There is a designated complaints officer and a complaints mechanism in FSANZ, which is outlined in the FSANZ Service Charter. In addition, arrangements have been implemented for the purposes of the *Public Interest Disclosure Act 2013*.