

Chapter 1

Overview

1.1 This is the second Senate Community Affairs Legislation Committee (the committee) report on annual reports for 2013.¹ It provides an overview of the committee's examination of annual reports for the 2011–12 financial year tabled between 1 November 2012 and 30 April 2013.²

Terms of Reference

1.2 On 29 September 2010,³ a resolution of the Senate allocated the following three portfolios to this committee:

- Health and Ageing
- Families, Housing, Community Services and Indigenous Affairs; and
- Human Services.

1.3 Under Senate Standing Order 25(20), annual reports of departments and agencies shall stand referred to the legislation committees in accordance with an allocation of departments and agencies in a resolution of the Senate. Each committee shall:

- (a) Examine each annual report referred to it and report to the Senate whether the report is apparently satisfactory;
- (b) Consider in more detail, and report to the Senate on, each annual report which is not apparently satisfactory, and on the other annual reports which it selects for more detailed consideration;
- (c) Investigate and report to the Senate on any lateness in the presentation of annual reports;
- (d) In considering an annual report, take into account any relevant remarks about the report made in debate in the Senate;
- (e) If the committee so determines, consider annual reports of departments and budget-related agencies in conjunction with examination of estimates;
- (f) Report on annual reports tabled by 31 October each year by the tenth sitting day of the following year, and on annual reports tabled by 30 April each year by the tenth sitting day after 30 June of that year;

1 Copies of this and other committee reports can be obtained from the Senate Table Office, the committee secretariat or online at http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs.

2 The Anindilyakwa Land Council and Northern Land Council reports were tabled outside this timeframe. See section 1.21 of this report for further details.

3 *Journals of the Senate*, No. 2, 29 September 2010, pp. 88–89.

- (g) Draw to the attention of the Senate any significant matters relating to the operations and performance of the bodies furnishing the annual reports; and
- (h) Report to the Senate each year whether there are any bodies which do not present annual reports to the Senate and which should present such reports.

Purpose of annual reports

1.4 The primary purpose of annual reports is accountability, in particular to the Parliament.⁴ The tabling of annual reports places a great deal of information about government departments and agencies on the public record and assists in the effective examination of the performance of departments and agencies and the administration of government grants.

Annual reporting requirements

1.5 Senate Standing Order 25(20) requires that committees report on annual reports tabled by 31 October each year by the tenth sitting day of the following year, and on annual reports tabled by 30 April each year by the tenth sitting day after 30 June of that year.

1.6 Pursuant to subsections 63(2) and 70(2) of the *Public Service Act 1999*, departments of state and executive agencies, prescribed under section 5 of the *Financial Management and Accountability Act 1997* (FMA Act) must prepare annual reports in accordance with the *Requirements for Annual Reports for Departments, Executive Agencies and FMA Act Bodies*.⁵

1.7 Amendments to the Requirements for Annual Reports applicable for the 2011–12 reporting period are:

- Consultancy reporting — recognising the functionality provided by the AusTender database, the requirement to provide details of consultancy contracts let in the reporting year, previously set out in Attachment D to the Requirements, has been omitted.
- Carer recognition — a new requirement has been added for public service care agencies to report on compliance with the Carer Recognition Act 2010.
- Work health and safety — minor revisions to the existing requirement reflecting the provisions of the Work Health and Safety Act 2011.

4 Department of the Prime Minister and Cabinet, *Requirements for Annual Reports for Departments, Executive Agencies and FMA Act Bodies*, approved by the Joint Committee of Public Accounts and Audit on 28 June 2012, p. 3, <http://www.dpmc.gov.au/guidelines/index.cfm> (accessed 6 August 2013). Hereafter referred to as *Requirements for Annual Reports, 2012*.

5 Department of the Prime Minister and Cabinet, *Requirements for Annual Reports, 2012*, p. 1, ss. 3(1).

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- Freedom of information — simplification of reporting following accommodation of major reforms to freedom of information reporting in the 2010–11 Requirements.⁶

1.8 Under section 48 of the *Commonwealth Authorities and Companies Act 1997* (the CAC Act), the Minister for Finance and Deregulation outlines the annual reporting requirements for Commonwealth authorities and companies in the *Commonwealth Authorities and Companies (Report of Operations) Orders*. Section 9 of the CAC Act applies to Commonwealth authorities and specifies the deadline for the presentation of an annual report to the responsible Minister. Section 36 of the CAC Act outlines the reporting obligations of Commonwealth companies.

1.9 Statutory authorities must report in accordance with their establishing legislation.

1.10 Requirements for the annual reports of non-statutory bodies are set out in the Government Response to recommendations of the then Senate Standing Committee on Finance and Government Operations in its report entitled *Reporting Requirements for the Annual Reports of Non-Statutory Bodies*. The response was incorporated into the *Senate Hansard* of 8 December 1987.⁷

1.11 The committee notes that some of the bodies that are required to produce annual reports to the Senate fall outside the categories listed above. In these cases, examination of the annual report is based on general content and information rather than compliance with legislation and guidelines.

Apparently satisfactory

1.12 Standing order 25(20)(a) requires the committee to report to the Senate on whether annual reports are 'apparently satisfactory'. In making this assessment, the committee considers such aspects as timeliness of presentation and compliance with relevant reporting requirements.

General comments

1.13 This report considers fourteen annual reports received during the period of 1 November 2012 and 30 April 2013.⁸ Eight reports have been examined to determine whether or not their contents satisfy the detailed legislative requirements as set out in the CAC Act. Two annual reports have been checked to ascertain whether or not their contents satisfy the mandatory criteria for inclusion as required by the FMA Act. One statutory office holder, one non-statutory advisory panel, one statutory agency, and one statutory authority were assessed.

1.14 A list of the annual reports of departments, agencies and other bodies tabled in the Senate (or presented out of session to the President of the Senate), and referred to the committee for examination, can be found at Appendix 1. The table shows the

6 Department of the Prime Minister and Cabinet, *Requirements for Annual Reports*, 2012, p. i.

7 *Senate Hansard*, 8 December 1987, pp. 2643–45.

8 See, n. 2, above.

legislation under which reports are required to be provided, tabling information, and the reporting period during which the report was provided. Reports tabled by 31 October 2012 were considered in the committee's first Report on Annual Reports.⁹

1.15 The committee is pleased to note that generally the annual reports examined adhere to the relevant reporting guidelines in a satisfactory manner. The reports continue to maintain high standards of presentation and provide a comprehensive range of information on their functions and activities. However, some specific comments about timeliness and adherence to reporting requirements are given below.

Timeliness of reports

1.16 Under Standing Order 25(20)(c), the committee must also report to the Senate on any lateness in the presentation of annual reports. The Requirements for Annual Reports state that:

A copy of the annual report is to be presented to each House of the Parliament on or before 31 October in the year in which the report is given.

...

Where an agency's own legislation provides a timeframe for its annual report, for example 'within six months' or 'as soon as practicable after 30 June in each year', that timeframe applies.¹⁰

1.17 If a department or agency is unable to meet this deadline, the secretary or agency head is to advise the responsible Minister of the reasons for the delay and the expected tabling date. The responsible Minister is to table this explanation in the Parliament.

1.18 Subsection 9(1) of the CAC Act requires the director of a Commonwealth authority to:

(a) prepare an annual report in accordance with Schedule 1 for each financial year; and

(b) give it to the responsible Minister by the deadline for the financial year for presentation to the Parliament.

...

(2) The deadline is:

(a) the 15th day of the 4th month after the end of the financial year; or

(b) the end of such further period granted under subsection 34C(5) of the Acts Interpretation Act 1901.

1.19 Under section 36 of the CAC Act:

9 Community Affairs Legislation Committee, *Report on Annual Reports 2013(1)*, March 2013, available at http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Annual_Reports/2013/report1/index.

10 Department of the Prime Minister and Cabinet, *Requirements for Annual Reports*, 2012, p. 2.

- (1) A Commonwealth company must give the responsible Minister:
- (a) a copy of the company's financial report, directors' report and auditor's report that the company is required by the Corporations Act 2001 to have for the financial year (or would be required by that Act to have if the company were a public company); and
 - (b) any additional report under subsection (2); and
 - (c) in the case of a wholly-owned Commonwealth company — any additional information or report required by the Finance Minister's Orders.
- (1A) The Commonwealth company must give the reports and information by:
- (a) if the company is required by the Corporations Act 2001 to hold an annual general meeting — the earlier of the following:
 - (i) 21 days before the next annual general meeting after the end of the financial year;
 - (ii) 4 months after the end of the financial year; and
 - (b) In any other case — 4 months after the end of the financial year; or the end of such further period granted under subsection 34C(5) of the Acts Interpretation Act 1901.

1.20 In the absence of any specific provision, subsection 34C(2) of the *Acts Interpretation Act 1901* requires bodies to present annual reports to ministers within 6 months after the end of the period reported upon, and ministers must table reports within 15 sitting days after receipt.

Annual reports for 2011–12

1.21 The majority of the annual reports referred to this committee were tabled within the specified period or shortly thereafter. The committee acknowledges that the Anindilyakwa Land Council, the Northern Land Council, the Tiwi Land Council, the Wreck Bay Aboriginal Community Council, the Indigenous Land Corporation, and the Torres Strait Regional Authority all provided notification that their reports would be delayed.

Wreck Bay Aboriginal Community Council

1.22 The Wreck Bay Aboriginal Community Council wrote to the Minister for Families, Housing, Community Services and Indigenous Affairs on 16 January 2013 seeking a further extension to the annual report deadline under section 34C(4) of the *Acts Interpretation Act 1901*. The Minister had originally granted an extension until 30 November 2012, and this was extended to 31 January 2013. The Minister granted the extension, but noted that she had asked her Department to 'work with the Wreck Bay Aboriginal Community Council to help ensure that the next annual report is finalised in a more timely manner'.¹¹ The request by the Wreck Bay Aboriginal

11 The Hon Jenny Macklin MP, Minister for Families, Housing, Community Services and Indigenous Affairs, Letter to Mr Mal Hansen, CEO, Wreck Bay Aboriginal Community Council, tabled 7 February 2013.

Community Council and the Minister's response were tabled on 7 February 2013. The annual report for the Wreck Bay Aboriginal Community Council was transmitted to the Minister on 20 February 2013, received on 4 March 2013, and tabled in the Senate on 13 March 2013.

Northern Land Council

1.23 In its *Report on Annual Reports 2013(1)*, the committee noted that the Northern Land Council sought an extension until 15 February 2013 to submit its annual report, and that the extension was granted. However, the Northern Land Council's annual report had not been tabled when the committee's *Report on Annual Reports 2013(1)* was published in March 2013.

1.24 The Northern Land Council wrote to the Minister for Families, Housing, Community Services and Indigenous Affairs on 31 January 2013 under section 34C(4) of the *Acts Interpretation Act 1901* requesting an extension until 30 April 2013 to table its annual report. The Minister had originally granted an extension until 30 November 2012, and this was extended to 15 February 2013. The Minister granted the request, but noted that:

the continued delays by the Northern Land Council in finalising its 2011–12 Annual report are of increasing concern to me and the Parliament more generally. I will agree to this third extension request but require your assurance that the report will be finalised and provided to me in a timely manner to allow tabling in the Parliament before 30 April 2013.¹²

1.25 The annual report for the Northern Land Council was, however, not transmitted to the Minister until 30 May 2013, and was tabled in the Senate on 25 June 2013. As the Northern Land Council's annual report was not received during the reporting period for this report, it will be considered in the committee's *Report on Annual Reports 2014(1)*.

Anindilyakwa Land Council

1.26 In its *Report on Annual Reports (No. 1) 2013*, the committee noted that the Anindilyakwa Land Council sought an extension until 14 December 2012 to submit its annual report, and that the extension was granted. However, the Anindilyakwa Land Council's annual report had not been tabled when the committee's *Report on Annual Reports 2013(1)* was published in March 2013.

1.27 The Anindilyakwa Land Council wrote to the Minister for Families, Housing, Community Services and Indigenous Affairs on 24 April 2013 under section 34C(4) of the *Acts Interpretation Act 1901* requesting an extension to 31 May 2013 to table its annual report. As noted, the Minister had originally granted an extension until 14 December 2012, and this was extended first to 15 March 2013, and again to 30 April 2013. The Minister granted the further extension, highlighting in her letter the

12 The Hon Jenny Macklin MP, Minister for Families, Housing, Community Services and Indigenous Affairs, Letter to Mr Robert Graham, A/g CEO, Northern Land Council, tabled 20 March 2013.

concerns expressed in the committee's *Report on Annual Reports 2013(1)* and noting that:

In light of the Committee's findings, and as a gesture of commitment to improved governance, I suggest the Anindilyakwa Land Council may like to provide an explanation of the delays experienced in previous years in its 2012–13 annual report and the steps taken to ensure the timely presentation of the report for the current financial year.¹³

1.28 The committee notes the Minister's suggestions with approval and looks forward to seeing this explanation incorporated into the 2012–2013 annual report. The 2011–2012 annual report for the Anindilyakwa Land Council was presented to and received by the Minister on 15 May 2013, and tabled in the Senate on 18 June 2013. As the Anindilyakwa Land Council's annual report was not received during the reporting period for this report, it will be considered in the committee's *Report on Annual Reports 2014(1)*.

Medical Training Review Panel

1.29 The sixteenth report of the Medical Training Review Panel (MTRP) was tabled in the Senate on 19 June 2013, outside the reporting period for this report. Late reporting has been a pattern for the MTRP and the committee believes this relates to the MTRP's cycle of data collection from universities over the calendar year, as discussed in the committee's *Report on Annual Reports 2013(1)*.¹⁴

Publishing standards for the Presentation of Documents to Parliament

1.30 The Department of Prime Minister and Cabinet has produced Guidelines for the Presentation of Documents to the Parliament. Section 4 covers the Presentation of Government documents (including Department and agency annual reports) to Parliament. Section 4.1, Printing and publishing standards for documents, states that:

Documents to be included in the Parliamentary Papers Series must be printed on International B5 size paper.

1.31 The committee is pleased to report that, following on from the *Report on Annual Reports 2012(2)*, General Practice Education and Training Limited, and the Northern Land Council have complied with these guidelines.

Compliance Index

1.32 The committee is pleased to note that in line with new reporting requirements, almost all annual reports considered for this report included a compliance index. The committee requests that General Practice Education and Training Limited include a compliance index in their next annual report.

13 The Hon Jenny Macklin MP, Minister for Families, Housing, Community Services and Indigenous Affairs, Letter to Mr Tony Wurrumarrba, Chairman, Anindilyakwa Land Council, tabled 17 June 2013.

14 Community Affairs Legislation Committee, *Report on Annual Reports 2013(1)*, March 2013, p. 5.

Letter of transmittal—General Practice Education and Training Limited

1.33 The committee notes that the annual report from General Practice Education and Training Limited (GPET) did not include a Letter of Transmittal. The committee requests that GPET include a Letter of Transmittal to the Minister in their future annual reports, containing a statement that the annual report was prepared in accordance with subsection 36(1) of the CAC Act and was approved by a resolution of the directors.

Awards

Australasian Reporting Awards

1.34 The committee congratulates Aboriginal Hostels Limited for receiving a Gold Award at the Australasian Reporting Awards. The committee also congratulates the Australian Institute of Health and Welfare, the Department of Families, Housing, Community Services and Indigenous Affairs, the Department of Health and Ageing, and Indigenous Business Australia for receiving Silver Awards, and the Department of Human Services for receiving a Bronze Award.

Institute of Public Administration Australia (IPAA) ACT Division Annual Report Awards

1.35 The committee congratulates Indigenous Business Australia for receiving a Gold Award and the Australian Organ and Tissue Donation and Transplantation Authority and Aboriginal Hostels Limited for receiving Silver Awards in the Institute of Public Administration Australia (IPAA) ACT Division Annual Report Awards. The committee also congratulates the Torres Strait Regional Authority for receiving a Highly Commended award. The committee notes that the Department of Health and Ageing and the Australian Institute of Health and Welfare also received Bronze Awards for their online reports.

Comments made in the Senate

1.36 The committee is obliged, under Senate Standing Order 25(20)(d), to take into account any relevant remarks made about these reports in the Senate. The committee is not aware of any comments made in the Senate regarding the annual reports of departments and agencies within its purview.

Bodies not presenting annual reports to the Senate

1.37 In accordance with Standing order 25(21)(h), the committee is required to report to the Senate on whether there are any bodies which do not present annual reports to the Senate and which should present such reports. As noted in its first report of 2013, in its 2012 (No. 2) report, the committee recommended that the Commonwealth government consider whether an annual report of the National E-Health Transition Authority (NEHTA) should be presented to the Parliament. The committee is not aware of any government response to this recommendation.

Additional Reports

1.38 In addition to the reports listed in Appendix 1, the following reports were also referred to and received by the committee between the period of 1 March 2013 and 30

June 2013. The committee notes that these reports are referred to it for their information only and the committee is not required by the terms of the Standing Order to report on these:

- Aboriginal Land Commissioner — Report on review of Part IV of the *Aboriginal Land Rights (Northern Territory) Act 1976* — report by Justice John Mansfield AM, dated March 2013 (tabled in the Senate 25/06/2013)
- Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) — Quarterly report for the period 1 January to 31 March 2013 (tabled in the Senate 19/06/2013)
- *Tobacco Advertising Prohibition Act 1992* — Report for 2012 pursuant to s34A of the Act (tabled in the Senate 19/06/2013)
- National Health and Medical Research Council (NHMRC) — NHMRC Licensing Committee — Report on the operation of the *Research Involving Human Embryos Act 2002* for the period 1 September 2012 to 28 February 2013 (tabled in the Senate 18/06/2013)
- National Health and Medical Research Council, Australian Research Council and Australian Vice-Chancellors' Committee — National statement on ethical conduct in human research, dated March 2007 — Replacement page 53 (tabled in the Senate 18/06/2013)
- Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) — Quarterly report for the period 1 October to 31 December 2012 (tabled in the Senate 13/05/2013)