

Chapter 1

Introduction

1.1 Standing Order 25(20)(f) requires the Senate Environment and Communications Legislation Committee (the committee) to 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.

1.2 Due to the revised parliamentary sitting pattern for 2019, the committee's first and second reports on annual reports are due to be tabled in the Senate on the 23 July 2019 and 31 July 2019 respectively. As a result, the committee has chosen to combine these two reports, by providing an overview of selected annual reports of agencies within the allocated portfolios tabled between 1 May 2018 and 30 April 2019 in one report.

1.3 Annual reports inform the Parliament, stakeholders and other interested parties of the operations and performance of public sector departments, agencies and companies. They are a primary accountability mechanism. Additionally, annual reports are important reference documents and form part of the historical record of the Commonwealth.

Terms of reference

1.4 Under Standing Order 25(20), the annual reports of certain departments and agencies are referred to the committee for examination and assessment. The committee is required to:

- (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.

- (g) Draw the attention of the Senate to any significant matters relating to the operations and performance of the bodies furnishing the annual reports.
- (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.

Allocated portfolios

1.5 In accordance with the resolution of the Senate on 31 August 2016, the committee has oversight of the following portfolios:

- Environment and Energy; and
- Communications and the Arts.¹

Reports examined

1.6 This report examines the following reports, tabled in the Senate or presented out-of-session to the President of the Senate and referred to the committee between 1 May 2018 and 30 April 2019:

Non-corporate Commonwealth entities

- Department of Communications and the Arts—Annual Report for 2017-18;
- Department of the Environment and Energy—Annual Report for 2017-18;
- Australian Communications and Media Authority and the Office of the eSafety Commissioner—Annual Report for 2017-18;
- Bureau of Meteorology—Annual Report for 2017-18;
- Clean Energy Regulator—Annual Report for 2017-18;
- Climate Change Authority—Annual Report for 2017-18; and
- Great Barrier Reef Marine Park Authority—Annual Report for 2017-18.

Corporate Commonwealth entities

- Australia Council for the Arts—Annual Report for 2017-18;
- Australian Broadcasting Corporation—Annual Report for 2017-18;
- Australian Film, Television and Radio School—Annual Report for 2017-18;
- Australian National Maritime Museum—Annual Report for 2017-18;
- Australian Postal Corporation—Annual Report for 2017-18;
- Australian Renewable Energy Agency—Annual Report for 2017-18;
- Clean Energy Finance Corporation—Annual Report for 2017-18;

1 *Journals of the Senate*, No. 2, 31 August 2016, pp. 75–76. See also, *Journals of the Senate*, No. 3, 4 July 2019, pp. 85–86 for allocation of portfolios in the 46th Parliament.

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- Director of National Parks—Annual Report for 2017-18;
 - National Film and Sound Archive of Australia—Annual Report for 2017-18;
 - National Gallery of Australia—Annual Report for 2017-18;
 - National Library of Australia—Annual Report for 2017-18;
 - National Museum of Australia—Annual Report for 2017-18;
 - National Portrait Gallery of Australia—Annual Report for 2017-18;
 - Old Parliament House (Museum of Australian Democracy)—Annual Report for 2017-18;
 - Screen Australia—Annual Report for 2017-18;
 - Special Broadcasting Service Corporation—Annual Report for 2017-18; and
 - Sydney Harbour Federation Trust—Annual Report for 2017-18.

Commonwealth companies

- Australia Business Arts Foundation Limited (Creative Partnerships Australia)—Annual Report for 2017-18;
- Bundanon Trust—Annual Report for 2017-18; and
- NBN Co Limited—Annual Report for 2017-18.

Other bodies

- Audio-Visual Copyright Society Ltd. (Screenrights)—Report for 2017-18;
- Classification Board and Classification Review Board—Reports for 2017-18;
- Copyright Agency—Annual Report 2017-18;
- Independent Scientific Committee on Wind Turbines—Report for 2017;
- National Environment Protection Council—Report for 2016-17;²
- Office of the National Wind Farm Commissioner—Report for 2017; and
- Public Lending Right Committee—Report for 2017-18.

Reports not examined

1.7 The committee is not obliged to report on Acts, statements of corporate intent, surveys, policy papers, budget documents, corporate plans or errata. The following

2 The National Environment Protection Council (NEPC) annual report was tabled in accordance with section 24 of the *National Environment Protection Council Act 1994*. This requires the NEPC to report its operations during the year ended on the preceding 30 June. This legislative requirement means that the report covers the 2016-17 financial year rather than the 2017-18 reporting period. Further discussion of the NEPC annual report can be found at paragraph 1.34 of this report.

documents were referred to the committee between 1 May 2018 and 30 April 2019 but are not examined in this report:

- Australian Broadcasting Corporation (ABC)—Equity and diversity—Report for 2017-18;
- Australian Communications and Media Authority—Communications Report for 2017-18;
- Australian Competition and Consumer Commission—Communications market report 2017-18, dated February 2019;
- Australian Competition and Consumer Commission—Telstra's structural separation undertaking—Report for 2016-17;
- Australian Competition and Consumer Commission—Telstra's structural separation undertaking—Report for 2017-18;
- Australian National Maritime Museum—Corporate plan for 2018–22;
- *Clean Energy Finance Corporation Act 2012*—Statutory review of the Clean Energy Finance Corporation—Report, dated 10 October 2018;
- Clean Energy Regulator—Renewable Energy Target administrative report for 2017;
- Clean Energy Regulator—2018 Annual Statement to the Parliament on the progress towards the 2020 Large-scale Renewable Energy Target, dated March 2019;
- Climate Change Authority—Review of the Emissions Reduction Fund—Government response, dated March 2019;
- Climate Change Authority—Review of the National Wind Farm Commissioner—Report, dated May 2018;
- Climate Change Authority—Report—Review of the National Wind Farm Commissioner—Government response, dated October 2018;
- Department of Finance—Consolidated financial statements for the year ended 30 June 2018;
- *Enhancing Online Safety Act 2015*—Report of the statutory review of the Act and the review of schedules 5 and 7 to the *Broadcasting Services Act 1992* (Online Content Scheme), dated October 2018;
- *Environment Protection and Biodiversity Conservation Act 1999*—The National Heritage List and the Commonwealth Heritage List: 1 July 2013–30 June 2018;
- Final budget outcome 2017-18—Report by the Treasurer (Mr Frydenberg) and the Minister for Finance (Senator Cormann), dated September 2018;
- Mid-year economic and fiscal outlook 2018-19—Statement by the Treasurer (Mr Frydenberg) and the Minister for Finance (Senator Cormann);

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- Snowy Hydro Limited—Consolidated Financial Report for the Reporting Period 2 July 2017 to 30 June 2018;
 - *Telecommunications Act 1997*—Funding of telecommunications consumer representation grants—Report for 2017-18;
 - Wet Tropics Management Authority—Reports for 2016-17 and 2017-18; and
 - Wet Tropics Management Authority—State of Wet Tropics—Reports for 2016-17 and 2017-18.

Annual reporting requirements

1.8 A performance reporting framework is established for all Commonwealth entities and companies by the *Public Governance, Performance and Accountability Act 2013* (PGPA Act). The performance framework is based on section 38 of the PGPA Act which requires all Commonwealth entities to measure and assess their performance.

1.9 The performance framework includes the requirement for Commonwealth entities to prepare a corporate plan and annual performance statements. The Public Governance, Performance and Accountability Rule 2014 (PGPA Rule) contains the minimum requirements that must be included.

1.10 Section 39 of the PGPA Act requires all Commonwealth entities to prepare an annual performance statement and include those statements in their annual reports. Entities use the annual performance statements to report on the results achieved against the targets, goals and measures established at the beginning of a reporting year in corporate plans and Portfolio Budget Statements.

1.11 Below is a summary of the legislative authority and requirements for the different types of bodies under which annual reports are prepared:

- Non-corporate Commonwealth entities: PGPA Act, section 46, and the PGPA Rule, Division 3A(A); for portfolio departments and executive agencies, and for statutory bodies, relevant enabling legislation.
- Corporate Commonwealth entities: PGPA Act, section 46, and the PGPA Rule, Division 3A(B); and for statutory bodies, relevant enabling legislation.
- Commonwealth companies: PGPA Act, section 97, which also refers to requirements under the *Corporations Act 2001* and the PGPA Rule, Part 3-3; and for statutory bodies, relevant enabling legislation.
- Non-statutory bodies: the annual reporting requirements are contained in the government response to the Senate Standing Committee on Finance and Public Administration's Report on Non-Statutory bodies.³

3 *Senate Hansard*, 8 December 1987, pp. 2632–45.

1.12 On 29 June 2018, the Commonwealth Government (the government) acquired 100 per cent ownership of Snowy Hydro Limited (Snowy Hydro). As a result, Snowy Hydro became subject to the PGPA Act and the PGPA Rule was amended to prescribe Snowy Hydro as a Government Business Enterprise (GBE). During the next reporting period the committee expects to examine Snowy Hydro's annual report for 2018-19 which will incorporate additional reporting information, as required by the PGPA Act and GBE guidelines.

Disclosure of executive remuneration

1.13 In its *Report on Annual Reports No. 1 of 2018*, the committee noted that the Joint Committee of Public Accounts and Audit (JCPAA), in its report on Commonwealth financial statements, recommended changes to provide greater transparency and accountability to the disclosure of senior executive remuneration.⁴ This JCPAA report recommended that the Department of Finance re-establish a formal requirement for the disclosure of executive remuneration by Commonwealth entities in their annual reports.

1.14 On 13 March 2018, the Department of Finance provided the JCPAA with a response to its report, stating that the government would consider the findings of the *Independent Review into the operation of the Public Governance, Performance and Accountability Act 2013 and Rule* (Independent Review) when establishing any new or modified arrangements for reporting executive remuneration.⁵

1.15 The Independent Review presented its final report in September 2018, which recommended that accountable authorities should disclose executive remuneration in annual reports, on the following basis:

- (a) the individual remuneration (including allowances and bonuses) of accountable authorities and their key management personnel on an accrual basis, in line with the disclosure by Australian Securities Exchange listed companies; and
- (b) the number and average remuneration (including allowances and bonuses) of all other senior executives and highly paid staff, by band and on an accrual basis, broadly consistent with the reporting arrangements in place up to 2013-14.⁶

1.16 In addition, the Independent Review recommended that accountable authorities 'should provide an explanation of remuneration policy and practice, relating to key management personnel, senior executives and other highly paid staff,

4 Senate Environment and Communications Legislation Committee, *Annual reports (No. 1 of 2018)*, pp. 4–6.

5 Department of Finance, *Executive Minute on Joint Committee of Public Accounts and Audit Report No. 463*, 9 March 2018, p. 2.

6 *Independent Review into the operation of the Public Governance, Performance and Accountability Act 2013 and Rule*, September 2018, p. 7.

broadly consistent with the reporting practices of Australian Securities Exchange listed companies'.⁷

1.17 On 5 April 2019, the Minister for Finance and the Public Service presented the government's response to the findings and recommendations of the Independent Review. The government accepted, in principle, 48 out of the 52 recommendations, with three not being within the government's area of responsibility and one being a shared responsibility between the government and the Parliament. The response stated that the government will undertake implementation in consultation with all relevant parties, including the JCPAA.⁸

1.18 The committee looks forward to implementation of the Independent Review and JCPAA recommendations in relation to the reporting of executive remuneration in entity annual reports.

Timeliness

1.19 As part of its review of annual reports, the committee is required to investigate and report on any lateness in the presentation of annual reports.⁹ In assessing the timeliness of the presentation of annual reports, the committee assesses the presentation against the requirements of the PGPA Act, the PGPA Rule and other legislative requirements.

Presentation to ministers

1.20 Section 46 of the PGPA Act requires the provision of an annual report of a Commonwealth entity, including corporate and non-corporate entities, to the responsible minister by the 15th day of the fourth month after the end of the reporting period for the entity. For most agencies this translates to 15 October each year. This part of the Act does not, however, provide a timeframe for the minister to present the report to the Parliament.

1.21 The arrangements for Commonwealth companies differ to some degree. Section 97 of the PGPA Act sets out the requirements for the provision of annual reports of Commonwealth companies to the responsible minister. In general, this amounts to four months after the end of the reporting period for each company.¹⁰

7 *Independent Review into the operation of the Public Governance, Performance and Accountability Act 2013 and Rule*, September 2018, p. 7.

8 Senator the Hon Mathias Cormann, Minister for Finance and the Public Service, *Australian Government response to the Independent Review into the PGPA Act 2013 and Rule*, dated 2 April 2019, p. 1.

9 Standing Order 25(20)(c).

10 *Public Governance, Performance and Accountability Act 2013*, ss. 97(2).

Tabling in Parliament

1.22 The PGPA Rule states that annual reports for corporate Commonwealth entities, non-corporate Commonwealth entities and Commonwealth companies must comply with the *Guidelines for the Presentation of Documents to the Parliament*, which is prepared by the Department of the Prime Minister and Cabinet.¹¹

1.23 The guidelines advise that for all entities:

As per past practice, it is expected that the responsible Minister will present the report to each House of Parliament on or before 31 October. If Senate Supplementary Budget Estimates hearings are scheduled to occur prior to 31 October, it is best practice for annual reports to be tabled prior to those hearings. This ensures that annual reports are available for scrutiny by the relevant Senate standing committee.¹²

1.24 Entities reporting in accordance with their own legislation are often required to prepare for the relevant minister their annual report 'as soon as is practicable' after the end of the particular period to which the report relates. The committee draws attention to subsections 34C(2) and 34C(3) of the *Acts Interpretation Act 1901*, which stipulate that where no date for providing a report to a minister is specified, the report should be presented no more than six months after the reporting period, and the minister must provide the report to the Parliament within 15 days after the minister receives it.

1.25 Where a deadline for presenting an annual report cannot be met, a Commonwealth entity or company can seek an extension of time to report under the *Acts Interpretation Act 1901*, by advising the responsible minister of the reasons why the entity cannot comply with the deadline. The responsible minister is required to table this application and a statement specifying the extension granted and the reasons for the extension in both houses of the Parliament.¹³

1.26 The committee notes that the Independent Review made recommendations to the Minister for Finance and the Public Service on bringing forward the date for tabling of annual reports in the Parliament. This followed a request by the JCPAA for

11 See PGPA Rule 2014, sections 17AB, 17BC and 28C.

12 Department of the Prime Minister and Cabinet, *Guidelines for the Presentation of Documents to the Parliament (including Government Documents, Government Responses to Committee Reports, Ministerial Statements, Annual Reports and other Instruments)*, August 2016, pp. 4–5. In the case of a wholly-owned Commonwealth company, or a Commonwealth company that is not required to hold an annual general meeting, the PGPA Act states that "the responsible Minister must table the documents in each House of the Parliament as soon as practicable after receiving them. In all other cases, the responsible Minister must table the documents in each House of the Parliament as soon as practicable after the annual general meeting of the company". (*Public Governance, Performance and Accountability Act 2013*, ss. 97(5).)

13 *Acts Interpretation Act 1901*, ss. 34C(6).

the Independent Review to consider specifying a date for the tabling of annual reports before Supplementary Budget Estimates.¹⁴

1.27 In its final report, the Independent Review supported improving the timeliness and scrutiny of annual reports by amending the PGPA Act and Rule to require the responsible Minister to table entity annual reports in the Parliament by 30 September each year. The report recommended:

30. *[Subject to the implementation of Recommendation 31]* Annual reports should be presented to the Parliament on or before 30 September. This would ensure the Parliament has annual reports available before the Senate Supplementary Budget Estimates hearings. Annual reports should be presented to the responsible minister no later than seven days before this date.

31. The Parliament and the Department of Finance should continue to implement a fully digital reporting platform and reporting process for annual reports and other relevant reporting requirements, with a view to Commonwealth entities phasing out hard copy reporting by 2019-20. Sufficient resources and funding should be allocated to achieve this goal.¹⁵

1.28 The Independent Review also recommended that the Senate increase its scrutiny of performance information reported by Commonwealth entities at Senate Estimates hearings, including a requirement that accountable authorities provide a statement at those hearings that summarises entity performance information over the relevant reporting period.¹⁶

1.29 As noted above, the government accepted, in principle, 48 out of the 52 recommendations of the Independent Review and encouraged 'sympathetic consideration' of the four remaining recommendations not directly within its area of responsibility.¹⁷ The committee supports all the recommendations of the Independent Review and will continue to monitor the implementation of the recommendations over the next reporting period.

Timeliness of reports examined

1.30 The committee notes that, despite the clear guidance contained in the *Guidelines for the Presentation of Documents to the Parliament*, the majority of

14 See JCPAA, *Report 463: Commonwealth Financial Statements—Inquiry Based on Auditor-General's Report 33 (2016-17)*, August 2017, pp. 12–13.

15 *Independent Review into the operation of the Public Governance, Performance and Accountability Act 2013 and Rule*, September 2018, p. 6.

16 *Independent Review into the operation of the Public Governance, Performance and Accountability Act 2013 and Rule*, September 2018, p. 6.

17 Senator the Hon Mathias Cormann, Minister for Finance and the Public Service, *Australian Government response to the Independent Review into the PGPA Act 2013 and Rule*, dated 2 April 2019, p. 1.

annual reports for Commonwealth entities within the Communications and the Arts and the Environment and Energy portfolios did not meet the recommended timeframe for the tabling of annual reports in the Parliament prior to the commencement of Supplementary Budget Estimates.

1.31 The following agencies did not table their annual reports in either House of Parliament by the responsible Minister prior to the committee's Supplementary Budget Estimates hearings on 22 and 23 October 2018:

- Australia Business Arts Foundation Limited;
- Australia Council for the Arts;
- Australian Broadcasting Corporation;
- Australian National Maritime Museum;
- Australian Renewable Energy Agency;
- Bureau of Meteorology;
- Clean Energy Finance Corporation;
- Clean Energy Regulator;
- Department of Communications and the Arts;
- Department of the Environment and Energy;
- Director of National Parks;
- Great Barrier Reef Marine Park Authority;
- National Library of Australia;
- NBN Co Limited;
- Old Parliament House;
- Screen Australia; and
- Special Broadcasting Service Corporation.

1.32 The following agencies tabled annual reports in the House of Representatives and/or the Senate, prior to or on the date of, the committee's Supplementary Budget Estimates hearings on 22 and 23 October 2018:

- Australian Communications and Media Authority and the Office of the eSafety Commissioner;
- Australian Film, Television and Radio School;
- Australian Postal Corporation;
- Bundanon Trust;
- Climate Change Authority;
- National Film and Sound Archive;
- National Gallery of Australia;

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- National Museum of Australia;
 - National Portrait Gallery of Australia; and
 - Sydney Harbour Federation Trust.

1.33 The committee reminds all agencies that, in accordance with best practice guidance, their annual reports should be tabled prior to Supplementary Budget Estimates. This will ensure that there is sufficient time for the committee to consider the content and performance information provided in annual reports prior to the commencement of its Supplementary Budget Estimates hearings, which in 2019 are scheduled to commence on 21 October.

1.34 The committee notes that the 2016-17 annual report of the National Environment Protection Council (NEPC), while tabled in accordance with its statutory requirements, was provided to the Parliament more than 12 months after the reporting period covered. The committee expects that future NEPC annual reports will be prepared and presented to the Parliament in a more timely manner. This will ensure that the Parliament has access to the most up-to-date assessment on the implementation and effectiveness of National Environmental Protection Measures across Commonwealth, state and territory jurisdictions.

1.35 Appendix 1 lists the annual reports tabled (or presented) in the Senate and the House of Representatives between 1 May 2018 and 30 April 2019 and referred to the committee, with relevant tabling dates.

1.36 Appendix 2 lists documents tabled (or presented) in the Senate and House of Representatives between 1 May 2018 and 30 April 2019 and referred to the committee, with relevant tabling dates.

Senate debate

1.37 In accordance with Standing Order 25(20)(d), the committee is required to take into account any relevant remarks about annual reports made in debate in the Senate. The committee notes that on 5 December 2018, Senator Lisa Singh commented on the annual report of the Clean Energy Finance Corporation.¹⁸

Australian National Audit Office reports

1.38 The Australian National Audit Office (ANAO) conducted audits of the financial statements of Commonwealth entities for the 2017-18 reporting period and presented its findings in its report *Audits of the Financial Statements of Australian Government Entities for the Period Ended 30 June 2018*. The report identified one unresolved moderate audit finding for the Department of Communications and the Arts, as well as one new and one unresolved moderate audit finding for agencies within the Environment and Energy portfolio.

18 Senator the Hon Lisa Singh, *Senate Hansard*, 5 December 2018, p. 9565.

1.39 In relation to the Department of Communications and the Arts, the ANAO report identified one unresolved finding regarding 'risk management practices' relating to the administration of a loan arrangement between the government and NBN Co Limited (NBN Co).

1.40 The ANAO noted that the department 'had not established the practices necessary to manage the risks associated with the loan facility' and that the failure to establish such practices 'significantly increases the Commonwealth's risk of exposure to loss'.¹⁹ The ANAO went on to note that the department was 'reviewing the governance and risk management arrangements to better support the ongoing management of the loan facility' and that information on the government's subsequent changes to the loan agreement were included in the department's 2017-18 financial statements.²⁰

1.41 One new moderate audit finding was also identified by the ANAO in relation to the Clean Energy Regulator's (CER) privileged user management system. The CER has advised the ANAO that it will implement procedures to address the weaknesses identified in the report. The committee notes that the ANAO will review the CER's response as part of its 2018-19 audit.²¹

1.42 The report also identified an unresolved moderate audit finding in relation to the Director of National Parks (DNP) identification, valuation and classification of assets for the Kakadu and Booderee National Parks. The report noted that the DNP 'partially agreed with the ANAO's assessment that the weaknesses identified continued to pose a moderate risk to the financial statements'.²² The ANAO also noted that a previous moderate audit finding in relation to the DNP's financial statement quality control and preparation process had now been downgraded to a minor audit finding.²³

Non-reporting bodies

1.43 Standing Order 25(20)(h) requires that the committee report on any bodies which do not present annual reports to the Senate but should present such reports. The committee notes that there are no relevant bodies which are required to present an annual report to the Senate which have not done so.

19 Australian National Audit Office, *Audits of the Financial Statements of Australian Government Entities for the Period Ended 30 June 2018*, Audit Report No. 19, 2018-19, pp. 78–79.

20 Australian National Audit Office, *Audits of the Financial Statements of Australian Government Entities for the Period Ended 30 June 2018*, Audit Report No. 19, 2018-19, p. 79.

21 Australian National Audit Office, *Audits of the Financial Statements of Australian Government Entities for the Period Ended 30 June 2018*, Audit Report No. 19, 2018-19, pp. 124–125.

22 Australian National Audit Office, *Audits of the Financial Statements of Australian Government Entities for the Period Ended 30 June 2018*, Audit Report No. 19, 2018-19, p. 125.

23 Australian National Audit Office, *Audits of the Financial Statements of Australian Government Entities for the Period Ended 30 June 2018*, Audit Report No. 19, 2018-19, p. 125.

Apparently satisfactory

1.44 Standing Order 25(20)(a) requires that the committee report to the Senate on whether the annual reports of departments and agencies in its portfolios are 'apparently satisfactory'. In making this assessment, the committee considers such aspects as timeliness of presentation and compliance with relevant reporting requirements.

1.45 The committee notes that some agencies had incorrect or incomplete page references in their compliance indexes and that the Climate Change Authority's annual report failed to provide any page references in its index of mandatory requirements. The committee suggests that providing accurate page references for all relevant PGPA Rule requirements will improve the overall accessibility of agency annual reports.

1.46 The committee also notes that some reports indicated large page ranges for some references, and in the case of the Clean Energy Finance Corporation annual report, referenced whole chapters in which to locate specific information. The committee expects all agencies to ensure that their future compliance indexes are in line with PGPA Act and Rule requirements.

1.47 The committee has examined all annual reports referred during the reporting period and considers that they are 'apparently satisfactory'.

