

Chapter 1

Annual reports of departments

1.1 The annual reports of the following departments for the financial year 2016–17, were referred to the committee for examination and report:

- Attorney-General's Department; and
- Department of Immigration and Border Protection.

Attorney-General's Department

Tabling of report

1.2 The 2016–17 annual report was tabled in the Senate on 16 October 2017. The report was available to senators for the Supplementary Budget Estimates 2017–18 hearing on 24 October 2017.

Secretary's review

1.3 In his review for 2016–17, the secretary of the Attorney-General's Department (the department), Mr Chris Moraitis PSM, focused on program and policy delivery in the areas of national security, countering violent extremism, and disaster support and assistance.¹

1.4 Other key areas of work for the reporting period included: advancements in the criminal justice system; the launch of the Face Verification Service; finalising the National Firearms Agreement and subsequent launch of the National Firearms Amnesty; leading reforms to criminalise the non-consensual sharing of intimate images; the introduction of Carly's law; international engagement and cooperation to address criminal activity; progressing reforms to Commonwealth justice institutions; reforms to corporate and personal insolvency laws; and a report on a review of Commonwealth legal services.²

1.5 The review noted that the consolidation of the Australian Government Solicitor (AGS) into the department had been highly successful. The Secretary reported that AGS had provided training and workshops, delivered an extensive pro bono program for clients domestically and internationally, and provided advice and acted in a number of high profile cases and matters.³

1.6 The Secretary reported that the department had concluded the Defence Abuse Response Taskforce after four years of operation and providing outcomes for 1,700 people. The Department had commenced work on the Royal Commission into the Protection and Detention of Children in the Northern Territory, and also held further public hearings for the Royal Commission into Institutional Responses to Child

1 *Attorney-General's Department Annual Report 2016–17*, p. 2.

2 *Attorney-General's Department Annual Report 2016–17*, pp. 2–3.

3 *Attorney-General's Department Annual Report 2016–17*, p. 3.

Sexual Abuse.⁴ The Secretary noted that he was 'consistently impressed by the agility and professionalism the department demonstrates in establishing and administering these types of arrangements'.⁵

1.7 The Secretary's outlook for 2017–18 noted that the implementation of reforms to Australia's national security arrangements 'promises a busy year ahead'.⁶ Key priorities identified included: enhancements to the family law system; implementing recommendations made by the Royal Commission into Institutional Responses to Child Sexual Abuse; and developing a wide range of responses to issues such as terrorism, cyber security and foreign interference.⁷

1.8 Additionally, the Secretary noted the impending changes within the department that would occur as a result of the establishment of the Home Affairs portfolio.⁸

Performance reporting

1.9 This is the second annual report published since the Attorney-General's Department made significant changes to its performance reporting scheme. The committee noted in its *Report on Annual Reports (No. 1 of 2017)* that the department had adopted a new structure for performance reporting, applying four high-level KPIs (Community impact; Effectiveness in achieving objectives; Efficiency in meeting goals; Professionalism, skills and commitment) to each of the seven strategic priorities across the department.⁹

1.10 Performance criteria and targets under each strategic priority outlined in the Portfolio Budget Statement (PBS) for 2016–17¹⁰ are reflected in the Corporate Plan 2016–17.¹¹ The Corporate Plan outlines the relevant Key Performance Indicators (KPIs) under each strategic priority and explains how each are connected to the performance criteria outlined in the PBS.¹² The performance statement contained in the annual report reflects a combination of the performance criteria in the PBS and the KPIs set by the Corporate Plan. This approach provides a 'clean read' when compared with the PBS and Corporate Plan.

1.11 The department largely met its KPIs for 2016–17.

4 *Attorney-General's Department Annual Report 2016–17*, p. 3.

5 *Attorney-General's Department Annual Report 2016–17*, p. 3.

6 *Attorney-General's Department Annual Report 2016–17*, p. 4.

7 *Attorney-General's Department Annual Report 2016–17*, p. 4.

8 *Attorney-General's Department Annual Report 2016–17*, p. 4.

9 Senate Legal and Constitutional Affairs Legislation Committee, *Report on Annual Reports: No. 1 of 2017*, pp. 2–4.

10 *Portfolio Budget Statements 2016–17, Attorney-General's Portfolio*, pp. 16–29.

11 *Attorney-General's Department Corporate Plan 2016–17*, p. 21.

12 *Attorney-General's Department Corporate Plan 2016–17*, p. 11.

1.12 KPIs that were not met included:

- Strategic Policy 5, KPI 1: Community Impact – Australia's regional and global position on fundamental rights (Factor 4) in the World Justice Project Rule of Law Index measuring how the rule of law is experienced by the public of countries around the world. The set target was a position of 10 (maintain or improve current position), however the department reported a result of position 13.¹³ In providing analysis of the result, the department noted that the number of countries listed in the World Justice Project Rule of Law Index had increased from 102 to 113;¹⁴
- Strategic Policy 6, KPI 1: Community Impact – Stakeholder satisfaction that EMA assists individual states and territories to achieve their priorities and minimise loss in emergency events. The set target of 80 per cent was not achieved, the department instead reporting a 75 per cent satisfaction result;¹⁵ and
- Strategic Policy 6, KPI 2: Effectiveness at achieving objectives – Stakeholder and client satisfaction with the department's effectiveness in providing national leadership in emergency management. The department reported a 77 per cent result, missing its target of 80 per cent.¹⁶

1.13 In analysing the two KPIs under Strategic Policy 6 that were not met, the department explained that the survey results informing the results were reflective of the department's responsibilities in assisting stakeholders to carry out vital functions during emergency situations; and that the department continues to work closely to further understand their needs and provide support when appropriate.¹⁷

1.14 As was the case in the department's annual report of 2015–16, large amount of performance information for reporting period was informed by the stakeholder survey conducted from May to June 2017.¹⁸ As found previously in the previous stakeholder survey, the 2017 survey 'indicated very high levels of stakeholder satisfaction'.¹⁹

Financial performance

1.15 The Secretary's review did not include a summary of financial results. There was also no substantive discussion of financial results in the body of the report, and only minimal explanatory notes in the financial statements at Part 4.²⁰

13 *Attorney-General's Department Annual Report 2016–17*, p. 43.

14 *Attorney-General's Department Annual Report 2016–17*, p. 43.

15 *Attorney-General's Department Annual Report 2016–17*, p. 47.

16 *Attorney-General's Department Annual Report 2016–17*, p. 47.

17 *Attorney-General's Department Annual Report 2016–17*, p. 47.

18 *Attorney-General's Department Annual Report 2016–17*, p. 13.

19 *Attorney-General's Department Annual Report 2016–17*, p. 13.

20 *Attorney-General's Department Annual Report 2016–17*, pp. 77–147.

1.16 The PGPA Rule requires that agencies provide 'a discussion and analysis of the entity's financial performance' be included in annual reports.²¹

1.17 The committee is disappointed to observe that the Department has not undertaken to improve their financial reporting given that the committee commented on this issue previously.²² Considering its obligations under the PGPA Rule, the committee encourages the Department to report on financial performance in compliance with the guidelines in future reports.

1.18 The department reported a departmental operating surplus of \$7.558 million for 2016–17. This surplus compares to an operating deficit of \$14.275 million in 2015–16, and is a \$23.155 million improvement from the deficit of \$15.597 million anticipated in the PAES. The 2016–17 result partly reflects underspend of appropriation, the transfer of leased premises and fitout to other Government agencies, and the better than expected operating outcome for the Australian Government Solicitor.²³

Conclusion

1.19 The committee encourages closer compliance to reporting guidelines in future annual reports, particularly in relation to financial performance reporting, but nonetheless considers the report to be 'apparently satisfactory'.

Department of Immigration and Border Protection

Tabling of report

1.20 The 2016–17 annual report was tabled in the House of Representatives on 19 October 2017, and later in the Senate on 13 November 2017. The report was available to senators for the Supplementary Budget Estimates 2016–17 hearing on 23 October 2017.

Secretary's and Commissioner's review

1.21 Both the Secretary of the Department of Immigration and Border Protection (the department), Mr Michael Pezzullo, and the Acting Commissioner of the Australian Border Force (ABF), Mr Michael Outram, provided a combined review for the annual report. This marked a departure from the 2015–16 annual report, which provided separate reviews from both officers.

1.22 The review notes that the annual report marks two years since the integration of the former Australian Customs and Border Protection Service and the department, and the ABF.²⁴

21 *Public Governance, Performance and Accountability Rule 2014* (PGPA Rule), p. 27.

22 Senate Legal and Constitutional Affairs Legislation Committee, *Report on Annual Reports (No. 1 of 2017)*, p. 4.

23 *Attorney-General's Department Annual Report 2016–17*, p. 100.

24 *Department of Immigration and Border Protection Annual Report 2016–17*, p. 2.

1.23 Key areas of the review included: the introduction of the Simplified Student Visa Framework; the implementation of the new Entrepreneur visa and amendment of the points test for skilled migration; a \$5 million Bay Class Vessel Refresh Works Program to improve the operational capability of two current ABF vessels; the establishment of an independent Child Protection Panel and the launch of the department's Child Safeguarding Framework; the release of the Detention Capability Review report; the ongoing closure and security of immigration detention facilities; development of a trusted operator model for cruise ships; progression towards the implementation of new generation Arrivals SmartGates; identifying persons of national security interest with Counter Terrorism Units stationed at major airports; the introduction of Visa Risk Assessment capacity; and the work of Taskforce Cadena.²⁵

Performance reporting

1.24 The annual report for 2016–17 provides comprehensive reporting on performance in accordance with the requirements of the PGPA Act and PGPA Rule.

1.25 Performance reporting is displayed in a clear format and footnotes throughout provide information about the source of each criterion, including page references from the PBS and/or Corporate Plan, distinction between deliverables and KPIs, and relevant outcome and/or program information.

1.26 Quantitative deliverables and KPIs are reported in tables with separate columns for description of the KPIs, 2016–17 Target [figure, for KPIs only], 2016–17 Result [figure], and Source of the relevant KPI. In a departure from the 2015–16 annual reports, results were not displayed as Met/Not met as applicable. There is limited-to-no explanatory text evaluating individual quantitative criteria.

1.27 The committee is pleased to note the department's overall high standard of performance reporting in this annual report.

1.28 However, the committee notes that results against KPIs were not clearly displayed as Met/Not Met, as has been the practice in previous annual reports.

1.29 The committee further finds that while the department met a substantial proportion of its KPIs, a number were not met across the following Purposes:

- (a) Purpose 1 (Manage the movement of people and goods to contribute to a strong economy): visa decisions and revenue made within service standards;²⁶ border declarations finalised;²⁷ number of imported sea cargo reports;²⁸ completion of tariff classification rulings;²⁹ rate of compliant import declarations assessed pre-clearance through the

25 *Department of Immigration and Border Protection Annual Report 2016–17*, pp. 2–9.

26 *Department of Immigration and Border Protection Annual Report 2016–17*, pp. 34, 40–1.

27 *Department of Immigration and Border Protection Annual Report 2016–17*, p. 46.

28 *Department of Immigration and Border Protection Annual Report 2016–17*, p. 46.

29 *Department of Immigration and Border Protection Annual Report 2016–17*, p. 46.

general monitoring programme;³⁰ rate of customs cargo control checks identifying a significant compliance breach;³¹ rate of passengers processed within 30 minutes of joining the inwards queue;³² rate of total passengers and crew arrivals refused immigration clearance at airports and seaports;³³ and rate of eligible passengers and crew processed using automated systems on departure.³⁴

- (b) Purpose 2 (Manage the movement and stay of people to contribute to a cohesive society): visits to the Citizenship Wizard website;³⁵ citizenship conferrals decisions made within service standards;³⁶ indicative primary decisions in the IMA legacy caseload;³⁷ and unlawful non-citizens seeking status resolution being appropriately accommodated based on risk.³⁸
- (c) Purpose 3 (Manage the border to contribute to a safer, secure Australia): import reports received in relation to sea cargo;³⁹ total passenger and crew refused immigration at the border (air and sea); number of vessel patrol days;⁴⁰ and joint ABF and ADF aircraft coverage.⁴¹

1.30 Details regarding the failure to meet KPIs were generally provided in overviews of the Strategic Performance Measures (SPM).

1.31 The committee notes the failure to meet a number of the required KPIs, particularly under Purpose 1. However, the committee recognises that the department has explained the cause of the failures, albeit in the overview of the relevant SPM. The committee encourages the department to address each individual KPI and explain its result in a clear and comprehensive format in the future.

Proposed addition of KPIs

1.32 During the Supplementary Budget Estimates hearing on 23 October 2017, the committee examined how the annual report did not incorporate KPIs relating to illicit

30 *Department of Immigration and Border Protection Annual Report 2016–17*, p. 47.

31 *Department of Immigration and Border Protection Annual Report 2016–17*, p. 48.

32 *Department of Immigration and Border Protection Annual Report 2016–17*, p. 48.

33 *Department of Immigration and Border Protection Annual Report 2016–17*, p. 48.

34 *Department of Immigration and Border Protection Annual Report 2016–17*, p. 49.

35 *Department of Immigration and Border Protection Annual Report 2016–17*, p. 68.

36 *Department of Immigration and Border Protection Annual Report 2016–17*, p. 68.

37 *Department of Immigration and Border Protection Annual Report 2016–17*, p. 75.

38 *Department of Immigration and Border Protection Annual Report 2016–17*, p. 82.

39 *Department of Immigration and Border Protection Annual Report 2016–17*, p. 92.

40 *Department of Immigration and Border Protection Annual Report 2016–17*, p. 100.

41 *Department of Immigration and Border Protection Annual Report 2016–17*, p. 100.

tobacco and air cargo or air passengers.⁴² It was noted that KPIs were included in the annual report for illicit tobacco detections in sea cargo and international mail.⁴³ The Secretary agreed to examine the incorporation of a KPI for illicit tobacco captured in air cargo and air passengers.⁴⁴

Financial performance

1.33 The total departmental expenses for 2016–17 were \$2924.3 million, \$61.7 million lower than in 2015–16. The total variance between departmental expenses and the original budget estimates demonstrated was an increase of \$181 million.⁴⁵ The total administered expenses in the same period were \$2116.8 million, which was lower than budget and the prior year figure of \$2307 million. This was attributable to lower supplier costs, underspends in legal costs, and lower personal benefits expense.⁴⁶

1.34 There was a reported \$24.3 million increase in departmental assets compared with 2015–16, with total assets now equal to \$1858.3 million at 30 June 2017. Total administered assets were equal to \$2077.2 million on 30 June 2017. The 2016–17 reporting period also saw a decrease in total liabilities: departmental liabilities decreased by \$48.2 million to \$689.3 million; and administered liabilities increased by \$41.6 million to \$320.8 million. The department's net asset position at 30 June 2017 was therefore \$1169 million, an increase of \$24.3 million from 30 June 2016.⁴⁷

1.35 The overall operating result for 2016–17 was a deficit of \$21.7 million, due to an increase in depreciation and amortisation expenses, attributed to changes in government bond rates. The depreciation and amortisation expenses for 2016–17 were \$285.3 million. The department stated in the annual report that, had it not been for this increased expense, the department would have reported an \$8.7 million surplus.⁴⁸

Correction of previous errors

1.36 Six errors made in the Australian Customs and Border Protective Service (ACBPS) annual report for 2015–16 were corrected in the department's report for 2016–17.⁴⁹

1.37 Under Part 4, Report on financial performance in the 2015–16 report, non-cash items were excluded from reported budget figures. The corrections in the 2016–17 report stated that it was subsequently 'not possible to make an accurate comparison

42 *Estimates Hansard*, 23 October 2017, p. 206.

43 *Department of Immigration and Border Protection Annual Report 2016–17*, p. 94.

44 *Estimates Hansard*, 23 October 2017, p. 206.

45 *Department of Immigration and Border Protection Annual Report 2016–17*, p. 190.

46 *Department of Immigration and Border Protection Annual Report 2016–17*, p. 116.

47 *Department of Immigration and Border Protection Annual Report 2016–17*, p. 117.

48 *Department of Immigration and Border Protection Annual Report 2016–17*, p. 116.

49 *Department of Immigration and Border Protection Annual Report 2016–17*, pp. 258–63.

of budget versus actual by outcome'.⁵⁰ The corrections reported changes the 2015–16 total budget administered expenses from \$2,396,702 to \$2,551,542.

Information required by other legislation

1.38 The annual report also includes information required by other legislation, including: compliance with the *Work Health and Safety Act (Cth) 2011*;⁵¹ compliance with the *Environment Protection and Biodiversity Act 1999*;⁵² and a brief report on the Office of the Migration Agents Registration Authority, as required under the *Migration Act 1958*.⁵³

1.39 The committee found that for the purpose of the annual report, the department met the reporting requirements of these Acts.

Management of human resources

1.40 The PGPA Rule requires that statistics be provided regarding an entity's APS employees on an ongoing or non-ongoing basis, including staffing classification level, full-time employees, part-time employees, gender, staff location, and employees who identify as indigenous.⁵⁴

1.41 The annual report failed to provide statistics regarding employees who identify as indigenous.

1.42 Statistics were provided regarding gender for the department as a whole, reporting that 53.5 per cent of the department comprised of female staff, and 46.5 per cent comprised of male staff.⁵⁵ Statistics were also provided in relation to gender in the composition of the Senior Executive Service.⁵⁶ However, the statistics were not broken down to provide information regarding gender composition at each classification level.

1.43 The PGPA Rule does not specifically require an assessment of gender at each classification level, only that 'statistics on gender' are provided. However, the committee notes that it now appears to be common practice for agencies to provide statistics on gender for each classification level. In addition to providing a complete picture of an agency's staffing, it provides an indication of classifications where gender differences are most pronounced.

1.44 The committee encourages the department to provide additional statistics on gender in order to deliver a fulsome illustration of the composition of its workforce.

50 *Department of Immigration and Border Protection Annual Report 2016–17*, p. 258.

51 *Department of Immigration and Border Protection Annual Report 2016–17*, pp. 238–41.

52 *Department of Immigration and Border Protection Annual Report 2016–17*, pp. 248–77.

53 *Department of Immigration and Border Protection Annual Report 2016–17*, pp. 276–8.

54 *Public Governance, Performance and Accountability Rule 2014* (PGPA Rule), p. 27.

55 *Department of Immigration and Border Protection Annual Report 2016–17*, p. 225.

56 *Department of Immigration and Border Protection Annual Report 2016–17*, p. 227.

The committee also encourages the department to provide statistics on indigenous staff as required by the reporting guidelines.

Conclusion

1.45 The committee found the annual report to be 'apparently satisfactory'.

