

## Executive Minute

### Joint Committee of Public Accounts and Audit Report 506: Inquiry into Commonwealth Financial Statements 2022-2023

#### Recommendation 1

*The Committee requires an update within six months of the tabling of this report from the Northern Land Council, Tiwi Land Council, and the Department of Health and Aged Care on their respective progress in addressing the significant legislative breaches identified by the Australian National Audit Office.*

#### **Response – Department of Health and Aged Care: Agreed**

#### **Supporting rationale – Department of Health and Aged Care:**

During 2023-24 the Department of Health and Aged Care (the Department) developed a comprehensive action plan to focus the remediation efforts and ensure senior leadership support for the body of work required to address a significant (category A) ANAO audit finding **Governance – Legislative compliance, legal matters and legal advice**.

Key measures identified in the action plan were implemented and embedded into the Department's processes and control framework by 30 June 2024. This included:

- Strengthening governance arrangements, including enhancing and formalising the communication and governance protocols between the Department and Services Australia across program, legal, and financial management.
- Developing a new *Section 83 of the Constitution: Risk Assessment, Management and Reporting Checklist* to assist program areas with conducting legislative risk assessments. This was reviewed by the Australian Government Solicitor (AGS).
- Undertaking a stocktake of program risk assessments in relation to compliance with legislative requirements, including section 83 breaches.
- Conducting further investigation and remediation work in relation to programs considered at high risk of breaching section 83 of the Constitution.
- Developing a new *Department of Health and Aged Care's Significant Non-Compliance Guidance* to assist officials within the Department with identification, classification and reporting of non-compliance. A summary of non-compliance and the relevant assessments is now provided to each Audit and Risk Committee meeting.

- Updating the *Accountable Authority Instructions* and the corresponding *Finance Business Rules* to include the requirement for any departmental official who receives a copy of legal advice obtained or produced by another agency about departmental portfolio legislation to provide a copy of that advice to the Department's legal area.

The Governance – Legislative compliance, legal matters and legal advice audit finding was closed by the ANAO at the conclusion of the 2023-24 financial statements audit. This was communicated in the *Auditor-General Report No.22 of 2024-25: Audits of the Financial Statements of Australian Government Entities for the Period Ended 30 June 2024*.

In 2023-24 the ANAO raised a new significant audit finding in relation to legal conformance, focussing on improving consistency in the legislative risk assessments across the Department, and recommending that the Department provide central oversight of the process. In response to this new audit finding, the Department has further improved its guidance for the risk assessment, management and reporting of section 83 breaches and formalised the roles and responsibilities for providing a central oversight.

The updated guidance leverages from the Department's existing risk assessment framework and risk management tools.

An enhanced Department-wide program risk assessment process is underway, and will be included in the audit finding closure pack prepared prior to 30 June 2025 for consideration by the ANAO.



Blair Comley PSM  
Secretary  
Accountable Authority of the Department of Health and Aged Care

~~May 2025~~  
29 April 2025