

The JCPAA's role and functions

Introduction

- 1.1 The Joint Committee of Public Accounts and Audit (JCPAA) is a committee of the Commonwealth Parliament, and is established pursuant to the *Public Accounts and Audit Committee Act 1951* (PAAC Act).¹ The PAAC Act provides for the Committee to be appointed at the beginning of each Parliament, with a total of 16 members – six to be appointed by the Senate and ten to be appointed by the House of Representatives. In the past the Committee Chair has been a Government member with a member of the Opposition as Deputy Chair.
- 1.2 Following the 2010 Federal Election, the 'Agreement for a Better Parliament-Parliamentary Reform', stipulated a change to the previous model, with the Chair of the Committee to be drawn from a 'member of a non-Government party or a non-aligned Member'.² Consequently, the Chairman of the JCPAA for the 43rd Parliament is an Independent Member of the Parliament, and the Deputy Chair a member of the Government.

1 The Act can be viewed at the Committee's website
<http://www.aph.gov.au/house/committee/jcpaa/index.htm>.

2 *The Australian Labor Party & the Independent Members* (Mr Tony Windsor and Mr Rob Oakeshott) ('the Parties') – Agreement, 'The Committee System', signed 7 day of September 2010, p.6.

Procedures and powers

- 1.3 Public accounts committees are generally tasked with the ‘oversight, scrutiny and control of public funds’.³ Committees such as the JCPAA perform a key role within a parliamentary democracy of calling upon organisations to account for their performance, in particular their use of public monies. This is reflected in the Committee’s main responsibilities and activities, which are outlined in more detail in the following section.
- 1.4 The JCPAA is one of only seven statutory committees. The Act essentially provides the Committee with the power to set its own work program and determine its work priorities within the Act’s overall mandate. The Committee may report to the Parliament with any comment it thinks fit, on any items or matters concerning the financial accounts and affairs of Commonwealth authorities, any report of the Auditor-General tabled in Parliament, or, any circumstances connected with either. This power is unique among parliamentary committees and provides the JCPAA with a considerable degree of autonomy from executive government.

Committee duties

- 1.5 In general terms, the duties of the Committee are to:
- examine the financial affairs of authorities of the Commonwealth;
 - examine all reports of the Auditor-General that are tabled in the Parliament;
 - consider the operation and resources of the Australian National Audit Office (ANAO);
 - approve or reject any nomination for appointment of any person to the office of the Auditor-General or Independent Auditor of the ANAO; and
 - increase parliamentary and public awareness of the financial and related operations of government.⁴

3 Jacobs, Kerry and Jones, Kate, *Governing the Government: The Paradoxical Place of the Public Accounts Committee*, Public Sector Governance and Accountability Research Centre La Trobe University (paper presented to the 2005 Australasian Study of Parliament Group), p.2.

4 The duties of the JCPAA are described in detail in sections 8 and 8A of the Committee’s Act.

- 1.6 Additionally, the Committee may perform additional duties in 2011-12 regarding the proposed Parliamentary Budget Office. On behalf of the Parliament, the Committee may be responsible for the oversight of the Parliamentary Budget Officer and their office in regard to the 'annual work program, draft budget estimates, and annual report'.⁵
- 1.7 The following section provides more detail on the Committee's specific roles and functions.

The work and operation of the Auditor-General and the ANAO

Review of the Auditor-General's reports

- 1.8 The Committee is responsible for examining all of the Auditor-General's reports on behalf of the Parliament. This process is supported by regular private briefings from ANAO officers to the Committee on the findings of tabled reports.
- 1.9 Following these briefings, the Committee selects audit reports it wishes to review in more detail through conducting an inquiry. Typically, the Committee selects reports where: the ANAO has been largely critical of an agency; the agency audited has a history of performance issues; there may be a high financial or safety risk to the community; or the Committee is the clear candidate to conduct a parliamentary review.
- 1.10 Public hearings are then conducted into the selected reports with witnesses present from both the audited agency and the ANAO. The hearings are guided by the findings of the audit report, with the Committee focused on determining how particular deficiencies or issues arose, and what actions the agency is undertaking to rectify the shortcomings identified in the audit, in particular implementing the ANAO's recommendations.
- 1.11 The Committee periodically tables reports in Parliament on its reviews of Auditor-General's reports. The Committee's reports incorporate the evidence taken during public hearings and may also include recommendations by the Committee in addition to those already presented by the Auditor-General. Unlike the ANAO, the Committee is able to direct recommendations at Government policy, and at times the

5 These potential new duties are a direct outcome of the Government's response to the recommendations in the Joint Select Committee on the Parliamentary Budget Office's report *Inquiry into the proposed Parliamentary Budget Office*. The report and government response is available at <http://www.aph.gov.au/house/committee/jscpbo/report.htm>.

Committee can use the ANAO's recommendations to draw conclusions regarding broader Government administration.

- 1.12 Other committees are also able to review ANAO reports that are relevant to their area and portfolio coverage.⁶

Annual hearing on the "Major Projects Report"

- 1.13 During the course of an inquiry into Defence financial reporting and equipment acquisition, the Committee in the 41st Parliament recommended that the ANAO be funded to produce an annual report on progress in major Defence acquisition projects (based on a similar process in the United Kingdom).⁷ The development of such a report had also been previously requested by the Senate based on recommendations of its Foreign Affairs, Defence and Trade References Committee.⁸
- 1.14 One of the major drivers for the production of this annual report was that it would facilitate improved transparency and accountability around major acquisition projects. The parameters of the "Major Projects Report" (MPR) would enable both the ANAO and the Parliament to review and scrutinise major Defence projects that were in progress, and gain a broader perspective on equipment acquisition performance than was currently available.⁹ The Committee was also of the view that continuous monitoring through this review would help promote cultural change in the management of Defence projects.
- 1.15 A total of three MPRs have been released. These reports generally consist of the ANAO's assurance review of the selected Defence major acquisition projects as well as the Defence Materiel Organisation's commentary and analysis on the major projects. The Committee has held a public hearing on each of the published reports and has completed reports reviewing two of the MPRs.

6 The House of Representatives Standing Order 215(c) requires that the JCPAA be notified in writing if a House committee decides to review an Auditor-General report.

7 Joint Committee of Public Accounts and Audit, *Report 411: Progress on equipment acquisition and financial reporting in Defence*, August 2008, p. 158.

8 Senate Foreign Affairs, Defence and Trade References Committee, *Materiel Acquisition and Management in Defence*, March 2003, p. 79.

9 Joint Committee of Public Accounts and Audit, *Report 411: Progress on equipment acquisition and financial reporting in Defence*, August 2008, pp.vii-viii, xxii-xxiii, 161-175.

Advise the Auditor-General on the Parliament's audit priorities

- 1.16 While the Auditor-General is given the authority to autonomously determine the work program undertaken by the ANAO,¹⁰ the Committee is responsible for determining and advising the Auditor-General of the Parliament's audit priorities. This activity represents the Parliament's engagement with the development of scrutiny strategies. Through this process the Parliament directly presents its views, on areas of public administration it is interested in seeing examined, to the Auditor-General.
- 1.17 As part of the identification of the Parliament's priorities, the JCPAA seeks input from all other parliamentary committees, asking advice on any programs or functions within their portfolio they believe should be audited. The Committee first ensures that the suggested topics are appropriate (for example that the ANAO is not being asked to comment on the merits of Government policy) and then collates these suggestions along with other areas it wishes to identify. This list is referred to the Auditor-General for consideration in the finalisation of the ANAO's work program for the proceeding financial year.

Review the annual budget of the ANAO

- 1.18 Under the PAAC Act the Committee is required to consider 'draft estimates' for the ANAO and the level of fees determined by the Auditor-General. In support of this process, the ANAO usually provides a series of briefings to the Committee. With the provision of this information, the Committee is able to make formal representations to the Government on behalf of the ANAO if necessary.
- 1.19 In the first instance, the Committee typically corresponds with the Special Minister of State for the Public Service and Integrity on the draft estimates. This is followed by the Committee making a statement to both Houses of Parliament on budget day, expressing the Committee's opinion as to whether the ANAO has been given sufficient funding to perform its functions.¹¹
- 1.20 The intention of this process and the Committee's power in considering the draft estimates for the ANAO is to dissuade governments from attempting to influence the Auditor-General through unjustified restrictions to the ANAO's funding.

¹⁰ *The Auditor-General Act 1997*, Part 3 – The Auditor-General.

¹¹ Joint Committee of Public Accounts and Audit, *Report by the Joint Committee of Public Accounts and Audit on the 2011-12 Draft Estimates for the Audit Office*, 10 May 2011, available from, <http://www.aph.gov.au/house/committee/jcpaa/reports.htm>.

Responsibilities and powers for the appointment of the Auditor-General or Independent Auditor

- 1.21 The JCPAA plays an important role in the appointment of a new Auditor-General. While the Special Minister of State for the Public Service and Integrity is responsible for nominating and recommending to the Governor-General a new Auditor-General, this proposal must first be approved by the Committee on behalf of the Parliament.
- 1.22 The Committee is given 14 days within receipt of the nomination to either: approve or reject the nomination by absolute majority; or seek an extension of time of 30 days. If a decision is not reached within this period, the PAAC Act provides that it will therefore be taken as an approval of the nomination.
- 1.23 Similarly, the Committee also approves or rejects any nomination for the position of the Independent Auditor of the ANAO. The Independent Auditor is appointed from the private sector on a part-time basis to serve as an external auditor to the ANAO. The Independent Auditor is tasked with auditing the ANAO's financial statements and periodically conducts performance audits of the ANAO following consultation with the Committee.

Other activities

Conducting policy inquiries

- 1.24 The Committee also on occasion, exercises its power to undertake policy inquiries. These inquiries may arise either from findings of the Auditor-General or at the initiative of the Committee.
- 1.25 Over the last four parliaments, the JCPAA has undertaken 13 major inquiries – with just over half initiated by the Committee, five commenced due to findings of ANAO reports, and one commenced following a proposal by the then Minister for Finance and Administration.

Biannual hearings – Commissioner of Taxation

- 1.26 In the 41st Parliament, the Committee initiated an inquiry into numerous taxation matters. During the course of the inquiry the Commissioner of Taxation agreed to appear before the Committee at two public hearings each year to update the Parliament and public on recent developments in tax administration.

- 1.27 Since these hearings were initiated, eight have been held. These public hearings are typically preceded by private briefings from tax law academics and interest groups.
- 1.28 While previous hearings increased scrutiny of the administration of the Australian Taxation Office (ATO), in 2011, the Committee considered that public scrutiny would be better served if a Committee report was produced from these proceedings. Accordingly, a report was tabled in the Parliament in July 2011. This report is discussed further in Chapter 2.

Annual report requirements for Commonwealth agencies

- 1.29 Annual reports of Commonwealth departments are an important accountability tool, particularly to the Parliament. Primarily, annual reports outline departments' performance in relation to services provided and are required to be prepared in accordance with the detailed *Requirements for Annual Reports*. The Requirements state that among other things, annual reports should provide, '...sufficient information and analysis for the Parliament to make a fully informed judgement on departmental performance'.¹²
- 1.30 The draft Requirements are prepared by the Department of the Prime Minister and Cabinet and prior to publication, the JCPAA is responsible for their approval. This document is updated annually to reflect changes to reporting requirements which may have occurred in areas such as legislation, policies, or recommendations from the ANAO.

Responses to JCPAA reports

- 1.31 The JCPAA's reports can include both 'policy recommendations' and/or 'administrative recommendations'. While administrative recommendations¹³ can be implemented and decided on by the relevant affected agencies, policy recommendations may have direct implications to existing Government policy and necessitate the Minister or Cabinet to respond.

12 Department of the Prime Minister and Cabinet, *Requirements for Annual Reports: for departments, executive agencies and FMA Act bodies*, 8 July 2011, p.4, see http://www.dpmc.gov.au/guidelines/docs/annual_report_requirements_2010-11.pdf.

13 See Department of Finance and Deregulation, *Joint Committee of Public Accounts and Audit Reports: A guide for Agencies when preparing a response*, available from, <http://www.finance.gov.au/financial-framework/governance/joint-committee-of-public-accounts-and-audit.html>.

- 1.32 Administrative responses are addressed by way of an Executive Minute, and are expected to be provided by the responsible Minister to the Chair of the JCPAA within six months of the report being tabled. Policy recommendations are addressed by way of a separate Government response from the responsible Minister(s) to the Chair of the JCPAA. The Government has also given a commitment for these responses to be provided within six months of the date of a report's tabling.

Engagement with other public accounts committees

Australasian Council of Public Accounts Committees (ACPAC)

- 1.33 The JCPAA is a member of the Australasian Council of Public Accounts Committees (ACPAC). ACPAC is the governing body which oversees the arrangements for the biennial conference of Public Accounts Committees (PACs) and like committees in the Australian states and territories, New Zealand, Papua New Guinea and the Solomon Islands.
- 1.34 ACPAC's biennial conferences are an opportunity to exchange knowledge and share experiences between the different jurisdictions. The last biennial conference was held in Perth, Western Australia in April 2011 and was the 11th Biennial Australasian Council of Public Accounts Committees Conference. Representations from the Committee included the Deputy Chair and the Committee Secretary.