

Chapter 1

Overview

1.1 The Senate Community Affairs Legislation Committee (committee) is responsible for examining the annual reports of the departments and agencies of the Health Portfolio and the Social Services Portfolio (including Human Services).

1.2 This is the first report on annual reports for 2017. It provides an overview of the committee's examination of annual reports for the 2015–16 financial year which were tabled in Parliament between 1 May and 31 October 2016.¹

1.3 Commonwealth entities are obligated to report to the Parliament, and through the Parliament to the Australian public, on their operations in the support of the government of the day. Reporting by Commonwealth entities is a principal mechanism for ensuring accountability and transparency in government.²

Terms of Reference

1.4 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 www.aph.gov.au/senate_ca.

2 Department of Finance, *Resource Management Guide No. 130: Overview of the enhanced Commonwealth performance framework*, July 2016, p. 3.

- (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.

Allocated portfolios and changes to portfolios

1.5 On 31 August 2016, the Senate resolved to allocate government portfolios to committees. In accordance with that resolution, the committee was allocated oversight for the following portfolios:

- Health; and
- Social Services (including Human Services).³

1.6 Following the abolishment of the National Health Performance Authority (NHPA) from 30 June 2016, the NHPA's functions were transferred to the Australian Institute of Health and Welfare (AIHW), the Australian Commission on Safety and Quality in Health Care (ACQHC) and the Department of Health (DOH).⁴

Purpose of annual reports

1.7 Annual reports are a key document under the enhanced Commonwealth performance framework and are the primary mechanism by which Ministers report to the Parliament on the performance of Commonwealth entities.⁵

1.8 The principal purpose of annual reports is accountability, in particular to the Parliament. The tabling of annual reports places important information about government departments and agencies on the public record, and assists the Parliament in the effective examination of the performance of Commonwealth entities administration of government programs.

Annual reporting requirements

1.9 The committee is required to examine reports referred to it to determine whether they are 'apparently satisfactory' and timely in presentation to the Parliament. The committee notes that the standard of 'apparently satisfactory' is not specifically defined by the Standing Orders, however broadly interprets the term as meaning to be in compliance with relevant legislation and guidelines.

Public Governance, Performance and Accountability Act 2013

1.10 On 1 July 2014 the *Public Governance, Performance and Accountability Act 2013* (PGPA Act) commenced and replaced the previous Commonwealth governance

3 *Journals of the Senate*, No. 2—31 August 2016, p. 75.

4 Department of Health, *Portfolio Budget Statements 2016–17: Budget Related Paper No. 1.10*, p. 4.

5 Department of Finance, *Resource Management Guide No. 130: Overview of the enhanced Commonwealth performance framework*, July 2016, p. 7.

and accountability arrangements established under the repealed *Financial Management and Accountability Act 1997* and the *Commonwealth Authorities and Companies Act 1997*.

1.11 The enhanced Commonwealth performance framework was established under subsection 5(b) of the PGPA Act to update the Commonwealth's governance and accountability arrangements to support a modern and streamlined public sector. The enhanced Commonwealth performance framework provides for clearer linkages between Portfolio Budget Statements, Corporate Plans and Annual Reports.

1.12 The *Public Governance, Performance and Accountability Rule 2014* is made as an administrative rule under the PGPA Act and contains specific annual reporting requirements applicable to Commonwealth entities and Commonwealth companies.

1.13 The committee notes that the introduction of the PGPA Act marked a significant evolution of the reporting requirements for Commonwealth entities and Commonwealth companies. Following the transitional arrangements in place for reporting of 2014–2015 financial year, the 2015–16 reporting period is the first full year of reporting under the requirements of the PGPA Act.

Key legislation and instruments for annual reporting

1.14 Annual reporting requirements for Commonwealth entities are primarily set down in the following legislation and instruments:

- subsection 63(2) for departments of state and subsection 70(2) for Executive Agencies of the *Public Service Act 1999*. As a matter of policy, these subsections also apply to other non-corporate Commonwealth entities, as defined in section 11 of the PGPA Act;
- section 46 of the PGPA Act and Division 3A of the *Public Governance, Performance and Accountability Rule 2014* for non-corporate Commonwealth entities and subdivision 3B for corporate Commonwealth entities;
- section 97 of the PGPA Act and part 3-3 of the of the *Public Governance, Performance and Accountability Rule 2014* for Commonwealth companies; and
- the *Corporations Act 2001* contains a number requirements for Commonwealth companies, which are acknowledged in the PGPA Act;⁶ and
- for non-statutory bodies, the guidelines are contained in the government response to the Senate Standing Committee on Finance and Public Administration Report on Non-Statutory bodies.⁷

6 Department of Finance, *Resource Management Guide No. 137: Annual reports for Commonwealth Companies*, July 2016, p. 3.

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

1.15 Statutory authorities are required to report in accordance with their enabling legislation.

1.16 The committee notes that some of the bodies which are required to produce annual reports to the Senate, in accordance with legislation or instruments, fall outside the categories listed above. In these cases, examination of reports refers to these requirements where appropriate, and adopts the general standard of reasonableness in support of accountability and transparency.

Other legislative requirements

1.17 The committee notes that other legislation may also be applicable to the reporting requirements of annual reports. Legislation with annual reporting requirements includes:

- subsection 311A(1) of the *Commonwealth Electoral Act 1918* for Departments of State of the Commonwealth, Departments of the Parliament (as established under the *Parliamentary Service Act 1999*) and Agencies (within the meaning of the *Public Service Act 1999*);
- section 516A of the *Environment Protection and Biodiversity Conservation Act 1999* for Commonwealth entities, Commonwealth companies (within the meaning of the PGPA Act) and Commonwealth agencies; and
- part 4 of schedule 2 of *Work Health and Safety Act 2011* for non-Corporate Commonwealth entities (within the meaning of the PGPA Act) and public authorities (defined as including Commonwealth companies within the meaning of the PGPA Act).

Timeliness of reports

Non-corporate Commonwealth entities and Corporate Commonwealth entities

1.18 In accordance with section 46 of the PGPA Act, Commonwealth entities (non-corporate and corporate) are required to provide annual reports to the responsible Minister by the 15th day of the fourth month after the end of the reporting period, or by the end of any further period granted under paragraph 34C(5) of the *Acts Interpretation Act 1901*.

1.19 Section 46 of the PGPA Act does not stipulate a timeframe for which the responsible Minister should table an annual report in Parliament following receipt from a Commonwealth entity. The committee agrees with Department of Finance's expectation that annual reports will be tabled in Parliament not later than 31 October.⁸

1.20 In instances where Senate Supplementary Budget Estimates hearings are scheduled to occur prior to 31 October, it is considered best practice for annual reports

8 Department of Finance, *Resource Management Guide No. 130: Overview of the enhance Commonwealth performance framework*, July 2016, p. 7.

to be tabled in advance of the hearing dates to ensure opportunity for scrutiny at Estimates.⁹

Commonwealth companies

1.21 In accordance with subsection 97 of the PGPA Act, directors of Commonwealth companies are required to submit annual reports to the responsible Minister. Subsection 97(2) of the PGPA Act states that:

- (2) 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 reporting period for the company;
 - (ii) 4 months after the end of the reporting period for the company; and
 - (b) in any other case—4 months after the end of the reporting period for the company; or the end of such further period granted under subsection 34C(5) of the *Acts Interpretation Act 1901*.¹⁰

1.22 Subsection 97(5) of the PGPA Act goes on to state:

If the Commonwealth company is a wholly-owned Commonwealth company, or is not required to hold an annual general meeting, 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.¹¹

1.23 As with Commonwealth entities, the committee notes that best practice is for the annual reports of Commonwealth companies to be tabled by 31 October, or prior to Supplementary Budget Estimates.

1.24 The Australian Aged Care Quality Agency (AACQA) received an extension on its annual reporting date to 4 November 2016 and then again to 12 December 2016. This extension was granted under section 34C of the *Acts Interpretation Act 1901* by the then Minister for Health, The Hon. Sussan Ley MP. The report was received by the Minister on 2 December 2016 and presented out-of-session on 19 December 2016.

9 Australian Government Department of 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
<https://www.dpmc.gov.au/sites/default/files/publications/tabling-guidelines-august-2016.pdf> (accessed 27 January 2016).

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

11 *Public Governance, Performance and Accountability Act 2013*, ss. 97(5).

In accordance with Senate Standing Order 25(20)(f), the AACQA report will be considered in the committee's second report on annual reports of 2017.

Publishing standards for the presentation of documents to Parliament

1.25 Subdivisions 17AB, 17BC and 28C of the *Public Governance Performance and Accountability Rule 2014* provide that the annual reports of non-corporate Commonwealth entities, corporate Commonwealth entities and Commonwealth companies must comply with the guidelines for presenting documents to Parliament.

1.26 The publishing standards for the presentation of annual reports are stipulated in the *Guidelines for the Presentation of Documents to the Parliament*, prepared by the Department of the Prime Minister and Cabinet (PM&C).¹²

1.27 The committee notes that all of the annual reports it has examined appear to meet PM&C publishing standards.

Reports examined 2015–16

1.28 This report considers 28 annual reports received during the period 1 May 2016 to 31 October 2016.

1.29 A list of the annual reports of Commonwealth entities and companies 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 legislation under which reports are required to be provided and tabling information.

1.30 The committee is pleased to note that the annual reports examined mostly comply with the relevant reporting guidelines and are of an 'apparently satisfactory' standard. The reports continue to maintain high standards of presentation and provide a comprehensive range of important information on each entity's functions and activities.

Comments made in the Senate

1.31 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.

1.32 The committee is not aware of any comments made in the Senate regarding the annual reports of departments and agencies within its purview.

Additional reports

1.33 Additional reports referred to and received by the committee between the period of 1 May 2016 and 31 October 2016 are listed at Appendix 2. The committee

12 Australian Government Department of 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
<https://www.dpmc.gov.au/sites/default/files/publications/tabling-guidelines-august-2016.pdf>
(accessed 27 January 2016).

notes that these reports were referred for information only and the committee is not required by the terms of the Standing Order to report on these documents.