

Chapter 1

Introduction

1.1 The Senate Finance and Public Administration Legislation Committee (the committee) is responsible for examining the annual reports of the parliamentary departments,¹ and the departments and agencies of the Prime Minister and Cabinet Portfolio and the Finance Portfolio.

1.2 This is the first report on annual reports for 2016 and provides an overview of selected annual reports presented to the Parliament between 1 May and 31 October 2015. Copies of this and other committee reports can be obtained from the Senate Table Office, the committee secretariat or [online](#) at the committee's web page.

Terms of reference

1.3 Under Senate Standing Order 25(20) the annual reports of certain departments and agencies stand referred to committees for examination and assessment. Each 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 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.

1 As a matter of comity between the Houses of Parliament, neither House inquires into the operations of the other House. For this reason, neither the annual report of, nor the proposed expenditure for, the Department of the House of Representatives is referred to a Senate committee for review.

Allocated portfolios

1.4 The Senate allocated departments and agencies to committees on 13 November 2013.² In accordance with that resolution, the committee has responsibility for the oversight of the following:

- Parliament;
- Prime Minister and Cabinet Portfolio (PM&C Portfolio); and
- Finance Portfolio.

Role of annual reports

1.5 Annual reports place a great deal of information about government departments and agencies on the public record in relation to the performance, activities, management and financial position of the reporting body. The *Requirements for Annual Reports for Departments, Executive Agencies and Other Non-corporate Commonwealth Entities* (Requirements for Annual Reports), prepared by the Department of the Prime Minister and Cabinet (PM&C), note that '[t]he primary purpose of annual reports of departments is accountability, particularly to the Parliament.'³ Annual reports assist the Parliament in the examination of the performance of departments and agencies, and the administration of government programs.

Reports examined

1.6 During the period of 1 May to 31 October 2015, 17 annual reports of bodies or statutory office holders were presented to the Parliament and referred to the committee. The reports examined are categorised as follows:

Non-corporate Commonwealth entities

Parliamentary departments

- Department of the Senate – Report for 2014-15
- Parliamentary Budget Office – Report for 2014-15
- Department of Parliamentary Services – Report for 2014-15

Departments of State

- Department of the Prime Minister and Cabinet – Report for 2014-15
- Department of Finance – Report for 2014-15

Agencies

- Australian National Audit Office – Report for 2014-15

2 *Journals of the Senate, No. 1*, 13 November 2013, pp 88-89.

3 Department of the Prime Minister and Cabinet, *Requirements for Annual Reports for Departments, Executive Agencies and Other Non-Corporate Commonwealth Entities*, 25 June 2015, p. 3.

-
- Office of the Official Secretary to the Governor-General – Report for 2014-15
 - Australian Public Service Commission – Report for 2014-15, including report of the Merit Protection Commissioner
 - Inspector-General of Intelligence and Security – Report for 2014-15
 - Commonwealth Ombudsman – Report for 2014-15
 - Private Health Insurance Ombudsman – Report for 2014-15
 - Future Fund Management Agency– Report for 2014-15⁴

Corporate Commonwealth entities

- Albury-Wodonga Development Corporation – Report for the period 1 July to 31 December 2014 [Final report]

Commonwealth companies

- National Australia Day Council Limited – Report for 2014-15
- Australian River Co. Limited – Report for the period 1 December 2013 to 30 November 2014

Statutory office holders

- Parliamentary Service Commissioner – Report for 2014-15, including report of the Parliamentary Service Merit Commissioner
- Remuneration Tribunal – Report for 2014-15

Reports not examined

1.7 The committee is not obliged to examine reports on the operation of Acts, reports of Royal Commissions, statements of corporate intent, surveys, policy papers, budget documents, corporate plans or errata. Where a report is referred to two standing committees, the committee has deferred examination of those reports to the committee which has primary oversight of the portfolio where that agency sits. Accordingly, the following documents were also referred to the committee but not examined in this report:

- Institutional Responses to Child Sexual Abuse – Royal Commission – Report of case study no. 17 – The response of the Australian Indigenous Ministries, the Australian and Northern Territory governments and the Northern Territory police force and prosecuting authorities to allegations of child sexual abuse which occurred at the Retta Dixon Home, dated July 2015
- *Classification (Publications, Films and Computer Games) Act 1995* – Independent review of Part 10 (Material prohibited in certain areas in the Northern Territory) by MinterEllison, dated 6 August 2015

4 It is noted that section 10(2) of the *Public Governance, Performance and Accountability Act 2013*, states that the High Court and the Future Fund Board of Guardians are not Commonwealth entities.

- *Stronger Futures in the Northern Territory Act 2012* – Independent review of the effectiveness of Northern Territory and Commonwealth laws in reducing alcohol-related harm by MinterEllison, dated 6 August 2015
- Australian Electoral Commission – Western Australian Senate Election 2014 – Funding and disclosure report, dated January 2015
- Final Budget Outcome 2014-15
- Clean Energy Finance Corporation – Report for 2014-15

Method of assessment and current annual reporting requirements

1.8 Senate Standing Order 25(20) requires that the committee examine reports referred to it to determine whether they are timely and 'apparently satisfactory'. The committee must consider whether the reports comply with the relevant legislation and guidelines for the preparation of annual reports in forming its assessment.

Public Governance, Performance and Accountability Act 2013

1.9 The *Public Governance, Performance and Accountability Act 2013* (PGPA Act) came into effect on 1 July 2014, replacing the repealed *Financial Management and Accountability Act 1997* (FMA Act) and the *Commonwealth Authorities and Companies Act 1997* (CAC Act). As set out in previous reports of the committee, different reporting requirements had applied to the former FMA Act bodies and CAC Act bodies.

1.10 Major changes to the Requirements for Annual Reports, which apply to non-corporate Commonwealth entities, were anticipated for the 2014-15 annual reports following the commencement of the PGPA Act. However, these revisions are now anticipated to come into effect in 2015-16.⁵ Notwithstanding this delay, changes were made to the updated Requirements for Annual Reports in the interim to reflect the passage of the PGPA Act, including the amendment of references to the CAC Act and FMA Act.

1.11 The Requirements for Annual Reports do not apply to corporate Commonwealth entities and Commonwealth companies (formerly CAC Act authorities and companies). The current Requirements for Annual Reports note that sections 7AB and 7AC of the Public Governance Performance and Accountability (Consequential and Transitional Provisions) Rule 2015 continue the application of the *Commonwealth Authorities (Annual Reporting) Orders 2011* and the *Commonwealth Companies (Annual Reporting) Orders 2011* to annual reports for those entities and therefore will apply for the 2014-15 reporting period.⁶

⁵ See Department of the Prime Minister and Cabinet, *Requirements for Annual Reports for Departments, Executive Agencies and FMA Act Bodies*, 29 May 2014, p. i; and Department of the Prime Minister and Cabinet, *Requirements for Annual Reports for Departments, Executive Agencies and Other Non-Corporate Commonwealth Entities*, 25 June 2015, p. i.

⁶ Department of the Prime Minister and Cabinet, *Requirements for Annual Reports for Departments, Executive Agencies and Other Non-Corporate Commonwealth Entities*, 25 June 2015, p. 1.

1.12 Therefore, noting the above changes and transitional arrangements, below is a summary of the instruments under which the 2014-15 annual reports were prepared:

- for non-corporate Commonwealth entities: the PGPA Act, section 46; for portfolio departments and executive agencies, the *Public Service Act 1999*, sections 63(2) and 70(2); for parliamentary departments, the *Parliamentary Service Act 1999*, section 65; for statutory bodies, relevant enabling legislation; and the Requirements for Annual Reports;
- for corporate Commonwealth entities: the PGPA Act, section 46; for statutory bodies, relevant enabling legislation; the *Commonwealth Authorities (Annual Reporting) Orders 2011*;
- for Commonwealth companies: the PGPA Act, section 97, which also refers to requirements under the *Corporations Act 2001*; *Commonwealth Companies (Annual Reporting) Orders 2011*; 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, Senate Hansard, 8 December 1987, pp 2632-45.

Development of new reporting rules under the PGPA Act

1.13 The committee notes that the responsibility for issuing the Requirements for Annual Reports transferred from the Department of PM&C to the Department of Finance on 1 July 2015.⁷ Under the Joint Committee of Public Accounts and Audit's (JCPAA) inquiry into the Department of Finance's development of the Commonwealth Performance Framework, Finance advised that 'these requirements will be replaced through the consolidation of all mandatory requirements into a rule made for the purposes of section 46 of the PGPA Act.'⁸ Section 46(4) of the PGPA Act states that before rules are made they must be approved on behalf of the Parliament by the JCPAA.

1.14 The Department of Finance will undertake a consultation process in the development of the guidelines which will include input from the JCPAA.⁹ The committee understands that the JCPAA will seek feedback from Senate Standing Committees on the development of the new guidelines and looks forward to the opportunity of participating in this process.

7 See footnote 28, Joint Committee of Public Accounts and Audit, *Report 453 Development of the Commonwealth Performance Framework, December 2015*, p. 12.

8 Joint Committee of Public Accounts and Audit, *Report 453 Development of the Commonwealth Performance Framework, December 2015*, p. 12.

9 Joint Committee of Public Accounts and Audit, *Report 453 Development of the Commonwealth Performance Framework, December 2015*, Submission 17 – Supplementary Submission, pp 2-3.

PM&C Requirements for Annual Reports for 2014–15 reports

1.15 The Requirements for Annual Reports are reviewed annually and, if required, are updated to take into account any changes to reporting requirements in legislation, arising from new policy, or recommendations in parliamentary, Australian National Audit Office (ANAO), or other reports. The Requirements for Annual Reports published on 25 June 2015, noted that the significant amendments, apart from those noted above concerning enactment of the PGPA Act, to the current version relate to small business procurement and Indigenous employment.¹⁰

Small Business Procurement

1.16 This new mandatory reporting obligation is comprised of three elements which have been added to reflect the Government's commitment to improve small business access to Commonwealth contracts and requires:

- the inclusion of a statement that refers readers to the statistics on Small and Medium Enterprises (SMEs) participation on the Department of Finance's website;
- for bodies that are 'material' in nature, the inclusion of a statement which refers readers to the on-time payments performance results on Treasury's website; and
- the inclusion of a brief statement on the ways in which the agency's procurement practices support SMEs which is consistent with paragraph 5.4 of the Commonwealth Procurement Rules.¹¹

Indigenous employment

1.17 This new mandatory reporting requirement specifies that the annual report must include information on the number of ongoing and non-ongoing employees as at 30 June, for the current and preceding year who identify as Indigenous. The Requirements for Annual Reports note that this requirement follows the Australian Government's announcement of a new Indigenous employment target across the Commonwealth public sector as part of its response to the Forrest Review, *Creating Parity*.¹²

10 Department of the Prime Minister and Cabinet, *Requirements for Annual Reports for Departments, Executive Agencies and Other Non-Corporate Commonwealth Entities*, 25 June 2015, p. i.

11 Department of the Prime Minister and Cabinet, *Requirements for Annual Reports for Departments, Executive Agencies and Other Non-Corporate Commonwealth Entities*, 25 June 2015, pp 14-15.

12 Department of the Prime Minister and Cabinet, *Requirements for Annual Reports for Departments, Executive Agencies and Other Non-Corporate Commonwealth Entities*, 25 June 2015, p. 10.

Timeliness

Commonwealth entities

1.18 Section 46 of the PGPA Act requires Commonwealth entities to prepare an annual report and provide it to the responsible Minister by the 15th day of the fourth month after the end of the reporting period for the entity.¹³ This section of the Act does not, however, provide for a timeframe for the Minister to present the report to the Parliament. For non-corporate Commonwealth entities, the Requirements for Annual Reports state that:

The responsible Minister must, in turn, present the report to each House of the Parliament on or before 31 October in the year in which the report is given. If the 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.¹⁴

1.19 As the Requirements for Annual Reports only apply to non-corporate Commonwealth entities, there is a lack of clarity regarding the timeframe for the presentation to the Parliament of annual report of corporate Commonwealth entities. It would appear that Section 34C of the *Acts Interpretation Act 1901* regarding periodic reports would apply to corporate Commonwealth entities, as it did for Commonwealth authorities under the former CAC Act. Section 34C(3) of the *Acts Interpretation Act* states that:

(3) Where an Act requires a person to furnish a periodic report to a Minister for presentation to the Parliament but does not specify a period within which the report is to be so presented, that Minister shall cause a copy of the periodic report to be laid before each House of the Parliament within 15 sitting days of that House after the day on which he or she receives the report.

1.20 The committee hopes that the development of the new reporting requirements, as noted earlier, will provide clarity on this issue.

Commonwealth companies

1.21 Under section 97 of the PGPA Act, Commonwealth companies are required to prepare an annual report and provide it to the responsible Minister:

(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;

13 Following concerns raised by the committee on the operation of Section 46 of the PGPA Act, this section was amended to provide for the provision of the annual report to the Minister by 15 October rather than by 31 October, as originally drafted.

14 Department of the Prime Minister and Cabinet, *Requirements for Annual Reports for Departments, Executive Agencies and Other Non-Corporate Commonwealth Entities*, 25 June 2015, p. 3.

(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*.

1.22 Section 97(5) of the PGPA Act states that:

(5) 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.

Timeliness of the 2014-15 reports examined

1.23 The committee considers the timely presentation of annual reports to be an important element in accountability to the Parliament and continues to encourage bodies and statutory officers to endeavour to meet relevant timeframes.

1.24 Appendix 1 lists the annual reports tabled (or presented) in Parliament between 1 May and 31 October 2015, and referred to the committee, with relevant tabling dates.

1.25 As noted above, the presentation of annual reports to the Parliament has two elements with regard to timeliness: the furnishing of the report to the Minister and the presentation of the report to the Parliament.

1.26 In regard to the first element, the committee notes that for relevant reports, most were provided to the Minister within the required timeframes as set out above. Two non-corporate Commonwealth entities failed to provide their reports to the Minister by 15 October: the Australian Public Service Commissioner and the Future Fund Management Agency both submitted their annual reports on 23 October.

1.27 Reports covering the 2014-15 financial year examined in this report were presented in the Parliament in a timely manner, that is, by 31 October 2015.

1.28 The committee commends those agencies whose annual reports were presented in the Parliament before the Supplementary Budget Estimates hearings which commenced in the week beginning 19 October 2015, making them available for examination at this time.

Reports covering other timeframes

1.29 The final report of the Albury-Wodonga Development Corporation covered the period 1 July to 31 December 2014 and the final report of the Australian River Co. Limited covered the period 1 December 2013 to 30 November 2014. Both reports appear to have met the relevant tabling requirements.

Minister's response to recommendation from Report 1 of 2015

1.30 On 23 June 2015 the committee received advice from the Minister for Indigenous Affairs, Senator the Hon Nigel Scullion, in response to its recommendation from its report *Annual reports (No. 1 of 2015)* concerning the absence of annual performance information for the Office of the Registrar of Indigenous Corporations (ORIC) being tabled in the Parliament. The committee recommended:

...that the Minister for Indigenous Affairs and the Registrar of Indigenous Corporations review the previous process of incorporating information about the Registrar in the annual report of the portfolio department which supported accountability to the Parliament, and advise the committee on future arrangements.¹⁵

1.31 The Minister advised the committee that he and the Registrar reviewed the previous practice of incorporating ORIC's performance information in the portfolio department's annual report (then the Department of Families, Housing, Community Services and Indigenous Affairs). He informed the committee that the Registrar had advised of his support for the resumption of the previous practice of incorporating performance information in the portfolio department's report and that the Department of the PM&C, as the new portfolio department, had advised of no impediments to this practice. The Minister further noted that arrangements had been made to include performance information from ORIC in the 2014-15 annual report of the Department of the PM&C. Further comment on the Department of the PM&C's report appears in Chapter 2 of this report.

1.32 The formal Government response to the recommendation was tabled in the Senate on 4 February 2016 and confirmed that information on ORIC had been included in the annual report of the Department of the PM&C.

Senate debate

1.33 In accordance with Standing Order 25(20)(d) the committee is required to take into account any relevant remarks about the reports made in debate in the Senate. The committee notes that none of the annual reports examined in this report have been the subject of comments or debate in the Senate.

1.34 However, it is noted that the 2014-15 annual reports were the subject of questioning by senators during the Supplementary Budget Estimates 2015-16 hearings on 19 and 20 October 2015. Senators referred to the annual reports on several occasions and one theme of questioning concerned the timeliness of tabling of the reports. In particular, explanations were sought from some bodies that failed to meet best practice by not having the annual report available to the committee in time for the estimates hearings.¹⁶

15 Senate Finance and Public Administration Legislation Committee, *Annual reports (No. 1 of 2015)*, March 2015, p. 11.

16 See for example, *Official Committee Hansard*, 19 October 2015, pp 77-78; *Official Committee Hansard*, 20 October 2015, pp 67-68.

Non-reporting bodies

1.35 Standing Order 25(20)(h) requires that the committee inquire into, and report on, any bodies which do not present annual reports to the Senate but should present such reports.

1.36 The committee makes no recommendation for any bodies not presenting an annual report to do so.

Assessment of reports

1.37 Under Standing Order 25(20)(a), the committee is required to examine the annual reports of departments and agencies and report to the Senate on whether they are 'apparently satisfactory'. In its examination of the annual reports referred, the committee found them to be of a satisfactory standard and largely adhere to relevant requirements. The committee considers the reports examined to be 'apparently satisfactory'.