

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 the departments and agencies of the Prime Minister and Cabinet Portfolio and the Finance Portfolio.

1.2 This is the second report on annual reports for 2018 and provides an overview of selected annual reports for the 2016–17 financial year presented to the Parliament between 1 November 2017 and 30 April 2018. Copies of this and other committee reports can be obtained from the Senate Table Office 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 In the 45th Parliament, the Senate allocated departments and agencies to committees on 31 August 2016.² In accordance with that resolution, the committee has responsibility for the oversight of the following:

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

Performance Reporting Framework

1.5 The *Public Governance, Performance and Accountability Act 2013* (PGPA Act) established a performance reporting framework for all Commonwealth entities and companies.

1.6 Section 38 of the PGPA Act requires all Commonwealth entities to measure and assess their performance.

1.7 The performance framework provides for planning, measurement and reporting by an entity through performance information presented in an entity's corporate plan and aligned to the Portfolio Budget Statements (PBS), and then reported in the annual performance statement within the annual report.

1.8 These documents are an essential part of the accountability system that provides the government with detailed information about the actual financial and non-financial performance of entities, and forecasts future needs and expectations against the outcomes actually achieved.³

1.9 The Public Governance, Performance and Accountability Rule 2014 (PGPA Rule) supports the implementation of the PGPA Act and outlines the requirements of annual reports for Commonwealth entities.

Requirements for Annual Reports

1.10 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. Within the Commonwealth performance framework, annual reports are 'the primary document

2 *Journals of the Senate*, No. 2, 31 August 2016, pp. 75–76.

3 Department of Finance, *Enhanced Commonwealth Performance Framework*, Discussion Paper, August 2014, p. 5; Department of Finance, Resource Management Guide No. 135, *Annual reports for non-corporate Commonwealth entities*, July 2016, p. 5, <http://www.finance.gov.au/sites/default/files/RMG-001%20-%20CRM%20Framework%20Companion.pdf> (accessed 16 April 2018); Department of Finance, Resource Management Guide No. 136, *Annual reports for corporate Commonwealth entities*, July 2016, p. 4, http://www.finance.gov.au/sites/default/files/RMG-136_Annual_reports_for_corporates.pdf (accessed 16 April 2018).

through which responsible Ministers report to the Parliament on the actual performance of entities'.⁴

1.11 Below is a summary of the legislative authority and requirements for the preparation of annual reports by different types of Commonwealth bodies:

- Non-corporate Commonwealth entity⁵—PGPA Act, section 46 and the PGPA Rule Division 3A(A); for portfolio departments and executive agencies, the *Public Service Act 1999*, sections 63(2) and 70(2) and section 9(3) of the *Parliamentary Service Act 1999*;
- Corporate Commonwealth entity⁶—PGPA Act, section 46 and the PGPA Rule, Division 3A(B);
- Commonwealth company⁷—PGPA Act, section 97, which also refers to requirements under the *Corporations Act 2001* and the PGPA Rule, Part 3–3;
- Statutory office holders and statutory bodies—statutory office holders are engaged or employed under an Act, which may prescribe annual reporting requirements pursuant to the office. It should be noted that there may be reporting requirements in the enabling legislation for statutory bodies (which may also be a Commonwealth entity);⁸ and
- Non-statutory bodies—non-statutory bodies (NSBs) are established by a Minister and are not pursuant to a statute. Guidelines for the preparation of annual reports for NSBs are contained in the government response to the Senate Standing Committee on Finance and Public Administration report on non-statutory bodies.⁹

1.12 In addition to legislative requirements, the Department of Finance (Finance) provides guidance material for Commonwealth entities and companies which sets out further detail on the content requirements for annual reports under the Commonwealth

4 Department of Finance, Resource Management Guide No. 130, *Overview of the enhanced Commonwealth performance framework*, July 2016, p. 7, <https://www.finance.gov.au/resource-management/performance/> (accessed 16 April 2018).

5 An entity that is legally and financially part of the Commonwealth, and includes departments of state, parliamentary departments, statutory authorities, and listed entities (a body, person, group of persons or organisation that is prescribed by rules made under the PGPA Act).

6 A body corporate, that has a separate legal personality from the Commonwealth, and includes statutory authorities. It can act in its own right exercising certain legal rights such as entering into contracts and owning property.

7 A company established by the Commonwealth under the *Corporations Act 2001* that is wholly controlled by the Commonwealth.

8 For example, some Acts that establish statutory bodies have separate reporting requirements under those Acts. For example, section 17 of the *Commonwealth Electoral Act 1918* prescribes specific reporting requirements for the Australian Electoral Commission.

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

performance framework in accordance with the PGPA Act and PGPA Rule.¹⁰ The material available from this website includes the following:

- *Resource Management Guide No. 135—Annual reports for non-corporate Commonwealth entities;*
- *Resource Management Guide No. 136—Annual reports for corporate Commonwealth entities; and*
- *Resource Management Guide No. 137—Annual reports for Commonwealth companies.*

Reports examined

1.13 In accordance with Standing Order 25(20)(f), this report examines annual reports tabled between 1 November 2017 and 30 April 2018. Eleven annual reports of Commonwealth entities and statutory office holders were presented to the Parliament and referred to the committee. The reports examined are categorised as follows:

Non-corporate Commonwealth entities

- Digital Transformation Agency—Report for 2016–17

Corporate Commonwealth entities

- Anindilyakwa Land Council—Report for 2016–17
- Tiwi Land Council—Report for 2016–17
- Torres Strait Regional Authority (TSRA)—Report for 2016–17
- Wreck Bay Aboriginal Community Council—Report for 2016–17
- Commonwealth Superannuation Corporation (CSC)—Report for 2016–17
- Defence Housing Australia—Report for 2016–17

Commonwealth companies

- Outback Stores Pty Ltd—Report for 2016–17

Statutory office holders/ offices

- Independent National Security Legislation Monitor—Report 2016–17
- Aboriginal Land Commissioner—Report for 2016–17
- Australian Political Exchange Council—Report for 2013–2016

Reports not examined

1.14 The committee is not obliged to examine reports on the operation of Acts, policy papers, budget documents or corporate plans. 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.

10 Department of Finance, *Managing performance*, <http://www.finance.gov.au/resource-management/performance/> (accessed 18 April 2018).

Accordingly, the following documents were also referred to the committee but not examined in this report:

- Australian Public Service Commission—State of the Service—Report for 2016–17
- Commonwealth Ombudsman's reports—Report no. 1 of 2018
- Commonwealth Ombudsman's reports—Report no. 1 of 2018—Government response, dated 5 February 2018
- Commonwealth Ombudsman's reports—Report no. 2 of 2018
- Commonwealth Ombudsman's reports—Report no. 2 of 2018—Government response, dated 5 February 2018
- Closing the Gap
 - Ministerial statement by the Prime Minister (Mr Turnbull), dated 12 February 2018
 - Prime Minister's report 2018
- Indigenous Land Council—National Indigenous Land Strategy 2018–2022
- Auditor-General—Audit report no. 25 of 2017–18—Performance Audit—Australian Electoral Commission's Procurement of Services for the Conduct of the 2016 Federal Election: Australian Electoral Commission
- Department of Finance—Consolidated financial statements in respect of the year ended 30 June 2017
- Australian Electoral Commission—Electoral Funding and Disclosure Report—Federal Election 2016
- *Commonwealth Electoral Act 1918*—Redistribution into electoral divisions—Tasmania—Report, together with composite map and compact disc of supporting information, dated November 2017
- Department of Finance—Campaign Advertising by Australian Government Departments and Agencies—Annual Report 2016–17
- Department of the Treasury—Tax Expenditures Statement—2017
- Mid-year economic and fiscal outlook—2017–18—Statement by the Treasurer (Hon Scott Morrison MP) and the Minister for Finance (Senator the Hon Mathias Cormann).
- Report on Ministerial Consultants Engaged under the *Members of Parliament (Staff) Act 1984*—Report for 2016–17

Timeliness

1.15 The PGPA Act requires Commonwealth entities (corporate and non-corporate) 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.¹¹

1.16 This section of the Act, however, does not provide a timeframe for the Minister to present the report to the Parliament. The Finance Resource Management Guides, advise:

It has been practice for the responsible Minister to present the report to each house of the Parliament on or before 31 October.¹²

1.17 Under section 97(2) 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;
 - (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*.

1.18 In relation to the tabling of the annual report in the Parliament, subsection 97(5) of the PGPA Act states that:

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.

1.19 The PGPA Rule states that annual reports for corporate Commonwealth entities, non-corporate Commonwealth entities and Commonwealth companies must comply with the Guidelines for the Presentation of Documents to the Parliament which is prepared by PM&C (the guidelines).¹³

11 *Public Governance, Performance and Accountability Act 2013 (Cth)*, s. 46.

12 Department of Finance, Resource Management Guide No. 135, *Annual reports for non-corporate Commonwealth entities*, July 2016, p. 8, <http://www.finance.gov.au/sites/default/files/RMG-001%20-%20CRM%20Framework%20Companion.pdf> (accessed 16 April 2018); Department of Finance, Resource Management Guide No. 136, *Annual reports for corporate Commonwealth entities*, July 2016, p. 7, http://www.finance.gov.au/sites/default/files/RMG-136_Annual_reports_for_corporates.pdf (accessed 16 April 2018).

13 *Public Governance, Performance and Accountability Rule*, s. 17AB, 17BC and 28C.

1.20 The guidelines advise that for all entities:

As per past practice, it is expected that the responsible Minister will present the report to each House of Parliament on or before 31 October. If 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. This ensures that annual reports are available for scrutiny by the relevant Senate standing committee.¹⁴

Timeliness of the reports examined

1.21 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 offices to endeavour to meet relevant timeframes.

1.22 Appendix 1 lists the annual reports tabled (or presented) in Parliament between 1 November 2017 and 30 April 2018, with relevant tabling dates. This table includes the date the reports were tabled in the Senate and House of Representatives, and for the purposes of this discussion on timeliness, the earlier date of tabling in either chamber is taken to be the date of presentation to the Parliament. The table also provides the dates the reports were submitted to, and received by, the Prime Minister or the relevant Minister.

1.23 Standing Order 25(20)(c) requires the committee to investigate and report to the Senate on any lateness in the presentation of annual reports. In assessing the timeliness of the presentation of annual reports, the committee assesses the presentation time against the requirements for different categories of bodies.

1.24 In relation to the first element, most of the Commonwealth entities met their prescribed reporting timeframe under section 46 of the PGPA Act by submitting their reports to the Minister by 15 October 2017, however one entity, the Digital Transformation Agency, did not meet this timeframe. In respect of the second element, all entities failed to meet the guidelines of best practice that require an entity to present the report to each House of Parliament on or before the 31 October.

1.25 In relation to statutory bodies, reporting requirements are prescribed within legislation. For example, the Aboriginal Land Commissioner is required under the *Aboriginal Land Rights (Northern Territory) Act 1976* to prepare and give to the Minister an annual report on operations as soon as practicable after 30 June each year. Under this Act, the Minister is required to present the report to the Parliament within 15 sitting days of receipt. The same reporting obligations apply to the Independent National Security Legislation Monitor under section 46 of the *Independent National Security Legislation Monitor Act 2010 (Cth)*.

14 Department of the 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)*, February 2017, pp. 4–5.

1.26 In assessing the received reports of statutory bodies to determine the tabling requirements of Ministers presenting the report to Parliament within 15 sitting days of receipt, all statutory office holders meet this timeline.

1.27 The committee notes that all entities should table annual reports by 31 October or where legislated for statutory bodies, within 15 sitting days.¹⁵ The committee encourages entities and Ministers to meet these dates.

Senate Debate

1.28 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 subject to debate in the Senate.

Non-reporting bodies

1.29 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.

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

Assessment of reports

1.31 Under Standing Order 25(20)(a), the committee is required to examine the annual reports of departments and agencies referred to it and report to the Senate on whether they are timely and 'apparently satisfactory'. In order to make an assessment of the reports, the committee must consider whether the reports comply with the relevant legislation and guidelines. The committee considers all reports examined to be 'apparently satisfactory'.

15 Department of the 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)*, February 2017, pp.4–5 (accessed 19 April 2018).