

Chapter 2

Annual reports of departments

Department of Defence

2.1 The Department of Defence annual report 2015–16 was tabled in the Senate and the House of Representatives on 28 November 2016. An explanation for the delay was provided from the Secretary of Defence to the Minister of Defence on 31 October 2016 and tabled on 8 November 2016.¹

2.2 The Defence mission is to defend Australia and its national interests. Its primary role is to protect and advance Australia’s strategic interests through the provision of military capabilities and the promotion of security and stability, and to provide support for the Australian community and civilian authorities as requested by the Government.²

Secretary’s review

2.3 In his review, the Secretary of the Department, Mr Dennis Richardson AO, noted that the two-year implementation of the First Principles Review commenced on 1 July 2015, and as at 28 October 2016, 40 of the 75 recommendations from the First Principles Review were being carried out.³

2.4 The Secretary drew attention to the *Defence Legislation Amendment (First Principles) Act 2015* which came into effect on 1 July 2016 and formally recognised the authority of the Chief of the Defence Force (CDF) and the Vice Chief of the Defence Force. The Secretary acknowledged that Defence continues to face a range of challenges, including:

- the changing strategic dynamics in the Indo-Pacific region, the Middle East and elsewhere;
- embedding the US force posture changes in northern Australia;
- addressing the contamination issues around some Defence bases; and
- maintaining effective budget management as naval shipbuilding programs and the Joint Strike Fighter proceed.⁴

Review by the Chief of the Defence Force

2.5 In his review, the Chief of the Defence Force, Air Chief Marshal Mark Binskin AC highlighted that during the year the Australian Defence Force (ADF) had expanded its operations to Syria while maintaining commitments in Iraq, Afghanistan and the Middle East. The ADF also continued its work on border protection and

1 *Journals of the Senate*, No. 13, 8 November 2016, p. 406.

2 Department of Defence, *Defence Annual Report 2015–16, Volume 1*, p. 7.

3 Department of Defence, *Defence Annual Report 2015–16, Volume 1*, p. 2.

4 Department of Defence, *Defence Annual Report 2015–16, Volume 1*, p. 2.

embarked on one of its largest humanitarian assistance missions in February 2016 after the Fijian Government requested Australia's assistance following Tropical Cyclone Winston.⁵

2.6 The CDF discussed Operation Okra and the addition of Australia's Building Partner Capacity Mission and observed that Australian-trained Iraqi Forces played a significant role in recapturing the cities of Ramadi and Fallujah with assistance from Australian personnel. The CDF drew attention to Defence's appearance at the Royal Commission into Institutional Responses to Child Sexual Abuse, noting that Defence has maintained its commitment to creating a more inclusive workforce through its cultural reform program while meeting its operational requirements.⁶

Internal scrutiny

2.7 During 2015–16, Defence reported 58 instances of significant non-compliance with finance law proven as fraud committed by an official and addressed by Defence authorities through criminal, disciplinary or administrative action.⁷

2.8 There were 246 fraud investigations registered within Defence and 229 investigations were completed during the year (some of those completed were registered in previous years). Approximately 29 per cent of completed investigations resulted in criminal, disciplinary or administrative action. Of these, around 15 per cent related to disciplinary action under the *Defence Force Discipline Act 1982*. In 2015–16, the determined fraud loss for completed investigations was \$535 766, while monies recovered amounted to \$202 879. Detected fraud over the past five financial years averaged approximately \$870 000 per year within a range of \$480 937 to \$1.4 million. In its annual report, Defence outlined strategies for minimising instances of fraud and noted that significant cases are also reported to the Minister for Defence in accordance with the Commonwealth Fraud Control Framework.⁸

2.9 During the year, the department's internal Audit Branch issued 17 audit reports and completed 13 management-directed tasks. Externally, six Australian National Audit Office performance audits on Defence, and two cross-portfolio audits involving Defence, were completed.⁹

2.10 Defence reported that the tempo of the Office of the Inspector-General of the Australian Defence Force (IGADF) remained relatively high in 2015–16. The IGADF received 67 inquiry submissions—an approximately 8 per cent increase from last period—and resolved 58 submissions by way of inquiry, assessment or review. Additionally, the IGADF initiated 41 reviews of deaths in service of ADF members, and established four formal inquiries into ADF member deaths.¹⁰

5 Department of Defence, *Defence Annual Report 2015–16, Volume 1*, p. 4.

6 Department of Defence, *Defence Annual Report 2015–16, Volume 1*, pp 4–5.

7 Department of Defence, *Defence Annual Report 2015–16, Volume 1*, p. 7.

8 Department of Defence, *Defence Annual Report 2015–16, Volume 1*, pp 71–73.

9 Department of Defence, *Defence Annual Report 2015–16, Volume 1*, p. 73.

10 Department of Defence, *Defence Annual Report 2015–16, Volume 1*, p. 75.

2.11 During 2015–16, a total of 254 matters were reported under the Defence Public Interest Disclosure Scheme. Defence accepted 194 matters as public interest disclosures and allocated them for investigation.¹¹

2.12 With regards to reporting on sexual misconduct, in 2015–16, 258 clients were assisted with support and case management; incident management advice and information; debriefing and other mental health support; and information on SeMPRO services, civilian assaults, and other behaviour management systems in Defence.¹²

External scrutiny

2.13 The annual report provided information on judicial and administrative tribunal decisions that occurred during the year. One judicial decision ordered that the decision of the CDF made on 10 December 2013 to terminate the applicant's service in the Army be set aside. The CDF appealed the decision to the Full Court of the Federal Court with the appeal heard on 5 and 6 May 2016. In the second judicial decision a Defence member successfully appealed against his conviction following a trial before a Defence Force magistrate under the *Defence Force Discipline Act 1982*.¹³

2.14 Defence was a respondent in six applications to the Administrative Appeals Tribunal, which upheld the decision to refuse compensation to applicants in relation to Defence activities at the Salt Ash Air Weapons Range.¹⁴

2.15 Defence provided 11 written submissions to various Senate, House of Representatives and joint committee inquiries. Defence witnesses appeared at 36 hearings and provided evidence on a range of issues. Defence took a total of 536 questions on notice from Senate estimates, House of Representatives/Senate notice papers, and parliamentary committees, and tabled and/or contributed to 12 government responses to parliamentary committee reports throughout the year.¹⁵

Australian National Audit Office reports

2.16 The ANAO's Audit Report No. 33 *Defence's Management of Credit and Other Transaction Cards*, assessed whether Defence is effectively controlling the use of Commonwealth credit cards for official purposes and concluded that Defence does not have a complete and effective set of controls. The ANAO reported that in light of the results of Audit Report No. 33 a cross-entity audit—*Controls Over Credit Card Use*—would commence to assess whether selected Australian Government Entities are effectively controlling the use of credit cards for official purposes.¹⁶

11 Department of Defence, *Defence Annual Report 2015–16, Volume 1*, p. 87.

12 Department of Defence, *Defence Annual Report 2015–16, Volume 1*, p. 114.

13 Department of Defence, *Defence Annual Report 2015–16, Volume 1*, pp 81–82.

14 Department of Defence, *Defence Annual Report 2015–16, Volume 1*, p. 81.

15 Department of Defence, *Defence Annual Report 2015–16, Volume 1*, p. 79.

16 Australian National Audit Office, *Report No. 7 2016–17: Interim Phase of the Audits of the Financial Statements of Major General Government Sector Entities for the year ending 30 June 2016*, p. 30.

2.17 During the year, the following reports relevant to Defence were tabled:

- *Test and Evaluation of Major Defence Equipment Acquisitions;*
- *2014–15 Major Projects Report;*
- *Defence’s Management of the Mulwala Propellant Facility;* and
- *Defence’s Management of Credit and Other Transaction Cards.*¹⁷

2.18 The ANAO's interim report indicated that, following the merger of DMO and Defence, the responsibility for addressing four unresolved audit findings were transferred to Defence. Two moderate audit findings were identified during the interim audit that related to Defence IT systems.¹⁸

Summary

2.19 The committee commends the department for a comprehensive report. The new structure has enhanced the report, the report is navigable and the overall design is clear. The use of examples of Defence activities throughout the report is worthwhile and the inclusion of diagrams, images and tables is helpful. The report presented Defence's results against each of its outcomes and provided analysis of factors that may have contributed to its performance. The committee is pleased to note Defence's adherence to the list of reporting requirements.

2.20 The committee finds that Defence's annual report complies adequately with all of its reporting requirements.

Department of Foreign Affairs and Trade

2.21 The Department of Foreign Affairs and Trade (DFAT) annual report 2015–16 was tabled in the House of Representatives and in the Senate on 10 October 2016.

2.22 As stated in its *Corporate Plan 2015–2019*, the Department of Foreign Affairs and Trade's purpose is to make Australia stronger, safer and more prosperous by promoting and protecting Australia's interests internationally as well as contributing to global stability and economic growth, specifically in the Indo–Pacific region.¹⁹

Secretary's review

2.23 The Secretary reflected that managing Australia's international interests has rarely been more important with the international environment now more complex and volatile than at any time since the end of the cold war.²⁰

17 Australian National Audit Office, *Report No. 7 2016–17: Interim Phase of the Audits of the Financial Statements of Major General Government Sector Entities for the year ending 30 June 2016*, p. 60.

18 Australian National Audit Office, *Report No. 7 2016–17: Interim Phase of the Audits of the Financial Statements of Major General Government Sector Entities for the year ending 30 June 2016*, pp 63–65.

19 Department of Foreign Affairs and Trade, *Annual Report 2015–16*, p. 5.

20 Department of Foreign Affairs and Trade, *Annual Report 2015–16*, p. 3.

2.24 During the year, the department led one of Australia's largest international humanitarian missions in the aftermath of Tropical Cyclone Winston; made significant contributions to counter the growing threat of terrorism; secured entry into force of the China-Australia Free Trade Agreement; and helped to secure substantial advancements in the international development agenda. The Secretary noted that the department also launched a number of strategies to enhance workforce diversity and capability, including the Women in Leadership Strategy, the Diplomatic Academy, and the Workforce Planning Framework.²¹

Internal scrutiny

2.25 The Office of Development Effectiveness (ODE) is an independent unit of the department which monitors and assesses the effectiveness of the aid program and the quality of the department's performance reporting. In 2015–16, the ODE published seven evaluations of the department's development programs and quality assured development performance reporting.²²

2.26 The department's Conduct and Ethics Unit (CEU) investigates allegations of fraud and misconduct against staff. During the year the CEU investigated 39 allegations—nine were substantiated and disciplinary action was taken: four officers were dismissed—two of those cases were referred to the Commonwealth Director of Public Prosecutions—another three contractors were terminated, one officer was demoted and another was formally reprimanded.²³

External scrutiny

2.27 The annual report provided information on significant developments in external scrutiny of the department and the department's response. Departmental officers appeared as witnesses before the Joint Standing Committee on Treaties in relation to eight proposed treaty actions. Officers also appeared as witnesses before two Senate, two Joint Standing, two Joint Select, one Parliamentary Standing and one House of Representatives Standing Committee.²⁴

2.28 During the year the department managed a range of legal matters before courts and tribunals, including:

- one action seeking judicial review of a passport-related decision was dismissed by the Federal Court;
- one action seeking judicial review of a passport-related decision was discontinued;
- two debt recovery actions were successfully pursued in court and a further one is ongoing;

21 Department of Foreign Affairs and Trade, *Annual Report 2015–16*, pp 3–4.

22 Department of Foreign Affairs and Trade, *Annual Report 2015–16*, p. 192.

23 Department of Foreign Affairs and Trade, *Annual Report 2015–16*, p. 193.

24 Department of Foreign Affairs and Trade, *Annual Report 2015–16*, p. 195.

- one employment action brought in a foreign court by a former locally engaged employee was successfully defended;
- one further employment action continues to be defended in a foreign court.²⁵

2.29 At the end of the financial year, there were 16 active applications before the Administrative Appeals Tribunal for review:

- 15 for review of passports decisions; and
- one for review of an FOI decision.²⁶

2.30 The Commonwealth Ombudsman commenced 12 investigations with respect to the department's activities in 2015–16, however no notices were provided under subsection 12(4) of the *Ombudsman Act 1976* and no formal reports were issued.²⁷

2.31 Thirteen new claims were made under the compensation scheme for detriment caused by defective administration. The department resolved 18 cases, including applications made in previous financial years. Of these, 14 applications for compensation were accepted, three were rejected and one was redirected to the appropriate agency. Four cases remained in progress at the end of the financial year.²⁸

Australian National Audit Office reports

2.32 The ANAO's final report indicated that there were no significant or moderate audit findings arising from the 2014–15 or 2015–16 financial statements audits.²⁹

Summary

2.33 The committee commends the department for a well presented and comprehensive report and notes that it was tabled in a timely manner. The inclusion of case studies to demonstrate the department's work towards its functions is worthwhile and the use of tables and charts enhances the report. The text is easy to read and alternating colour is used to advantage. The committee is pleased to note DFAT's adherence to the list of reporting requirements.

2.34 Helpful 'overview', 'results and analysis' and 'outlook' sections were provided for each division. Factors that contributed to performance in each area were plainly discussed. Although the geographic, thematic and functional breakdown of KPI results per region provided some information on programs, more information on why particular programs were rated as 'partially met' would be welcome.

2.35 The committee finds that the Department of Foreign Affairs and Trade's annual report adequately complies with all of its reporting requirements.

25 Department of Foreign Affairs and Trade, *Annual Report 2015–16*, p. 226.

26 Department of Foreign Affairs and Trade, *Annual Report 2015–16*, p. 226.

27 Department of Foreign Affairs and Trade, *Annual Report 2015–16*, p. 195.

28 Department of Foreign Affairs and Trade, *Annual Report 2015–16*, p. 196.

29 Australian National Audit Office, *ANAO Audit Report No.33 2016–17: Audits of the financial statements of Australian Government Entities for the period ended 30 June 2016*, p. 177.

Department of Veterans' Affairs

2.36 The Department of Veterans' Affairs (DVA) annual report 2015–16 was received out of sitting on 31 October 2016 and tabled in the House of Representatives and in the Senate on 7 November 2016. The report includes separate reports of both the Repatriation Commission and the Military Rehabilitation and Compensation Commission. These describe how each commission interrelates with DVA and its main activities for the period but do not include performance reporting, which is covered in DVA's report.

2.37 The Department of Veterans' Affairs purpose is to support those who serve, or have served, in the defence of the nation and to commemorate their service and sacrifice.³⁰

Operational matters

2.38 At 30 June 2016, DVA supported more than 303 000 clients, some through Gold or White Card entitlements and some through other benefits and services. DVA reported that beneficiary numbers under the *Veterans' Entitlements Act 1986* have declined over the past four years and are expected to continue, however the numbers of *Safety, Rehabilitation and Compensation Act 1988* and *Military Rehabilitation and Compensation Act 2004* beneficiaries have been rising.³¹

2.39 DVA noted that while the overall client base may be decreasing, the individual financial, health and care needs of clients are becoming increasingly complex and poses challenges for DVA in meeting its targets.³²

2.40 DVA found that new claims for income support pensions have increased in recent years due to the number of veterans with warlike service returning from overseas deployments. This, combined with new technology enabling clients to lodge claims via an online portal, led to an increase in the number of claims from veterans seeking clarification of their qualifying service status.³³

Secretary's review

2.41 In his review, the Secretary of the Department of Veterans' Affairs, Mr Simon Lewis PSM, observed that the department continued to make improvements to its services, particularly in the priority areas of mental health, effective transitions for discharging ADF members, and claims processing. The Secretary noted that mental health remains a priority for DVA which spends around \$187 million a year on services and treatments, and highlighted that the May 2016 Budget extended eligibility

30 Repatriation Commission, Military Rehabilitation and Compensation Commission, Department of Veterans' Affairs, *Annual Reports 2015–2016*, p. 88.

31 Repatriation Commission, Military Rehabilitation and Compensation Commission, Department of Veterans' Affairs, *Annual Reports 2015–2016*, p. 12.

32 Repatriation Commission, Military Rehabilitation and Compensation Commission, Department of Veterans' Affairs, *Annual Reports 2015–2016*, p. 106.

33 Repatriation Commission, Military Rehabilitation and Compensation Commission, Department of Veterans' Affairs, *Annual Reports 2015–2016*, p. 34.

for certain mental health conditions to anyone who has ever served in the ADF. The Secretary noted that funding for mental health treatment is demand-driven and not capped.³⁴

2.42 DVA has been working with the Department of Defence to connect with ADF members during their career to increase awareness of support for transition. From January 2016 DVA has been able to connect with all transitioning members. DVA also trialled the Veterans' Employment Assistance Initiative, which aims to improve the rehabilitation process and provide employment opportunities to recovering veterans who are able to return to work. Evaluation of the trial will lead to recommendations for a national approach to improve the rehabilitation process.³⁵

2.43 During the year, a 12-month trial of alternative dispute resolution for appeals to the Veterans' Review Board (VRB) was conducted in the Australian Capital Territory and New South Wales. An independent review found that 85 per cent of cases that underwent alternative dispute resolution resolved quickly and without the need for a hearing. Alternative dispute resolution will be rolled out across Australia in 2016–17, along with a new VRB claims management system.³⁶

2.44 Looking ahead, the Secretary indicated that budget funding has been provided for suicide awareness and prevention programs for veterans, including support services for children of veterans. Nearly \$25 million will go towards developing how DVA can overhaul its current business model and service, and a further \$24 million is directed towards improving the department's ICT systems.³⁷

Internal scrutiny

2.45 In 2015–16, the department received 338 new cases of alleged fraud or non-compliance and 95 cases were rolled over from the previous financial year. At 30 June 2016, 336 cases had been closed and 97 cases remained open with investigations into fraud and non-compliance underway. In total, the department identified around \$0.52 million in confirmed fraud and non-compliance investigation cases in 2015–16. Of the 336 finalised cases, none identified fraud, 25 identified non-compliance and 311 detected no offence.³⁸

2.46 During the year, DVA's Legal Services, Assurance and Deregulation Branch received 59 notifications of potential privacy breaches, 42 of which related to mail or email. Investigations concluded that breaches had occurred in 36 cases and no

34 Repatriation Commission, Military Rehabilitation and Compensation Commission, Department of Veterans' Affairs, *Annual Reports 2015–2016*, p. 2.

35 Repatriation Commission, Military Rehabilitation and Compensation Commission, Department of Veterans' Affairs, *Annual Reports 2015–2016*, p. 2.

36 Repatriation Commission, Military Rehabilitation and Compensation Commission, Department of Veterans' Affairs, *Annual Reports 2015–2016*, p. 2.

37 Repatriation Commission, Military Rehabilitation and Compensation Commission, Department of Veterans' Affairs, *Annual Reports 2015–2016*, p. 4.

38 Repatriation Commission, Military Rehabilitation and Compensation Commission, Department of Veterans' Affairs, *Annual Reports 2015–2016*, p. 115.

breaches had occurred in 16 cases. The remaining cases were resolved in other ways or were still under investigation at the end of 2015–16. DVA notified the acting Australian Information Commissioner of two significant breaches that occurred in 2015–16.³⁹

External scrutiny

2.47 In 2015–16, DVA was the subject of three audits by the Auditor-General and made a submission to one Joint Committee of Public Accounts and Audit inquiry. The Administrative Appeals Tribunal considered 180 applications relating to compensation matters under the VEA. It considered 79 matters relating to the SRCA and 48 relating to the MRCA. Of these, 58 VEA, 18 MRCA and eight SRCA decisions were affirmed by the tribunal.⁴⁰

2.48 In accordance with the Legal Services Directions 2005, the Repatriation Commission or the MRCC may lodge an appeal to the Federal Court in order to clarify a legal issue or protect the integrity of legislation. During the year, the Federal Court delivered four decisions, three of which were favourable to the veteran or widow. The Federal Circuit Court also delivered two decisions where the Repatriation Commission was successful in both cases. The Full Federal Court delivered three decisions, one of which was favourable to the veteran. The High Court delivered one decision in which it examined the legal concept of injury and reinforced earlier case law and the MRCC was successful in that case.⁴¹

2.49 The acting Australian Information Commissioner handed down one decision in relation to the department in 2015–16 under the Freedom of Information Act 1982 (FOI Act). On 22 April 2016, in *David Watts and Department of Veterans' Affairs [2016]* AICmr 26, the acting Australian Information Commissioner set aside a decision by the department under the FOI Act, regarding emails between departmental officers and Monash University staff and researchers, and chapters of draft Gulf War health study reports. The Commissioner substituted the department's decision with his decision to grant greater access to the documents than the level of access provided by the department.⁴²

Australian National Audit Office reports

2.50 The ANAO's Report No. 32 *Administration of Rehabilitation Services under the Military Rehabilitation and Compensation Act 2004* was tabled on 5 May 2016. It assessed the effectiveness of DVA's and Defence's joint administration of rehabilitation services under the *Military Rehabilitation and Compensation Act 2004*

39 Repatriation Commission, Military Rehabilitation and Compensation Commission, Department of Veterans' Affairs, *Annual Reports 2015–2016*, p. 116.

40 Repatriation Commission, Military Rehabilitation and Compensation Commission, Department of Veterans' Affairs, *Annual Reports 2015–2016*, p. 117.

41 Repatriation Commission, Military Rehabilitation and Compensation Commission, Department of Veterans' Affairs, *Annual Reports 2015–2016*, p. 117.

42 Repatriation Commission, Military Rehabilitation and Compensation Commission, Department of Veterans' Affairs, *Annual Reports 2015–2016*, p. 118.

however no recommendations were identified in the report. In 2015–16, the ANAO published the following reports relating to DVA:

- *Confidentiality in government contracts: Senate order for departmental and entity contracts (calendar year 2014 compliance);*
- *Implementation of audit recommendations; and*
- *Administration of rehabilitation services under the Military Rehabilitation and Compensation Act 2004.*⁴³

2.51 The Australian National Audit Office final report for DVA indicated that there were no significant or moderate audit findings arising from the 2014–15 or 2015–16 financial statement audits.⁴⁴

Summary

2.52 The committee commends DVA for a thorough report. The use of graphs and tables enhances the report's content and the committee is pleased to note DVA's adherence to the list of reporting requirements. The performance overviews for each outcome provided helpful information on factors that contributed to the department's performance and identified the department's work towards improvement. The report could be improved to make content more user-friendly by better distinguishing subheadings from main headings.

2.53 The committee finds the Department of Veterans' Affairs annual report complies adequately with all of its reporting requirements.

43 Australian National Audit Office, *Report No. 7 2016–17: Interim Phase of the Audits of the Financial Statements of Major General Government Sector Entities for the year ending 30 June 2016*, pp 69–70.

44 Australian National Audit Office, *ANAO Audit Report No.33 2016–17: Audits of the financial statements of Australian Government Entities for the period ended 30 June 2016*, p. 123.