

Chapter 2

Review of selected reports

2.1 The Committee has selected the annual reports of the following bodies and statutory office holder for closer examination:

- Department of Defence;
- Department of Veterans' Affairs, Repatriation Commission, and Military Rehabilitation and Compensation Commission;
- Department of Foreign Affairs and Trade;
- Tourism Australia;
- Defence Housing Australia;
- Export Finance and Insurance Corporation; and
- Judge Advocate General.

2.2 In accordance with Standing Order 25(20)(g) the following summaries of reports examined draw attention to significant matters relating to the operations and performance of bodies during the year under review as set out in the annual reports.

Department of Defence

Reviews by the Secretary and Chief of the Defence Force

2.3 In his review for 2017-18, the Secretary of the Department of Defence (Defence), Mr Greg Moriarty, advised that it had been a successful year for the department with progress made in a number of areas including: transformational reform; workforce diversity; strengthening military and intelligence capabilities; and international collaboration through acquisition and sustainment of major assets.¹

2.4 In the relation to reform, Mr Moriarty noted that there had been strong progress in implementing the majority of the recommendations of the First Principles Review (FPR),² with a future focus on managing holistic reform and continual improvement through a 'One Defence' approach. He also noted the importance of continuing cultural reform in Defence where leaders are accountable for a positive culture of collegiality and mutual respect.³

2.5 Another area of achievement highlighted by the Secretary was the increase in diversity of the Defence workforce. Some specific examples of attainment within the Australian Public Service cohort which were noted included:

1 *Department of Defence Annual Report 2017-18*, pp. 2-3.

2 The First Principles Review was commissioned in 2014 to ensure that Defence was fit for purpose and able to respond to future challenges. See *Department of Defence Annual Report 2017-18*, p. 52.

3 *Department of Defence Annual Report 2017-18*, p. 2.

- an increase in the number of women from 41.8 to 42.4 per cent;
- an increase in the number of women in executive level positions from 7698 to 7964;
- an increase in the number of women in senior executive service (or equivalent) from 44 to 48; and
- an increase in the number of Indigenous staff from 2 per cent to 2.2 per cent.⁴

2.6 While some of the increases were more significant than others, the Committee was pleased to note that there was positive change across a number of categories. Mr Moriarty also commented that results were similarly encouraging for the Australian Defence Force (ADF). It was also noted that women on Defence boards increased by 5.6 per cent to 45.8 per cent⁵ during the year and was supported by the implementation of the *Defence Women on Boards Action Plan 2017-19*.⁶

2.7 The Secretary also reported on significant progress in development of a number of key military and intelligence capabilities during 2017-18, including the Hunter class Future Frigates, the Land Combat Vehicle System, and the Offshore Patrol Vessels. He also noted progress in relation to critical infrastructure and other enabling capabilities needed to operate and sustain Defence's evolving capabilities.⁷

2.8 The establishment of the Australian Signals Directorate as a separate statutory agency within the Defence Portfolio on 1 July 2018 was also highlighted in the Secretary's review. He noted the work undertaken by the department to support this process and confirmed its continued assistance and collaboration on cyber security and intelligence matters.⁸

2.9 Mr Moriarty also confirmed Defence's continued commitment to international collaboration during the year, including through the participation of the then Minister for Defence, Senator the Hon Marise Payne, at ministerial consultations with the United Kingdom and United States.⁹

2.10 General Angus Campbell AO DSC assumed leadership of the ADF as the Chief of the Defence Force (CDF) on 6 July 2018. His first annual review highlighted the diverse, challenging and often dangerous work of the ADF both at home and abroad.

2.11 General Campbell's review provided a snapshot of Australian forces' important ongoing contributions in overseas operations during 2017-18, including in Iraq, Syria and Afghanistan. Of particular note by the CDF were the achievements of

4 *Department of Defence Annual Report 2017-18*, p. 2.

5 The Australian Government's gender diversity target for government boards is 50 per cent.

6 *Department of Defence Annual Report 2017-18*, p. 2.

7 *Department of Defence Annual Report 2017-18*, p. 2.

8 *Department of Defence Annual Report 2017-19*, p. 3.

9 *Department of Defence Annual Report 2017-18*, p. 3.

the crew of the *HMAS Warramunga* during its deployment in the Middle East (under operation MANITOU¹⁰) during 2017-18 which he described as 'one of the most successful Middle East deployments on record.' He noted that:

...*Warramunga's* crew intercepted, seized and destroyed approximately 31.8 tonnes of hashish and approximately two tonnes of heroin, valued at around \$2.17 billion Australian.¹¹

2.12 General Campbell also remarked on Australia's contributions to operations supporting regional security, including assistance to the Armed Forces of the Philippines in the global fight against terrorism under operation AUGURY; and Australia's contribution to the international contingent enforcing the United Nations Security Council resolutions on North Korea under operation ARGOS.¹² Also highlighted was the ADF's contribution to humanitarian aid in the region following the Papua New Guinea earthquake and Tropical Cyclone Gita in Tonga, in addition to assistance in the clean-up following Tropical Cyclone Marcus in Darwin in March 2018.¹³

2.13 Additionally, General Campbell highlighted the progress with ongoing reform processes and noted the release of both the *Defence Mental Health and Wellbeing Strategy 2018-2023*, and the second iteration of the *Pathway to Change* cultural reform program.¹⁴

2.14 While noting that 2018 marked milestone anniversaries for a number of historic military and peace keeping events, General Campbell remarked on the continuing service commitment of the current serving ADF personnel:

...our people remain committed to the tenets of courage, sacrifice, endurance and mateship.¹⁵

First Principles Review

2.15 The Committee has had an ongoing interest in the progress of Defence's implementation of the recommendations of the FPR. At the Supplementary Budget Estimates 2016-17 hearing on 19 October 2016 Defence agreed to provide the Committee with a written summary of progress prior to each estimates round of hearings. As noted above, the departmental Secretary indicated in his review that good progress had been made in implementing the majority of the recommendations of the FPR. The report later noted that:

10 Operation MANITOU is the Australian Government's contribution to the international effort to promote maritime security, stability and prosperity in the Middle East region, see <http://www.navy.gov.au/operations/manitou> (accessed 13 December 2018).

11 *Department of Defence Annual Report 2017-18*, p. 5.

12 *Department of Defence Annual Report 2017-18*, p. 4.

13 *Department of Defence Annual Report 2017-18*, p. 5.

14 *Department of Defence Annual Report 2017-18*, p. 5.

15 *Department of Defence Annual Report 2017-18*, p. 4.

Continued focus on improvement and implementation of the four remaining recommendations of the First Principles Review will continue into 2018-19.¹⁶

2.16 Defence's 2016-17 annual report reported against the performance measure 'Defence develops organisational capability that ensures it can achieve Government-directed outcomes' with a target of implementation of the FPR recommendations achieved by 30 June 2017. It was noted that this was partially achieved and that it was expected that 'the remaining six recommendations will be completed in 2017-18'.¹⁷ The current annual report notes that Defence had completed 71 of the 75 recommendations of the FPR and that the implementation of the four remaining recommendations will continue in 2018-19.¹⁸ The annual report later includes a brief description of the outstanding recommendations of the FPR:

The remaining recommendations relate to Systems Program Office (SPO) reform. This work is complex, with the Capability Acquisition and Sustainment Group reviewing each SPO to ensure it is operating as efficiently as possible. Defence expects to continue implementing Systems Program Office reform until 2023.

Work also continues on increasing thresholds for referral to the Parliamentary Standing Committee on Public Works. While the FPR recommended increasing the financial thresholds for referrals, Defence is developing a risk-based framework that would enable the Public Works Committee to focus its scrutiny on higher risk Defence infrastructure proposals.¹⁹

2.17 The annual report also noted that the Australian National Audit Office (ANAO) released a performance audit of Defence's Implementation of the FPR in April 2018. Advice from the Secretary of Defence to the ANAO in response to the Audit indicated that as at March 2018 Defence 'expects implementation of the FPR to be completed in 2020'.²⁰

2.18 The most recent update on Defence's progress was provided to Committee prior to the Budget Estimates 2019-20 hearings on 26 March 2019 and advised that 73 of the 75 agreed recommendations had been implemented. The outstanding recommendations were 2 and 2.4 and related to System Program Office reform, where each would be examined to determine where each fits within the smart buyer function, the most appropriate procurement model and achieving value for money. Defence

16 *Department of Defence Annual Report 2017-18*, p. 8.

17 *Department of Defence Annual Report 2016-17*, p. 35.

18 *Department of Defence Annual Report 2017-18*, pp. 2 & 8.

19 *Department of Defence Annual Report 2017-18*, p. 52.

20 Australian National Audit Office, Report 34 2017-18, Performance Audit: *Defence's Implementation of the First Principles Review*, p. 76.

advised that it expected to be able to close these outstanding recommendations after June 2020, with all reforms completed by June 2023.²¹

Annual Performance Statement

2.19 The Annual Performance Statement reports on the extent to which Defence has fulfilled its purposes as set out in its corporate plan for 2017-18. The statement reports on all of the non-financial performance criteria and measures set out in the Defence 2017-18 Corporate Plan and the Portfolio Budget Statements (PBS) and Portfolio Additional Estimates Statements 2017-18 for the Defence Portfolio.

2.20 Defence's two 'purposes' as listed in the 2017-18 Corporate Plan, align directly with the two 'Outcomes' as set out in the 2017-18 PBS. The Committee appreciates the work done on the performance framework to bring these elements into alignment to enhance readability between the documents.

2.21 The report states that Defence incorporates feedback from various bodies and that the 2018-19 planning and reporting cycle will have greater alignment of performance criteria and targets in the key performance documents, the Corporate Plan and the PBS, which the report notes:

...will allow Defence to provide a clearer assessment of how we have succeeded in achieving our purposes, representing a significant step forward in maturing Defence's planning and processes.²²

2.22 The performance statement presents results for each of Defence's two purposes against the performance criteria from the PBS, PAES and Corporate Plan. The inclusion of page references to the source documents assists in navigating between the documents.

2.23 Defence's overall performance against its purposes for 2017-18 was achievement of 46 criteria out of a total of 50, or 92 per cent; with four criteria partially achieved. This result compares with the 2016-17 result of 50 fully achieved criteria out of a total of 61, or 82 per cent.

2.24 The four performance criteria not fully achieved in 2017-18 related to the Program 2.12 - Defence People. One of those criterion was the 'achievement of ADF recruitment targets', which was also only partially achieved in 2016-17. While recruitment for reserves in 2017-18 was 84 per cent of the full-year target, up from 80.4 per cent achievement in 2016-17; the result for ADF permanent force recruitment from all sources was 94 per cent of the full year target, and down from 97.4 per cent in 2016-17.²³

21 See correspondence from Department of Defence to the Committee dated 22 March 2019, <https://www.aph.gov.au/~media/Estimates/fadt/bud1920/First%20Principles%20Review%20-%20Budget%20Estimates%202019w.pdf?la=en>

22 *Department of Defence Annual Report 2017-18*, p. iv.

23 *Department of Defence Annual Report 2016-17*, p. 38; and *Department of Defence Annual Report 2017-18*, p. 36.

2.25 During the Budget Estimates 2019-20 hearing on 10 April 2019, the Committee sought an explanation from Defence on the reported result of 'partially achieved' for this criterion and queried why failure to meet the recruitment targets for both ADF permanent force enlistments and the Reserve force is not reported as failing to meet the target and therefore 'not achieved'. Defence explained the approach to reporting on this criterion:

I would consider that hasn't achieved 100 per cent. It's not one recruiting round each year – an annual recruiting basis. So, if a person elects to join the ADF but doesn't actually get on transport to arrive at their initial training, we actually can't then recruit that person to join the ADF- if it's in April, May et cetera. So, whilst we have these targets, we recruit annually against training outcomes and where we can't achieve a recruitment outcome by a person who enlists as a direct entry, we secure other people to join the ADF who might have already had service in the ADF, and have re-joined. They are not a direct-entry enlistment.²⁴

...

The main feature there is in terms of our categories that are most difficult to recruit to. We have what we call, as you know, critical categories, where we are fighting for talent and a workforce that other organisations are as well. This is particularly in the technical fields, and also in the health areas. This has been over a number of years. We have remediated quite effectively for some of those categories, but not entirely. To have fully achieved our recruiting targets and to have stated that we had achieved 100 per cent would not be a fair description, given our problems recruiting to those more difficult areas.²⁵

2.26 In regard to the failure to achieve the target for Reserve Force recruitment, Defence explained:

We have a longer period there where we have found it more difficult to recruit to the reserve. We have been doing a lot of work on our employment framework and model to make it a more appealing option for Australians. The total workforce model that looks at more flexible categories of service is the work that we are doing and it is explained in part in the annual report. That is the way we are approaching that issue so that we are a more contemporary employer.²⁶

2.27 The department's performance in relation to the criterion 'Australian Defence Force members and families are supported through the delivery of the family support program, transition services and bereavement support' was down in 2017-18, with

24 Major General Natasha Fox AM, CSC, Head, People Capability, *Proof Committee Hansard*, 10 April 2019, p. 8.

25 Mrs Justine Greig, Deputy Secretary, Defence People, *Proof Committee Hansard*, 10 April 2019, p. 9.

26 Mrs Justine Greig, Deputy Secretary, Defence People, *Proof Committee Hansard*, 10 April 2019, p. 9.

only partial achievement, compared to full achievement in 2016-17.²⁷ While the 2017-18 performance result for this criterion indicated that ADF members and families had been supported through successful delivery of family support programs, ADF transition services and bereavement support, the report explained that the 'partially achieved' result:

...reflects the continued focus on improving the transition process and outcomes for Defence. In 2018-19, Defence will further embed the transition coaching model, review the Career Transition Assistance Scheme and ADF transition seminars, promote greater engagement with families, and introduce Military Transition Support Officer roles.²⁸

2.28 The other two partially achieved criteria under Program 2.1 – Defence People were new criteria for 2017-18 and related to the implementation of the *2016-26 Defence Strategic Workforce Plan*,²⁹ and enhanced linkages between Defence and the Department of Veterans' Affairs, particularly in the area of improved electronic information exchange. The Committee will continue to monitor progress in relation to the above criteria concerning Defence People.

Financial performance

2.29 The report noted that Defence was in a 'sound financial position'.³⁰ It was reported that the department's net cash spend was \$34.9 billion in 2017-18, an underspend of \$26.2 million when compared to the revised estimates in the Defence 2018-19 PBS (excluding expenditure on operations funded on a No Win, No Loss basis).³¹ It was noted that:

This represents a variance of .08 per cent and demonstrates the close scrutiny the Department has placed on its financial management during 2017-18.³²

2.30 On an accrual basis, Defence reported that it incurred an operating surplus of \$853.1 million; and on a cash basis, it was reported that the operating surplus was offset by a commensurate increase in capital expenditure associated with specialist military equipment.³³

27 *Department of Defence Annual Report 2016-17*, p. 37.

28 *Department of Defence Annual Report 2017-18*, p. 38.

29 The Defence Strategic Workforce Plan 2016-2026 was developed in 2016-17 and provides the strategic direction and defines the system for the future Defence workforce. See *Department of Defence Annual Report 2016-17*, p. 82.

30 *Department of Defence Annual Report 2017-18*, p. 14.

31 *Department of Defence Annual Report 2017-18*, p. 14.

32 *Department of Defence Annual Report 2017-18*, p. 44.

33 *Department of Defence Annual Report 2017-18*, p. 44.

Department of Veterans' Affairs, Repatriation Commission, and Military Rehabilitation and Compensation Commission

Structure

2.31 Ms Liz Cosson AM CSC, Secretary of the Department of Veterans' Affairs, by virtue of that role, also performs the roles of President of the Repatriation Commission (RC),³⁴ and Chair of the Military Rehabilitation and Compensation Commission (MRCC).³⁵ Accordingly, the reports of the three bodies are combined into a single publication. The reports of the RC and MRCC are prepared in accordance with the respective legislative requirements as set out in Chapter 1.

RC and MRCC annual reports

2.32 Both the RC and MRCC annual reports for 2017-18 provide detail on the bodies' functions and powers, structure, membership, administration, and a brief summary of activity for the year under review. Both bodies noted lower levels of activity in 2017-18 compared to recent years. The RC annual report advised that in 2017-18 there were 12 formal meetings which considered 55 submissions, compared to 16 formal meetings and 84 submissions in 2016-17.³⁶ The MRCC annual report advised that there were 10 formal meetings which considered 50 submissions in 2017-18; and two subcommittee meetings which considered four submissions.³⁷ While this is only marginally down on activity in 2016-17,³⁸ the report notes that:

Over the past six years, the number of matters considered by the MRCC has declined substantially, from 211 submissions in 2012-13 to 54 in 2017-18. Much of the decline has been a consequence of delegated decision-making by the MRCC and the development of full MRCC policies and guidelines to support decision-making by the MRCC delegates.³⁹

Secretary's report

2.33 In Ms Cosson's first report as Secretary of the department, she highlighted the centenary of the establishment the Repatriation Commission in 2018 noting that '[a] century on, we are as committed to that mission as ever. We are putting veterans and their families first.'⁴⁰

34 As per section 184 of the *Veterans' Entitlement Act 1986*.

35 As per sections 364(1)(a)(i) and 364(3) of the *Military Rehabilitation and Compensation Act 2004*.

36 *Repatriation Commission Annual Report 2017-18*, p. 29.

37 *Military Rehabilitation and Compensation Commission Annual Report 2017-18*, p. 37.

38 The MRCC Annual Report 2016-17 advised that the MRCC held 11 formal meetings and considered 61 submissions that year. See *Military Rehabilitation and Compensation Commission Annual Report 2016-17*, p. 30.

39 *Military Rehabilitation and Compensation Commission Annual Report 2017-18*, p. 37.

40 *Department of Veterans' Affairs Annual Report 2017-18*, p. 2.

2.34 She provided an update on the progress of DVA's transformation, advising that the department has moved to the implementation phase in 2017-18. Some initiatives that were highlighted by Ms Cosson included:

- the launch of MyService, the web-based claims system, and the digitisation of paper files, resulting in faster claims processing;
- faster response for claims relating to one of 40 conditions that are known to be related to service, which will receive a response in an average of 20 days or less (rather than the previous average time of 100 days); and
- earlier connection with veterans' through information sharing with Defence, with connection with ADF members from the day they join up, bringing about a range of benefits.⁴¹

2.35 Ms Cosson also noted that 2017-18 had been an intense period of commemoration as part of the Anzac Centenary.⁴²

2.36 The Secretary's report included a comprehensive summary of the department's focus in the year ahead. One area of high priority for the coming year is programs to provide mental health support and suicide prevention.⁴³

2.37 While noting the achievements of the department in 2017-18, the Committee appreciated Ms Cosson's candour in acknowledging past failings and committing to better serving veterans and their families in the future:

I know that DVA has not always met your expectations. I acknowledge that sometimes we have not made the right decisions or been the best we can be.

Our greatest challenge is to rebuild the trust between us. You are the reason we are here, and the reason we will continue to strive to do better.

Thank you for your service.⁴⁴

Performance information

2.38 The Committee was pleased to be able to locate the DVA Corporate Plan 2017-21 on the department's website as it was not able to locate the 2016-17 corporate plan when it examined last year's annual report.

2.39 Part 1 of the annual report presents information on performance. This section included a discussion of achievements in relation to transformation and was followed by the priorities for the year ahead in relation to the department's three purposes: compensation and support, health and wellbeing, and commemorations. This discussion is followed by the Annual Performance Statement.

2.40 The DVA Corporate Plan 2017-21 advises that the 2017-18 performance criteria are aligned to the performance criteria in the DVA 2017-18 PBS:

41 *Department of Veterans' Affairs Annual Report 2017-18*, p. 2.

42 *Department of Veterans' Affairs Annual Report 2017-18*, p. 3.

43 *Department of Veterans' Affairs Annual Report 2017-18*, p. 4.

44 *Department of Veterans' Affairs Annual Report 2017-18*, p. 5.

The Department's PBS for 2017-18 set out three outcomes, their programs and the performance indicators used to monitor achievements against the deliverables. The performance indicators from the PBS have been included in the Plan and have been aligned to our purposes, strategies and activities to demonstrate how success will be measured.

All the PBS measures have been listed in the plan and additional qualitative measures have been added to provide a holistic view of how success will be measured to achieve DVA's purposes. The measures will evolve over time to reflect any significant change in strategy, operating environment, activities or Government priorities in order to better represent DVA performance.⁴⁵

2.41 Where changes to performance criteria have been made since publication of the Corporate Plan or PBS, these have been appropriately noted and referenced in the Annual Performance Statement with an explanation provided.

2.42 The Annual Performance Statement sets out results for each of the department's three purposes from the Corporate Plan, which align to the department's three Outcomes as set out in the PBS. Also included were results for the performance criteria for 'Enabling Services' as set out in the Corporate Plan, which facilitate the delivery of services to business lines through the use of resources to support organisational capability.⁴⁶

2.43 The Annual Performance Statement presents a complete, accurate and easy to navigate summary of results against the performance criteria contained from the source documents. Results were presented in a tabular form which included the target, and the results for 2017-18 and 2016-17 for comparative purposes. The inclusion of a column indicating success or failure with a tick or a cross, provided a quick reference to indicate achievement. The results tables also helpfully included a page reference to the source documents. These were followed by an analysis of performance results against each purpose.

2.44 Overall, DVA achieved high levels of attainment against performance criteria across the department's three purposes and its enabling services in 2017-18. In regard to Purpose 1 - Compensation and Support, out of a total of 30 performance measures, nine qualitative criteria relating to the correctness rate of claims were not achieved in 2017-18. The timeliness targets for all compensation and income support claims were achieved across Purpose 1 program areas. In addressing the failure to achieve some qualitative criteria for Purpose 1, DVA advised:

DVA continues to improve the quality of work in Purpose 1 program areas by using information provided by the quality assurance program to manage resource allocation, improve training and development packages, target policy and procedural support, and engage in performance management. Improving information technology support through the implementation of

45 *DVA Corporate Plan 2017-18*, p. 25.

46 *DVA Corporate Plan 2017-18*, pp. 35-36.

new processing systems is also expected to improve the quality of decision-making under programs 1.2, 1.3 and 1.6.

...

Improving the claims process continues to be a key strategy in the Department's ongoing commitment to providing a more efficient service. Further improvements to business practices will enable efficiencies, and the continued focus on quality performance will ensure that clients are receiving the benefits and entitlements to which they are entitled.⁴⁷

2.45 The 2017-18 results for performance criteria for Purpose 2 - Health and Wellbeing were 11 achieved out of a total of 15. For the four criteria not achieved, the result for performance criterion 2.5.3 which related to the percentage of claims for reimbursement in relation to travel that were processed within the Service Charter timeframe of 28 days was very close to meeting the target of 100 per cent. The 2017-18 result was only 0.5 per cent off the target, and was a slight improvement of last year's result of 99 per cent.⁴⁸

2.46 The other three performance criteria under Purpose 2 which were not achieved in 2017-18 all fell under Program 2.6 – which related to providing access to health and other care services under the *Military Rehabilitation and Compensation Act 2004* (MCRA) and the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988* (DRCA). These criteria were introduced in 2016-17 and relate to the department's rehabilitation program with a target of 90 per cent for each. The report did not record a result for 2017-18 but indicated that each of the criterion were 'not met', with the explanation:

Data quality issues, due in part to migrating data from DVA's ageing ICT systems, have made accurate reporting on the rehabilitation program performance indicators (PPIs) difficult during 2017–18. The rehabilitation PPIs have been reviewed and revised for 2018–19, and DVA will be able to report on the rehabilitation PPI outcomes for 2018–19.⁴⁹

2.47 Two of the three performance criteria for Purpose 3 Commemorations, were achieved in 2017-18. Performance criterion 3.2.1 regarding the delivery of events safely, on time and within budget, was recorded as being partially achieved. The discussion which accompanied the results explained that:

...four international and two domestic services were delivered with a variation in actual expenditure, compared to budget, of more than 5 per cent. Of those six services, three were delivered under budget and three were delivered over budget. The variations in expenditure were due to changes in the planning and delivery of the commemorative services,

47 *Department of Veterans' Affairs Annual Report 2017-18*, pp. 78-79.

48 *Department of Veterans' Affairs Annual Report 2017-18*, p. 81.

49 *Department of Veterans' Affairs Annual Report 2017-18*, p. 81.

including changes to the infrastructure and the support required to deliver the events.⁵⁰

2.48 The discussion also noted positive media coverage and feedback from veterans and ex-service organisations about commemorative services conducted.⁵¹

2.49 In recognition of the importance of the supporting elements that facilitate the delivery of DVA's programs, the final performance table presents results for the department's enabling services. These elements include its workforce, financial management function, ICT services, partnerships with Commonwealth agencies; engagement with stakeholders, and management of a program of research.⁵² The department is commended for developing and reporting on criteria for these functions which support and contribute to achievement of purposes and outcomes. Overall, 12 of the 13 enabling services criteria were achieved. Overall, the accompanying analysis on the department's performance for enabling services was informative. For example, the result for the performance criterion 4.1.3 'workforce is engaged and actively participates with attendance rates consistent with like APS' was again 'partially achieved' in 2017-18 as it was in 2016-17. The accompanying discussion explains the department's inability to fully achieve this criterion in 2017-18:

The 2017 Australian Public Service (APS) State of the Service employee census recorded a very high employee engagement index of 80 per cent for DVA, compared to the average for large operational agencies of 70 per cent. In the 2018 APS employee census results, the DVA employee engagement index fell to 74 per cent, due to the addition of new questions. However, DVA retained an employee engagement advantage when compared to the APS average (70 per cent) and the average for large operational agencies (69 per cent). The DVA unscheduled absence rate improved in 2017-18 to an average of 14 days, compared with an average of 14.6 days in the previous year. While DVA scored very well in relation to employee engagement, its unscheduled absence results only surpassed two of the three similar agencies (Department of Human Services, Department of Health and Department of Defence), so an overall performance rating of partially achieved for criteria 4.1.3 is appropriate.⁵³

Financial performance

2.50 The report's section on financial performance includes a table of DVA's financial performance and financial position broken down by the department and the Defence Service Homes Insurance Scheme (DSHIS)⁵⁴ for the last three years.⁵⁵ The inclusion of comparative results was a helpful addition.

50 *Department of Veterans' Affairs Annual Report 2017-18*, p. 84.

51 *Department of Veterans' Affairs Annual Report 2017-18*, p. 84.

52 *DVA Corporate Plan 2017-21*, p. 24.

53 *Department of Veterans' Affairs Annual Report 2017-18*, p. 86.

54 The report notes that the 'Defence Service Homes Insurance Scheme operates as a separate entity but, under the Commonwealth financial framework, is reported as part of DVA.' See *Department of Veterans' Affairs Annual Report 2017-18*, p. 90.

2.51 The department achieved a consolidated operating surplus (excluding depreciation) of \$3.46 million in 2017-18, against the budgeted \$2.55 million reported in the 2017-18 PBS. It was also reported that the DSHIS reported an operating surplus of \$5.68 million (excluding depreciation).⁵⁶

External scrutiny

2.52 The Committee noted that while the annual report included references to the Senate Foreign Affairs, Defence and Trade References Committee's inquiry into suicide by veterans which reported in August 2017, the report's section on external scrutiny did not include the inquiry details.⁵⁷ The Government response to the References Committee's report was tabled on 24 October 2017. Section 17AG(3) of the PGPA Rule requires entities to include the most significant developments in external scrutiny during the year, including by parliamentary committees, and the entity's response. As this was a significant and important inquiry concerning the welfare of veterans' which looked closely at the operations of DVA, reference to the inquiry in this section of the report would be expected.

Department of Foreign Affairs and Trade

Secretary's review

2.53 In her annual review, the Secretary of the Department of Foreign Affairs and Trade (DFAT), Ms Frances Adamson, described the release of the *2017 Foreign Policy White Paper* as 'a signature achievement' for the department in 2017-18. Noting that it had been 14 years since the last foreign policy white paper, Ms Adamson explained the importance of the release of the White Paper in the current international climate:

Powerful drivers of change in the international system are converging in ways that are challenging Australia's interests.

The White Paper makes clear that Australia will need to pursue its national interests in a more competitive and contested world. Now, more than ever, our global environment does not draw distinctions between our foreign policy, trade, economic, security and development interests. We will have to work harder to maximise our international influence and secure our national interests, the prosperity of Australia, the independence of our decision-making, and the security, safety and freedom of our people.⁵⁸

2.54 She also reported that DFAT had made significant progress in supporting Ministers in implementing the White Paper across government during the year.⁵⁹

55 *Department of Veterans' Affairs Annual Report 2017-18*, p. 90.

56 *Department of Veterans' Affairs Annual Report 2017-18*, p. 90.

57 *Department of Veterans' Affairs Annual Report 2017-18*, pp. 95-97.

58 *Department of Foreign Affairs and Trade Annual Report 2017-18*, p. 11.

59 *Department of Foreign Affairs and Trade Annual Report 2017-18*, p. 11.

2.55 Some of the other achievements for 2017-18 highlighted by the Secretary include:

- strengthening regional groupings, including the Australia-India-Japan-United States quadrilateral dialogue and the ASEAN South East Asia's strategic convenor;
- 'stepped-up' engagement in the Pacific, including the high-speed undersea cables initiative linking Papua New Guinea, Solomon Islands and Australia, security agreements with Solomon Islands, Tuvalu and Nauru, and support for labour mobility; and
- support for free trade agreement negotiations, including the signing of the Trans-Pacific Partnership (TPP-11) and bilateral free trade agreement with Peru.⁶⁰

2.56 On the corporate front, Ms Adamson noted progress on a number of internal reform processes designed to focus resources, prioritise capabilities, build a more diverse and higher-performing workforce, and more efficient and cost-effective use of technologies, including:

- revision of the organisational structure with a view to align it with the strategic direction and priorities of the White Paper;
- commencement of the roll out of a new workforce strategy;
- implementation of the Women in Leadership strategy; and
- delivery of the International Communications Network initiative to replace networks at over 174 sites globally.⁶¹

2.57 In her outlook for 2018-19, Ms Adamson discussed the foreign policy challenges in a 'more contested and competitive international environment' and listed the security challenges that Australia will face in the future as a result of 'nuclear proliferation, terrorism, technological advances, demographic shifts, climate change and new global power balances.'⁶² She referred to the importance of the White Paper to provide the department with guidance to:

...help us retain clarity about our long-term objectives and a steadiness of purpose in ensuring Australia's prosperity and security strengthen in this complex and fast-changing world.⁶³

Annual Performance Statement

2.58 DFAT's 2017-18 Corporate Plan was located via an Internet search but did not appear to be able to be accessed via a link or from a search of the DFAT home page. Only the most current corporate plan for the 2018-19 financial year was able to be found via the website's search feature. This accessibility issue also occurred with last

60 *Department of Foreign Affairs and Trade Annual Report 2017-18*, p. 11.

61 *Department of Foreign Affairs and Trade Annual Report 2017-18*, p. 12.

62 *Department of Foreign Affairs and Trade Annual Report 2017-18*, p. 13.

63 *Department of Foreign Affairs and Trade Annual Report 2017-18*, p. 13.

year's corporate plan. The Committee reminds agencies of the importance of archiving and providing links on their websites to corporate plans from previous years, as it is an important reference to the annual report for the corresponding year.

2.59 The 2017-18 Corporate Plan states that the department's purpose is 'to make Australia stronger, safer and more prosperous by promoting and protecting our interests internationally and contributing to economic growth and global stability, particularly in the Indo-Pacific region'. This purpose is supported by the three outcomes outlined in DFAT's 2017-18 PBS which are to be achieved through eight priority functions, outlined in the 2017-18 Corporate Plan. For each priority function, the 2017-18 Corporate Plan provides a brief description, lists the major operational activities and sets out the performance measures, which includes the method of measurement and the timeframe.

2.60 The Annual Performance Statement is structured around these eight priority functions. The performance results are presented in results tables indicating whether the measure is met or partially met. The table also included a page reference to the source document for each measure.

2.61 There were 55 performance measures reported against in DFAT's 2017-18 Annual Performance Statement, with an overall result of 41 met and 14 partially met. On a percentage basis, this year's achievement of approximately 74.5 per cent of criteria fully met, is a slight improvement on last year's result of 72.2 per cent of measures fully achieved (that is, 26 out of 36 measures met).

2.62 The Annual Performance Statement reports against most of the 2017-18 performance criteria; however, not all criteria from the PBS were included with the same wording as set out in the PBS. Despite the inclusion of page references to the source documents in the Annual Performance Statement, the results presented could not be clearly linked to some performance criteria from the PBS. For example, it was noted by the ANAO in its review of DFAT's 2017-18 Annual Performance Statement that some performance measures for Program 1.1 as set out in the 2017-18 PBS were not clearly reported against in the Performance Statement and noted the importance of establishing a clear read between the documents.⁶⁴ While some of the results presented could be linked back to the PBS performance criteria under Program 1.1; it was not clear how all elements were covered by the results presented in the performance statement. There was an overlap between some of the criteria in the PBS and the Corporate Plan and results can be attributed to similar PBS criteria, but there was not a clear read between the documents for some of the criteria.

2.63 The ANAO in its performance audit of selected 2017-18 annual performance statements commented on the importance of annual performance statements making a clear connection between results presented to all performance criteria:

The consistency and completeness of the presentation of performance criteria and targets across the PBS, corporate plan and performance

64 Australian National Audit Office, *Implementation of the Annual Performance Statements Requirements 2017-18*, p. 33.

statements is important to establish a clear read. Finance guidance notes that the Finance Secretary's Direction 'does not necessarily require entities to publish a line-by-line acquittal, however, the reader should be able to clearly discern the entity's performance against all of the proposed measures.' It is important for entities to ensure that performance statements make clear how the results presented relate to measures originally presented in the corporate plan and PBS.⁶⁵

2.64 The Committee notes that the Corporate Plan indicates that DFAT will continue to undertake work to align the performance criteria between the documents:

Performance measures are being reviewed and refined iteratively, including aligning this Corporate Plan with the performance targets in the Portfolio Budget Statements.⁶⁶

2.65 The Committee noted in its last review of the DFAT annual report the department's use of case studies and reviews as a tool to measure performance, and further noted that the use of case studies did not always provide a clear case as to why a performance criterion was met or not.⁶⁷ Case studies and reviews continued to be used extensively to measure DFAT's performance in 2017-18. The Committee notes that the ANAO in its review of the DFAT Annual Performance Statement for 2017-18, also noted the limitations of using case studies to adequately measure performance for some criteria:

Case studies can be narrowly focussed examples of particular circumstances and without significant investment in appropriate upfront design, cannot typically be used to demonstrate a result that can be reliably extrapolated across a broader population.⁶⁸

2.66 In ANAO's assessment of DFAT's use of case studies and reviews as a reliable measure of performance, it concluded that in the measures assessed did not possess better practice characteristics, which include: upfront planning, articulated objective, defined scope, and clear target and methodology for measurement.⁶⁹ The ANAO advised that:

In all instances, DFAT's documentation could have been improved to identify at the corporate planning stage the parameters used in the

65 Australian National Audit Office, *Implementation of the Annual Performance Statements Requirements 2017-18*, p. 33.

66 *Department of Foreign Affairs and Trade 2017-18 Corporate Plan*, p. 9.

67 Senate Foreign Affairs, Defence and Trade Legislation Committee, *Annual reports (No. 1 of 2018)*, March 2018, pp. 24-25.

68 Australian National Audit Office, *Implementation of the Annual Performance Statements Requirements 2017-18*, p. 68.

69 Australian National Audit Office, *Implementation of the Annual Performance Statements Requirements 2017-18*, p. 69.

identification and development of case studies presented in the performance statements.⁷⁰

2.67 The Committee notes the challenge for DFAT to develop performance measures for policy activity and recognises the place for case studies and reviews to demonstrate achievement for some measures and hopes to see the incorporation of the above factors to strengthen these types of measures.

2.68 The ANAO's assessment of the reliability of selected DFAT performance measures, noted the importance of adequate disclosure of the basis for measurement to ensure performance measures are free from bias. In the 2017-18 DFAT performance measures assessed, the ANAO found only one measure was determined to be 'free from bias'. It also noted concerns around the potential for bias in DFAT's selection of case studies and reviews as performance measures:

DFAT's reliance on case studies and reviews, selected ex-post, provides further potential for bias. Where used, case studies can provide context to the department's activities and achievements. However, case studies should not be relied upon as a stand-alone measurement, unless the scope is predetermined, activities clearly stated and measurement methods detailed in advance. The expected impacts can then considered by readers in advance, and progress towards outcomes assessed on the basis of results, particularly in relation to the completeness of the reporting against program objectives.⁷¹

2.69 The Committee welcomes DFAT's response to the ANAO audit which advised:

DFAT welcomes the majority of ANAO's observations, which mirror our own self-assessments and represent areas we are working to strengthen.

...

DFAT notes the challenges the Australian Public Service – as well as state and international entities - face in designing measures and methodologies for policy performance. That said, the department is determined to make further progress and will work across government to identify improvements. We would welcome guidance and identification of good practice examples.⁷²

2.70 Notwithstanding the above, the Committee commends the department for its efforts to build on its existing performance measures in the 2017-18 Corporate Plan. Some of the departmental priority functions have additional criteria including more specific reviews, deliverables and projects. The inclusion of specific quantitative

70 Australian National Audit Office, *Implementation of the Annual Performance Statements Requirements 2017-18*, p. 69.

71 Australian National Audit Office, *Implementation of the Annual Performance Statements Requirements 2017-18*, p. 49.

72 Australian National Audit Office, *Implementation of the Annual Performance Statements Requirements 2017-18*, p. 13.

measures for some priority functions where possible is also a welcome addition to the performance information.

2.71 For example, in the 2016-20 DFAT Corporate Plan Priority Function 5 – 'Strengthening international frameworks and norms' used two case studies to measure performance on an annual basis. In the 2017-18 Corporate Plan, an expanded Priority Function 5 'Strengthening rule of law, international security, open and transparent global markets, international frameworks and norms' included 10 additional performance measures including reviews, deliverable outcomes with varying timeframes for delivery.

2.72 Similarly, in 2016-20, Priority Function 6 included the following performance measures in relation to passport services:

Method	Description	Timing
Case studies	The department will use case studies to assess our performance in providing: <ul style="list-style-type: none"> • high-quality delivery of passport services to clients; and • high standards and interoperability of Australian passports and services 	Annually
Review	The department will review our performance in: <ul style="list-style-type: none"> • providing efficient processing of regular and urgent passport applications, including the number and accuracy of passports issued, and the time taken to process applications; and • preventing, detecting and prosecuting passport fraud. 	Ongoing

2.73 The 2017-18 Corporate Plan included additional more specific measures for passport services as set out below:

Method	Description	Timing
Review	The department will review the high-quality delivery of passport services to clients, including by providing efficient processing of regular and urgent passport applications: <ul style="list-style-type: none"> • percentage of passports processed within 10 business days • percentage of priority passports processed within two business days • number of reports of faulty passports • client satisfaction survey • average speed of answering calls to the Australian Passport Information Service. 	Ongoing
Review	The department will review the provision of high standards of interoperability of Australian passports and services <ul style="list-style-type: none"> • Measured by compliance with the International Civil Aviation Organization's Doc 9303 	2017-18
Deliver outcome	The department will deliver the new Passport Series R.	2020-21
Case study	The department will use a case study to assess our performance in continuing work with the Department of Immigration and Border Protection to develop the concept of a digital passport (for both inbound and outbound Australians)	Annually

2.74 The inclusion of targets where possible for the above quantitative measures would improve the basis for assessing performance.

Financial performance

2.75 The annual report provides a concise summary of the department's financial performance for 2017-18, including operating result, revenue and expenses, with useful explanations on the variation from preceding year's results. The report notes that DFAT recorded an operating deficit of \$53.9 million; however, after adjusting depreciation and amortisation expenses, the year end result was a surplus of \$133.3 million. This was attributed to the gain from sales of the chanceries in Bangkok and Jakarta.⁷³

2.76 Departmental revenue increased by \$107.8 million over 2016-17 to \$1,642.7 million in the Statement of Comprehensive Income; with \$220.4 million in other comprehensive income arising from asset revaluation movements in the Statement of Financial Position. The department reported \$1,696.5 million of expenses in the Statement of Comprehensive Income, an increase of \$24.9 million from last year. This was attributed to increased depreciation and amortisation expenses of \$15.9 million, increased employee expenses of \$19.0 million due to delays in reducing staff numbers; and a reduction in overall supplier expenses of \$4.0 million.⁷⁴

2.77 The report also advised of the sound financial framework in which the department operates and manages its resources, noting the importance of strong financial management of resources in 'an increasingly tighter fiscal environment'.⁷⁵

Tourism Australia

Executive reports

2.78 The annual report includes executive reports from the Chairman, Mr Bob East, and Managing Director, Mr John O'Sullivan, which both highlighted the importance of the Chinese market for the Australian tourism industry, the United States *Dundee* campaign, and the importance of the emerging business events sector.

2.79 The Chairman advised that 2017-18 had been a 'great year for Australia's tourism industry'.⁷⁶ He noted that international arrivals increased by more than 0.5 million to over 9 million, and international expenditure hit almost \$43 billion.⁷⁷ While up 5 per cent on the previous year's spend, it is noted that it did not quite reach the target of \$43.4 billion.⁷⁸ In particular, Mr East remarked on the strong performance of the Chinese market during the year, with arrivals from China overtaking those from New Zealand, and was the highest value market by spend. Mr O'Sullivan noted that

73 *Department of Foreign Affairs and Trade Annual Report 2017-18*, p. 123.

74 *Department of Foreign Affairs and Trade Annual Report 2017-18*, p. 123.

75 *Department of Foreign Affairs and Trade Annual Report 2017-18*, p. 144.

76 *Tourism Australia Annual report 2017-18*, p. 15.

77 *Tourism Australia Annual report 2017-18*, p. 15.

78 *Tourism Australia Annual report 2017-18*, p. 18.

2017 was the China-Australia Year of Tourism and described the importance of the Chinese market:

Although we have to take a balanced portfolio approach, we have to prioritise our marketing resources and budgets. As our largest and most valuable inbound market, China is a must-win market for Australian tourism.⁷⁹

2.80 Mr East also commented on the organisation's increased focus on business events, noting that this lucrative sector of the visitor economy had a total spend of \$4.75 billion in 2017.⁸⁰ Mr O'Sullivan noted the launch of the \$12 million Business Events Bid Fund in March 2018 with six events secured.⁸¹

2.81 The Managing Director noted the importance of data and technology in being able to target the customers and markets delivering the greatest return:

...we can now measure our activities more effectively and efficiently than ever before. We also have the confidence to take more calculated risks when creating marketing programs that capture people's attention and help drive conversation.⁸²

2.82 He also noted the success of the *Dundee* marketing campaign which targeted the United States market, and included a 60-second ad starring Australian actor Chris Hemsworth which aired during the Super Bowl in 2018. Mr O'Sullivan attributed the campaign to a 30 per cent increase in sales and about a 20 per cent lift in yield.⁸³

Annual Performance Statement

2.83 The Committee was pleased note that this year's performance information was presented in an Annual Performance Statement in line with the requirements for a corporate Commonwealth entity under the PGPA framework. TA's single outcome and purpose are aligned as:

To grow demand and foster a competitive and sustainable Australian tourism through partnership marketing to targeted global consumers in key markets⁸⁴

2.84 Performance criteria are quantitative and results are presented in tabular format against the two departmental programs as set out in the 2017-18 PBS: Program 1 - Grow demand and Program 2 - Industry development.

2.85 All of the performance criteria from the PBS were presented in the annual report. It is noted that a number of the target figures for Program 1 were adjusted slightly in the annual report from the target figures from the 2017-18 PBS. The

79 *Tourism Australia Annual report 2017-18*, p. 17.

80 *Tourism Australia Annual report 2017-18*, p. 15.

81 *Tourism Australia Annual report 2017-18*, p. 17.

82 *Tourism Australia Annual report 2017-18*, p. 17.

83 *Tourism Australia Annual report 2017-18*, p. 17.

84 *Tourism Australia Annual report 2017-18*, p. 18.

footnote to the results table indicated that the 'percentages represent targeted goal growth' and were consistent with the target figures from the 2017-18 Corporate Plan.

2.86 The Corporate Plan included three 'corporate' performance criteria:

- return on marketing investment;
- staff engagement; and
- corporate costs as a percentage of overall budget.

2.87 The Annual Performance Statement only presented results for the criterion 'return on marketing investment' which was listed under Program 1 – Grow demand. For the criterion 'staff engagement', the annual report advised 'Achieved a staff engagement score of 92 per cent...' in the section 'Managing Our Organisation'. A table presenting staff engagement by calendar year from 2014 to 2018 was also provided in this section of the report, but did not include the target figure from the Corporate Plan.⁸⁵ The inclusion of the result for this performance criterion in the Annual Performance Statement would have assisted in locating the result. A result for the remaining corporate performance criterion of 'corporate costs as a percentage of overall budget' with a target of 9 per cent could not be located in the annual report.

2.88 A result for performance criterion 'leisure expenditure from TA target markets' under Program 1 did not have a performance result recorded for 2017-18, advising that it was 'not available'.⁸⁶ The subsequent discussion of performance for Program 1 explained the failure to have a figure for this criteria in 2017-18:

Please note that the International Visitor Survey results do not include any data relating to purpose of visit. This is because the quality of the main purpose of visit component of the passenger data supplied to Tourism Research Australia (TRA) by the Department of Home Affairs has been identified as a concern. Work is currently in progress to resolve these issues and it is likely that a back cast of TRA data will be required. TRA will release revised estimates once a solution has been implemented.⁸⁷

2.89 The Annual Performance Statement includes references to the relevant source documents; however, some of the page numbers were incorrect. For example, for the reference to page 152 of the 2017-18 PBS for Program 1, should have been page 154; and the reference to page 24 of the 2017-18 Corporate Plan, should have been page 26 for both Programs 1 and 2.⁸⁸

2.90 TA achieved seven of the 10⁸⁹ performance criteria reported on for 2017-18. The accompanying analysis provided useful explanation for the results. For those not

85 *Tourism Australia Annual report 2017-18*, p. 98.

86 *Tourism Australia Annual report 2017-18*, p. 18.

87 *Tourism Australia Annual report 2017-18*, p. 20.

88 *Tourism Australia Annual report 2017-18*, pp. 18 and 23.

89 As noted in paragraph 2.88 above, one performance criterion did not have a result recorded for 2017-18 in the Annual Performance Statement.

achieved, TA was close to meeting the target of \$43.4 billion for international tourism expenditure, achieving \$42.5 billion; and the target of \$34.7 billion for 'total expenditure from TA target markets', achieving \$34.04 billion. While both criteria achieved growth of 5 per cent year on year it was just below the goal. The report explained that:

Tourism Australia continued to set aspirational visitor spend goals in 2017/18 to focus our efforts. Performance was on track or close to on track for all spend metrics. The strength of the Australian dollar, while lower than the prior year, continued to impact spend, making it comparatively more expensive for consumers to travel to Australia as well as reducing their spending while here. Global trends of reduced duration of stay also impacted spend.⁹⁰

2.91 There was a greater shortfall for the target goal of \$300 million for the criterion for 'earned advertising value', with a result for \$259 million. The failure to achieve this criterion was explained:

Equivalent Advertising Value is below goal due to fewer International Media Hosting Program, Public Relations and Broadcast campaigns than initially planned due to focus on *Dundee*.⁹¹

2.92 It is noted that there was a particularly strong result for the performance criterion 'business events expenditure from TA target markets' which was up 26 per cent with a total of \$2.4 billion, exceeding the goal growth of 10 per cent and total of \$2.1 billion.⁹²

Financial performance

2.93 The report included an overview of financial performance in 2017-18, including results, revenue, expenditures, and balance sheet position. The net financial expenditure was \$148.2 million which was within 0.1 per cent of the budget. Gross revenue exceeded the budget by \$2.1 million, and it was noted that a similar increase in expenditure resulted in net expenditure in line with the budget.⁹³

2.94 It was noted that there was a \$2.1 million increase in net expenditure in the statutory accounts. This was attributed to a weaker Australian dollar resulting in an overall foreign exchange loss for the year of \$2.1 million.⁹⁴

Compliance index

2.95 As a corporate Commonwealth entity, TA is required to prepare its annual report in accordance with the legislative requirements under Division 3A, Subdivision B of the PGPA Rule. Section 17BE(u) of the PGPA Rule requires the report to include

90 *Tourism Australia Annual Report 2017-18*, p. 20.

91 *Tourism Australia Annual Report 2017-18*, p. 18.

92 *Tourism Australia Annual Report 2017-18*, p. 18.

93 *Tourism Australia Annual Report 2017-18*, p. 121.

94 *Tourism Australia Annual Report 2017-18*, p. 121.

an index identifying where the mandatory requirements are found in the annual report. The compliance index in TA's annual report⁹⁵ does not have a reference for each item required under the PGPA Rule, and appears to be an index to the out of date Department of the Prime Minister and Cabinet *Requirements for Annual Reports for Departments, Executive Agencies and other Non-Corporate Commonwealth Entities*, and not the current PGPA requirements for a corporate Commonwealth entity. However, the report advises that it was prepared in accordance PGPA Act and other relevant legislation.⁹⁶

2.96 While most of the required information under the PGPA Rule was able to be located in the report, the omission of a relevant compliance index did not assist in the examination of this report. For items not located, it is unclear as to whether that requirement was not applicable or was inadvertently omitted. For example, sections 17BE(d)-(f) of the PGPA Rule requires corporate Commonwealth entities to include in their annual reports any directions given to the entity by a Minister under an Act or instrument, or any government policy orders during the period; and if not complied with, the reasons for non-compliance. TA's annual report advised:

As a portfolio agency, Tourism Australia must also consider and implement ministerial directions and statements of expectations issued from time to time by the Minister for Trade, Tourism and Investment. The Hon. Steven Ciobo, MP, was the responsible Minister for the 2017/18 period.⁹⁷

...

Under the Board Charter, the Board's responsibilities include...Complying with general government policy as directed by the Minister for Trade, Tourism and Investment, and according to Tourism Australia's statutory obligations.⁹⁸

2.97 However, advice on whether TA actually received any ministerial directions during the reporting period could not be located. The absence of any further information may be because there were no relevant directions, but a statement or notation to that effect would provide clarity.

2.98 The committee hopes to see the correct compliance index included in future annual reports.

Defence Housing Australia

Executive reports

2.99 The review by the Chairman, the Hon Sandy Macdonald, noted that 2017-18 marked the 30th anniversary of operation of Defence Housing Australia (DHA) and he commended the agency's work to improve the standard of housing and related services

95 *Tourism Australia Annual Report 2017-18*, p. 161.

96 *Tourism Australia Annual Report 2017-18*, inside front cover.

97 *Tourism Australia Annual Report 2017-18*, p. 112.

98 *Tourism Australia Annual Report 2017-18*, p. 115.

to ADF members and their families over that time. One area of note by the Chairman in 2017-18 was the assistance provided by DHA to the broader Defence community through financial and goods-in-kind support to various Defence related groups. In particular, he noted that DHA was an official supporter of the 2018 Invictus Games. The contribution by DHA to local and regional economies through the employment of local businesses and tradespeople where possible was also noted by Mr Macdonald.⁹⁹

2.100 The Managing Director, Ms Jan Mason,¹⁰⁰ provided an informative and balanced account of the year, including both achievements and challenges, and priorities for the year ahead. At the outset she noted the 'unique and complex' nature of DHA's business where external factors, which the organisation has little or no control over, affect the operational and financial performance. Ms Mason listed influencing factors such as service agreements with the Department of Defence, the accuracy of forecast housing requirements, the residential property market conditions, and economic factors influencing investment sentiment. In seeking to achieve DHA's performance targets, Ms Mason described the balance between the following elements that must be considered:

- providing outstanding customer service to ADF members, ADF families and investors; and
- maintaining a robust financial position to deliver commercial returns to the Australian Government as owner of the business.¹⁰¹

2.101 In managing the business with regard to the above considerations, Ms Mason further noted that:

...while DHA must always endeavour to act commercially, profit considerations are secondary to our primary purpose of providing suitable and adequate housing for ADF members and their families.¹⁰²

2.102 Some of the performance highlights in 2017-18 noted by Ms Mason included:

- the launch of the 'One DHA' initiative to bring all sections under one unified brand;
- the consistent high performance of Property and Tenancy Services which met or exceeded all customer service measures;
- receiving the Customer Service Organisation of the Year – Not for Profit/Government award at the Customer Service Institute of Australia's 2017 Australian Service Excellence Awards;
- increasing the member usage of the Living-in Accommodation Booking and Allocation Services;

99 *Defence Housing Australia Annual Report 2017-18*, pp. 2-3.

100 Ms Mason retired as Managing Director in January 2019.

101 *Defence Housing Australia Annual Report 2017-18*, p. 4.

102 *Defence Housing Australia Annual Report 2017-18*, p. 4.

- exceeding the leasing requirements for the Capital Plan 2017-18; and
- launching DHA's first Reconciliation Action Plan.¹⁰³

2.103 Ms Mason noted DHA's failure to achieve its profit targets in 2017-18 and cited challenging property market conditions in key provisioning areas which affected the margin achieved in selling some properties and increased the property value impairment.¹⁰⁴

Annual Performance Statement

2.104 The annual report sets out DHA's performance framework as a corporate Commonwealth entity and Government Business Enterprise. It advises that as funds are not directly appropriated by the Government to DHA, it does not prepare Portfolio Budget Statements and further notes that information about DHA is included in the Department of Defence's PBS.¹⁰⁵ However, it is noted that DHA has a separate entry to the Department of Defence within the Defence Portfolio 2017-18 PBS. DHA's entry sets out DHA's outcome and program, and performance information for 2017-18, which includes three performance criteria.¹⁰⁶

2.105 The annual report advised that the DHA Board, in accordance with section 16E(4) of the PGPA Rule, chose not to make the Corporate Plan 2017-18 to 2020-21 publicly available in order to protect its commercial sensitivities. In line with this provision, DHA has published its Statement of Corporate Intent 2017-18 (SCI), based on the corporate plan which 'provides a high level, plain English overview of DHA's key objectives and priorities for the financial year.'¹⁰⁷

2.106 DHA's 2017-18 SCI was located on the agency's website by using the search function, but a link to the document did not appear to be available. Only the 2018-19 version was able to be navigated to via a link. The SCI sets out DHA's three purposes with performance measures for each. For Purpose 3 - Maintain a robust financial position to deliver commercial returns to the Australian Government, only four KPIs covering staffing are listed. The SCI notes: 'Due to commercial sensitivities, we do not publish our financial-related performance targets.'¹⁰⁸

2.107 The Annual Performance Statement states that it presents DHA's performance against its three purposes and associated KPIs set out in the 2017-18 Corporate Plan, but does not specifically refer to the performance criteria from the PBS.¹⁰⁹

103 *Defence Housing Australia Annual Report 2017-18*, p. 5.

104 *Defence Housing Australia Annual Report 2017-18*, p. 5. NB Impairment is a reduction in the recoverable amount of a fixed asset below its book value.

105 *Defence Housing Australia Annual Report 2017-18*, p. 46.

106 *Portfolio Budget Statements 2017-18 Defence Portfolio*, pp.155-169.

107 *Defence Housing Australia Annual Report 2017-18*, p. 46.

108 *Defence Housing Australia Statement of Corporate Intent 2017-18*, p. 10.

109 *Defence Housing Australia Annual Report 2017-18*, p. 47.

2.108 Results for all of the KPIs listed in the 2017-18 SCI were presented in the Annual Performance Statement against the agency's three purposes. For Purpose 3, in addition to the four performance criteria published in the SCI, the annual report presents results for the additional 16 criteria covering revenue, financial performance, business efficiency and leverage/solvency not published in the SCI.

2.109 The report failed to clearly present results for the three performance criteria for 2017-18 from the PBS:¹¹⁰

Performance criteria	Target
Houses supplied against provisioning schedule	>99%
Members satisfied with their service residence	>80%
Return on equity	4.3%

2.110 Two of the PBS criteria were reported on in the Annual Performance Statement (although the 'return on equity' criterion had a target of $\geq 3.9\%$), but without reference or linking the results back to the PBS. While a result for the other criterion from the PBS - 'Houses supplied against provisioning schedule' with a target of >99% was not able to be clearly located in the Annual Performance Statement. The SCI has two criteria regarding properties provisioned for Defence, but these criteria had a target for a total number and not a percentage against the schedule. However, the report's overview includes advice that:

Under contractual arrangements with Defence, we must meet 99 per cent of the MWD [member with dependents] provisioning target as set out in the approved schedule.¹¹¹

2.111 The inclusion of page references to the source documents for the performance criteria would have assisted in providing the 'clear line of sight' between planned performance as set out in the PBS, in addition to the SCI, and actual performance over the reporting period.

2.112 The 'Results snapshot' table provided a helpful overview of performance for the year. Each criterion was presented in a tabular format which included the target and result and a brief explanation. For criteria not met, most included an explanation for the shortfall. Of the 29 performance criteria reported on in the Annual Performance Statement, DHA achieved or exceeded 12 KPIs, and failed to meet 17.¹¹² This compares to the 2016-17 results where DHA achieved or exceeded 19 KPIs, substantially met eight KPIs and did not meet one KPI.¹¹³

2.113 The accompanying overarching analysis of DHA's performance noted in particular the achievement of all KPIs under Purpose 2 relating to the provision of housing related services and customer service where it indicated that the results

110 *Portfolio Budget Statements 2017-18 Defence Portfolio*, p. 163.

111 *Defence Housing Australia Annual Report 2017-18*, p. 32.

112 *Defence Housing Australia Annual Report 2017-18*, pp. 49-50.

113 *Defence Housing Australia Annual Report 2016-17*, p. 61.

reflected DHA's 'dedication' to improving customer service in support of its key customer groups: ADF member and investors.¹¹⁴

Financial performance

2.114 The report's discussion on financial performance noted that DHA does not receive Government funding and its financial structure is revenue generating. As a GBE it pays annual dividends to the Australian Government and in 2017-18 it achieved its target of a dividend payout ratio of 60 percent of net profit after tax, equating to \$26.6 million.¹¹⁵

2.115 It was noted that overall the results for 2017-18 were below targets and were attributed to:

...property market conditions in areas of key Defence provisioning, in particular Darwin and Townsville, have significantly impacted our full year profit outcomes on the Property Investment and Disposal Programs and on the carrying value of our owned portfolio. A decision to defer the sale of the Waterloo development site (Sydney, NSW) to outer years also negatively impacted full year profit outcomes.¹¹⁶

2.116 On a positive note, DHA reported savings on its operating and personnel costs, and repairs and maintenance spend. It also benefited from revised fee arrangements on the Member Choice Accommodation MCA contract.¹¹⁷

Export Finance and Insurance Corporation

Letter from Chairman and Managing Director & Chief Executive Officer

2.117 The letter from the Chairman, Mr James Millar AM, and Managing Director and Chief Executive Officer (CEO), Ms Swati Dave, highlights the achievements and challenges for the Export Finance and Insurance Corporation (Efic) during 2017-18. They described 2017-18 as a positive year with Efic making significant contributions to Australian exporters and the Australian export economy. Some of the notable accomplishments during the year were:

- the provision of \$194 million in funding to 160 Australian businesses;
- the support of approximately \$1.4 billion in export contracts to businesses across a range of industries; and
- meeting the majority of the business objectives for small and medium-sized (SMEs) enterprises.¹¹⁸

114 *Defence Housing Australia Annual Report 2017-18*, p. 61.

115 *Defence Housing Australia Annual Report 2017-18*, p. 56.

116 *Defence Housing Australia Annual Report 2017-18*, p. 82.

117 *Defence Housing Australia Annual Report 2017-18*, p. 82.

118 *Efic Annual Report 2017-18*, p. 14.

2.118 The letter also notes that internal analysis revealed that Efic's contribution to both gross domestic product and jobs supported had increased significantly compared with the previous year.¹¹⁹

2.119 The Chairman and CEO explained how the broader economic conditions impact on Efic's operations, with Efic operating as a 'counter-cyclical' business:

When credit availability in the private market is strong, the need for our support may decrease.¹²⁰

2.120 They noted that, driven by higher liquidity and low interest rates, 2017-18 saw the Australian banking sector active in sectors that would traditionally be financed by an export credit agency:

In fact, data from the Berne Union indicates that sales volumes for new medium and long-term transactions are still at their lowest levels in the past 10 years, with the exception of 2016. This is despite a return to growth in most markets.

The global export credit agency landscape is also shifting. There is an increased focus on implementing more flexible and proactive lending to more broadly support Government trade policies.

In this context, our aim is to ensure we remain a relevant and sustainable organisation.¹²¹

2.121 Efic's expanded mandate was also highlighted in the Chairman's and CEO's letter. Changes to the *Export Finance and Insurance Corporation Act 1991* (Efic Act) and the Statement of Expectations during 2017-18 broadened the types of business and industries which Efic is able to support. The report advised that:

The changes...allow us to lend more directly to tourism and online businesses, provide support for onshore resource projects and assist other Government entities.¹²²

2.122 Focussing on some internal developments, Mr Millar and Ms Dave reported on some positive outcomes within the organisation in regard to diversity. They advised that in 2017-18:

- women held 48 per cent of in leadership positions, up from 32 per cent three years ago;
- 60 per cent of promotions went to women;
- 52 per cent of employees are from a non-English speaking background or with parents from a non-English speaking background; and

119 *Efic Annual Report 2017-18*, p. 14.

120 *Efic Annual Report 2017-18*, p. 15.

121 *Efic Annual Report 2017-18*, p. 15.

122 *Efic Annual Report 2017-18*, p. 16.

- Efic's new Reflect Reconciliation Plan was endorsed by Reconciliation Australia.¹²³

Performance information

2.123 Efic's 2017-18 Corporate Plan was available on the agency's website. The annual performance statement reports against most of the criteria set out in the corporate plan in relation to the commercial account. The results tables include the target figures and page reference to allow for a clear read between the documents.

2.124 Efic's performance in 2017-18 against the criteria relating to the support for SME's showed a significant improvement in comparison to last year's results, with results within or exceeding the target range. For the performance criterion for the value of supporting export contracts, which had a target of \$730-\$780 million, Efic reported a result of \$1.25 billion.¹²⁴

2.125 Performance in 2017-18 in relation to corporate, sovereign and project finance transactions was again at the lower end or below the target range. The accompanying explanation advised:

These results are driven by a very liquid financial market and strong private sector appetite, as well as an increasingly competitive export credit agency landscape. While a disappointing outcome, this is not unusual in large project financings where project delays are common. It should be noted that the lack of corporate transactions is not reflective of our overall credit risk appetite.

We have a strong transaction pipeline for the year ahead and remain optimistic about the growth in our corporate business.¹²⁵

2.126 Efic exceeded both the pre- and post-tax profit targets, as well as the capital adequacy ratio; but did not meet the target for available capital and risk weighted assets. The failure to meet these two criteria was briefly explained:

Risk weighted assets rose marginally over the year from \$2,652.4 million to \$2,700.4 million; however, they were lower than [the Corporate] Plan. This was due to lower levels of exposure to large corporate customers from lower transaction values than [the Corporate] Plan and slower drawdowns on facilities signed in prior years.

Capital available grew to \$674.5 million, which is below [the Corporate] Plan due to lower credit exposures that contributed less eligible credit provisions being allocated to capital.¹²⁶

2.127 The Committee notes the comments of the ANAO on Efic's annual performance statement in its report entitled *Effectiveness of the Export Finance and Insurance Corporation* which was presented on 6 June 2019.

123 *Efic Annual Report 2017-18*, p. 17.

124 *Efic Annual Report 2017-18*, p. 20.

125 *Efic Annual Report 2017-18*, p. 21.

126 *Efic Annual Report 2017-18*, p. 23.

2.128 Efic's purpose as set out in its 2017-18 Corporate Plan is 'Financing Australian businesses to take on the world'. The ANAO described Efic's 'purpose' as being too broad and not describing the intended impact, nor the benefit to the Australian economy.¹²⁷ Therefore, in assessing Efic's performance criteria, the ANAO used Efic's prescribed mandate from the Efic Act and the Statement of Expectations. In line with what the ANAO described as the necessary characteristics for appropriate performance criteria, it found that Efic's measures were both relevant and reliable; however, not fully complete:

...the completeness of the performance criteria was assessed as partly met, as the performance measures used by Efic are all of a quantitative nature, and only provide details in relation to financial performance and completed transactions during the year.

The performance criteria do not clearly explain how Efic has met its purpose in relation to: building Australia's export trade and working with banks and other financial institutions to provide financing support to export businesses; its performance in relation to its underlying functions; and how it has assisted the growth of the Australian economy.

Efic should consider 'assist-based' performance criteria to measure its performance against its function and purpose under the Efic Act and Statement of Expectations.¹²⁸

2.129 The Committee was pleased to note that Efic agreed with the ANAO's recommendation that Efic include both quantitative and qualitative performance measures in future performance statements to enable a more comprehensive assessment of overall progress against its purpose:

Efic notes that the ANAO has made only one recommendation to include more qualitative measures in the annual performance statement reporting. We welcome the ANAO's suggestions on the types of qualitative measures that can be incorporated into our reporting. For example, we know that Efic's involvement often acts as a catalyst for the private market to step forward and provide support to businesses. While it is often difficult to quantify the benefit of Efic's 'crowding in' of the private market, we acknowledge that such qualitative measures would enhance our current reporting.¹²⁹

Financial performance

2.130 The report advised that since 1991, Efic has accumulated profits of \$591.7 million, including \$13.9 million profit in 2017-18 (post tax) from its

127 Australian National Audit Office, Report No. 44 - 2018-19, *Effectiveness of the Export Finance and Insurance Corporation*, p. 46.

128 Australian National Audit Office, Report No. 44 - 2018-19, *Effectiveness of the Export Finance and Insurance Corporation*, pp. 48-49.

129 Australian National Audit Office, Report No. 44 - 2018-19, *Effectiveness of the Export Finance and Insurance Corporation*, p. 10.

commercial account transactions. At the time of the preparation of the annual report, a dividend had not been agreed for 2017-18.¹³⁰

Related entity transactions

2.131 To ensure transparency around potential conflicts of interests in the operations of corporate Commonwealth entities, sections 17BE(n)-(o) of the PGPA Rule, requires the disclosure of relevant related entity transactions. The report advises:

Directors have made appropriate disclosures in respect of transactions that Efic has undertaken where they may have, or may be perceived to have, a material personal interest.¹³¹

2.132 If relevant disclosures were made under these sections, the inclusion of more detail, including decision making processes and value, would be useful; or if there were no relevant disclosures, a statement indicating this would provide clarity.

Judge Advocate General

2.133 The functions of the Judge Advocate General (JAG) are prescribed by the *Defence Force Discipline Act 1982* (DFDA) and include the following:

- making procedural rules for Service tribunals;
- providing the final legal review of proceedings within the ADF;
- participating in the appointment of Judge Advocates, Defence Force Magistrates, Presidents and members of courts martial, and legal officers for various purposes; and
- reporting upon the operation of laws relating to the discipline of the ADF.¹³²

2.134 Under section 196A(1) of the DFDA the JAG must prepare a report relating to the operations of the DFDA, the regulations and rules of procedure made under it and the operation of any law of the Commonwealth or of the Australian Capital Territory in so far as that law relates to the discipline of the Defence Force. The JAG's annual report for 2017 provides an informative and considered account of the matters required under the DFDA.

2.135 The report provided a detailed record of significant appointments within the office of the JAG during the period of review. Other matters discussed in the 2017 annual report by the JAG included, the number of female legal officers practising in the superior service tribunal system, overseas developments, discipline law training, domestic and international visits and engagement.

2.136 The Committee has chosen to consider in more detail the report's discussion on reform of the DFDA in relation to the operation of superior service tribunals and publication protocols for superior service tribunal proceedings.

130 *Efic Annual Report 2017-18*, p. 28.

131 *Efic Annual Report 2017-18*, p. 37.

132 See <http://www.defence.gov.au/JAG/> (accessed 11 June 2019).

Reform of the DFDA in relation to superior service tribunals

2.137 While stating at the outset that superior service tribunals (courts martial, Defence Force Magistrate tribunals and the Defence Force Discipline Appeals Tribunal) have operated fairly under the DFDA during 2017, the JAG nevertheless called for reform of the legislation to address what he described as a number of procedural defects impacting their operation. The JAG noted that the DFDA has not had significant legislative attention to its superior or summary service tribunal procedures since 2009 and called for Parliament to consider necessary reforms to ensure that the investigations and trials conducted under the DFDA for alleged service offences meet the current community standards.¹³³ He advised that:

...many provisions of the DFDA no longer reflect the standards of procedural efficiency and flexibility in the civilian administration of justice in Australia. Over the last year, JAs [judge advocates] and DFMs [Defence Force magistrates] have continued to ensure that accused persons are afforded a fair trial despite these procedural inadequacies in the DFDA. But these gaps in the DFDA limit the ADF in promoting the most fair and effective investigation, prosecution, trial and defence of alleged service offences.

In my view, DFDA reform in these areas...is now required and justly merits Parliament's early attention in order to maintain confidence in the ADF's military discipline system. ADF members should enjoy, as nearly as possible, the benefit of the modern, fair and efficient criminal processes and procedures available in Australia's civilian courts, adjusted for service conditions. Regrettably they do not yet do so.¹³⁴

2.138 The JAG identified the following priority areas for reform:

- better powers to identify and manage mentally impaired ADF members before service tribunals;
- improving superior service tribunal procedures to civilian best practice in relation to capacity to hear pre-trial applications of the tribunal's own motion or the prosecutions motion, and the lack of procedural powers to direct parties to define real issues for trial and manage the course of expert advice;
- strengthening JA/DFM independence through legislation which provide statutory independence provisions for appointment and term of office;
- improving courts martial sentencing transparency and effectiveness; and
- providing modern law enforcement powers to ADF investigators and the attendant safeguards, particularly to allow for investigators to have reasonable access to digitally stored information.¹³⁵

133 *Judge Advocate General report for the period 1 January to 31 December 2017*, pp. 17-18.

134 *Judge Advocate General Report for the period 1 January to 31 December 2017*, p. 17.

135 *Judge Advocate General Report for the period 1 January to 31 December 2017*, pp. 19-20.

2.139 It was suggested by the JAG that the reform of the above issues 'should command a broad measure of consensus among those directly engaged in the prosecution and defence of changes before ADF superior tribunals':¹³⁶

2.140 Encouragingly, the JAG noted a high level of engagement and support from the relevant ministers, the CDF, Service Chiefs and the Military Justice Coordination Committee to effect changes to address the issues raised in the report.¹³⁷ In the conclusion to the report the JAG makes a direct request for action on reform of the DFDA:

...this Report respectfully requests that Parliament now address these required changes through sound legislation that will maintain confidence in the ADF's superior and summary military discipline system. Such legislation would justly merit the praise of the many ADF members and other Australians who are directly or indirectly affected by the daily operations of the DFDA.¹³⁸

2.141 The Committee sought advice from Defence at the Supplementary Budget Estimates 2018-19 hearings on progress and whether it will address the issues about DFDA reform raised by the JAG's report. The response from Defence, received on 8 February 2019, focussed on the Summary Discipline System Review of 2017 but did not specifically address the issues raised by the JAG in relation to procedural reform to superior service tribunals:

In his 2017 Annual Report (at paragraphs 57 and 58), the Judge Advocate General reported that acceptance of the Summary Discipline System Review 2017 (the Review) by the Chiefs of Service Committee has started the process of addressing concerns held by the command of the Australian Defence Force that the Summary Discipline System '...was no longer meeting disciplinary requirements.'

On 1 June 2018, the Chief of the Defence Force appointed a two-star officer as the Head of the Summary Discipline Implementation Team, reporting directly to the Vice Chief of the Defence Force who, as the Accountable Officer for military justice, is responsible for ensuring that the recommendations of the Review are actioned and implemented.

The Australian Defence Force has initiated a range of internal reforms with the aim of improving the efficiency and effectiveness of the Summary Discipline System, and if required would propose legislative changes. The updated Summary [Discipline] System will provide clearer policy, better guidance to commanders, closer command oversight and adherence to deadlines, and improved training delivery.

Defence is working with the Office of the Judge Advocate General to address the issues raised by the Judge Advocate General in his 2017 Annual Report, before proposals for legislative change are considered.

136 *Judge Advocate General Report for the period 1 January to 31 December 2017*, p. 18.

137 *Judge Advocate General Report for the period 1 January to 31 December 2017*, p. 33.

138 *Judge Advocate General Report for the period 1 January to 31 December 2017*, p. 33.

Implementation of the proposed changes to the Discipline System will meet the Australian Defence Force's disciplinary requirements, and achieve the intent of the Chief of the Defence Force, that the Summary Discipline System is:

- easy to use and understood by command (at all levels), particularly in deployed environments and at the lowest levels
- timely and responsive to command
- fair towards all personnel involved in the disciplinary process
- trusted by the Australian Defence Force and the wider community.¹³⁹

2.142 The Committee notes, however, the passage of the Defence Legislation Amendment Bill 2018 through the Parliament on 14 February 2019 and assent on 1 March 2019. This Bill included amendments to the DFDA which aimed to ensure greater transparency in the selection of members of the Judge Advocates' Panel and to enhance the independence of Judge Advocates.¹⁴⁰

Publication protocols for superior service tribunal proceedings

2.143 The JAG also proposed the expansion of publication of both the listing and outcomes of superior service tribunal trials conducted under the DFDA. He suggests reforming the publication protocols would enhance the fundamental purpose of the DFDA, which is the maintenance of service discipline; and would reflect more closely civilian court practice.

2.144 The annual report sets out the current approach to the publication of the upcoming courts martial and DFM trials which the JAG suggests has narrowed since the DFDA's introduction and is now significantly out of step to that of civilian trials:

Historically, this information was published in routine orders. Today, upcoming superior service tribunal proceedings are neither announced externally to the public, nor internally within Defence. The outcomes of superior service tribunal proceedings are now only published in Service newspapers with their detail heavily edited.

In contrast, over the same period, public notice of civilian trials and trial outcomes has significantly expanded.¹⁴¹

...

No trial listings of ADF superior service tribunal proceedings are promulgated. Consequently, few members of the public and few ADF members not involved in proceedings attend superior service tribunal trials. Insufficient public information is provided to allow anyone who did not attend to understand the reasons for trial outcomes. The current approach

139 Department Defence, answer to question on notice no. 8, Supplementary Budget Estimates 2018-19, received 8 February 2019.

140 Defence Legislation Amendment Bill 2018, *Explanatory Memorandum*, p. 2.

141 *Judge Advocate General Report for the period 1 January to 31 December 2017*, p. 21.

does not serve to promote either the general deterrence or confidence in the ADF's superior service tribunal system.¹⁴²

2.145 The report noted that Section 140 of the DFDA provides for the proceedings before a court martial or DFM to be open and proceedings published, except in certain identified circumstances. The JAG's view is that the intent of section 140 of the DFDA is that 'superior service proceedings should, subject to identified service exceptions, be akin to civilian trials in terms of their openness to the public.'¹⁴³

2.146 The JAG further also noted that the wider publication of superior service trials would bring Australia into line with overseas practice in other common law military jurisdictions such as UK, Canada and the United States.¹⁴⁴

2.147 This matter has also been an area of concern for the Director of Military Prosecutions (DPM). In her 2016 annual report she commented specifically in regard to the reporting of convictions for sexual offences and sexually related conduct in Service newspapers.¹⁴⁵ The Committee noted¹⁴⁶ the DPM's comments on this issue in her 2016 annual report where she described the limited level of detail in Service newspapers:

...as a wholly unnecessary and overly cautious approach, the reports are obscured so as to de-identify the convicted member to such a degree that they seldom convey anything resembling the circumstances behind the conviction. This is patently at odds with the open nature of Superior Service tribunals (see DFDA s 140) and the fact that civilian newspapers, in the absence of a specific non-publication order by the tribunal, openly print names and the details of the circumstances when they cover military trials.¹⁴⁷

2.148 The then Acting Chief of the Defence Force, Vice Admiral Ray Griggs AO responded to the DPM's comments at the Committee's Supplementary Budget Estimates hearing on 25 October 2017:

I think most of the senior leadership of the ADF would have sympathy with the Director of Military Prosecution's view. There is this thing called the Privacy Act, though. The Director of Military Prosecutions doesn't publish the service newspapers; we do—and we are subject to the Privacy Act. This has been a long and tortuous debate inside the ADF for a number of years. It has certainly not just been going on in the last 12 months; it's been going on for years, in terms of: have we got the balance right between publicising

142 *Judge Advocate General Report for the period 1 January to 31 December 2017*, p. 22.

143 *Judge Advocate General Report for the period 1 January to 31 December 2017*, pp. 22-23.

144 *Judge Advocate General Report for the period 1 January to 31 December 2017*, pp. 23-24.

145 *Director of Military Prosecutions Report for the period 1 January to 31 December 2016*, pp. 31-32.

146 Senate Foreign Affairs, Defence and Trade Legislation Committee, *Annual reports (No. 1 of 2018)*, March 2018, p. 30-31.

147 *Director of Military Prosecutions Report for the period 1 January to 31 December 2016*, p. 31.

the consequences of unacceptable and disciplinary behaviour through publishing the outcome of results versus the protection of people's privacy in accordance with the law.¹⁴⁸

2.149 The Committee will continue to monitor developments in relation to DFDA reform.

Senator the Hon Eric Abetz

Chair