

Chapter 1

Annual reports of departments

1.1 The annual reports of the following departments for the financial year 2018–19, were referred to the committee for examination and report:

- Attorney-General's Department (the AGD); and
- Department of Home Affairs (Home Affairs).

Attorney-General's Department

Tabling of report

1.2 The 2017–18 annual report was tabled in the Senate on 19 October 2018. The report was available to senators for the Supplementary Budget Estimates 2018–19 hearing on 19 October 2018.

Secretary's review

1.3 In his review for 2017–18, the secretary of the AGD, Mr Chris Moraitis PSM, focused on the AGD's positive outcomes in developing policy and programs and providing high quality advice to government, including the following areas: the implementation of national intelligence and domestic security reforms, human rights reform, constitutional law and the implementation of the Third Action Plan of the National Plan to Reduce Violence Against Women and their Children.¹

1.4 The Secretary's Review noted that there were a number of reform projects which the AGD was involved in, particularly in relation to family law. The Secretary reported that the AGD had instigated structural reforms to the federal courts to assist families in saving time and costs in family law disputes.² In addition, the AGD launched services and conducted trials of improvements to the family law system, particularly in relation to additional support services for families experiencing family violence.³

1.5 The Secretary's View reported that the AGD had significantly contributed to national safety and security. Mr Moraitis stated that joint cyber security centres had been established nationally to ensure Australians were prepared for and protected from cyber-attacks.⁴ He also noted the passage of two bills, the National Security Legislation Amendment (Espionage and Foreign Interference) Bill 2017 and the Foreign Influence Transparency Scheme Bill 2018, which he stated had successfully enhanced Australia's national security.⁵

1 *Attorney-General's Department Annual Report 2017–18*, p. 2.

2 *Attorney-General's Department Annual Report 2017–18*, p. 2.

3 *Attorney-General's Department Annual Report 2017–18*, p. 3.

4 *Attorney-General's Department Annual Report 2017–18*, p. 3.

5 *Attorney-General's Department Annual Report 2017–18*, p. 3.

1.6 The review also noted the AGD's work in relation to advising government on implementing the recommendations arising from the Royal Commission into Institutional Responses to Child Sexual Abuse, in addition to assisting establishing the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry.⁶

1.7 The Secretary's outlook for 2018–19 noted that, as of July 2018, the AGD was operating under a new structure designed to 'maximise our support to the Attorney-General in his role as First Law Officer and minister responsible for integrity and oversight'.⁷ According to the Secretary, the new structure would encourage more effective engagement with stakeholders and reflected the AGD's commitment to 'embracing change, challenges and new opportunities in achieving better outcomes for government'.⁸

1.8 The outlook stated that the AGD would be working towards government priorities, including: progressing structural reforms to the federal courts in relation to family law matters and providing advice in relation to the Australian Law Reform Commission's review into family law reform; developing the first National Plan on Elder Abuse; leading the delivery of responses to the recommendations from the Royal Commission into Institutional Responses to Child Sexual Abuse; supporting a wide-ranging review of intelligence legislation; and supporting the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry.⁹

Performance reporting

1.9 Since the committee's previous *Report on Annual Reports* in 2018, the AGD has adopted a new structure for performance reporting, applying four high-level KPIs (Effectiveness; Efficiency in meeting goals; Professionalism, skills and commitment; and Community impact) to each of the five strategic priorities across the AGD.¹⁰ This report also covers the first reporting period where the machinery-of-government changes in relation to the creation of the Home Affairs Portfolio are reflected in budgetary measures and organisational structure and outcomes.

1.10 Performance criteria and targets under each strategic priority outlined in the Portfolio Budget Statement (PBS) for 2017–18.¹¹ This is, in turn, reflected in the Corporate Plan 2017–18.¹² The Corporate Plan outlines the relevant Key Performance Indicators (KPIs) under each strategic priority and explains how each are connected to the performance criteria outlined in the PBS.¹³ The performance statement contained

6 *Attorney-General's Department Annual Report 2017–18*, p. 3.

7 *Attorney-General's Department Annual Report 2017–18*, p. 3.

8 *Attorney-General's Department Annual Report 2017–18*, pp. 3–4.

9 *Attorney-General's Department Annual Report 2017–18*, p. 4.

10 *Attorney-General's Department Annual Report 2017–18*, p. 13.

11 *Portfolio Budget Statements 2018–19, Attorney-General's Portfolio*, pp. 16–27.

12 *Attorney-General's Department Corporate Plan 2017–18*, p. 21.

13 *Attorney-General's Department Corporate Plan 2017–18*, p. 21.

in the annual report reflects a combination of the performance criteria in the PBS and the KPIs set by the Corporate Plan. This approach provides a 'clean read' when compared with the PBS and Corporate Plan.

1.11 In the *Report on Annual Reports (No. 1 of 2018)*, the committee noted that one performance criterion, 'Community impact', was not applied to Strategic Priority 1: Legal in its 2017–18 report.¹⁴ This KPI was similarly not applied to Strategic Priority 1 in its Corporate Plan 2017–18.¹⁵ However, Strategic Priority 1 encompasses a number of programs, including Program 1.1: Civil Justice and Legal Services and Program 1.2: National Security and Criminal Justice – Operating Expenses, which have the missing KPI applied where they appear in other Strategic Priorities. Further, Program 1.9: Royal Commissions similarly does not have a 'Community impact' KPI applied under Strategic Priority 1.¹⁶

1.12 It is unclear why the 'Community impact' KPI was not included in the KPIs for Strategic Priority 1. This is particularly illustrated where programs incorporated in Strategic Priority 1 are incorporated in other Strategic Priorities and have the missing KPI applied in that context. Additionally, the lack of the KPI's application to Program 1.9: Royal Commissions is unclear, given the nature of that program's application to the community at large. No explanation was provided in the PBS, the Corporate Plan, or the annual report explaining why this KPI was not applied to Strategic Priority 1.

1.13 Performance information for reporting period was informed by the stakeholder survey conducted in May 2018, which sought stakeholders' views on overall performance, effectiveness, the AGD's relationship with the organisation in question, staffing, leadership, results and delivery.¹⁷

1.14 The AGD largely met its KPIs for 2017–18.

1.15 KPIs that were not met included:

- Strategic Policy 3, KPI 1: Effectiveness – Stakeholder and client satisfaction with the AGD's effectiveness in maintaining the Commonwealth justice system. The AGD reported that the stakeholder survey conducted across organisations utilising AGD's services report that client satisfaction with 'staff effectiveness in maintaining the justice system' recorded a 78 per cent score. The set target of 80 per cent was narrowly missed by two points;¹⁸
- Strategic Policy 4, KPI 4: Community Impact – Australia's regional and global position on criminal justice (Factor 8) in the World Justice Project's Rule of Law Index. Factor 8 measures 'whether the criminal investigation,

14 *Attorney-General's Department Annual Report 2017–18*, p. 15.

15 *Attorney-General's Department Corporate Plan 2017–18*, p. 7.

16 *Attorney-General's Department Corporate Plan 2017–18*, p. 21.

17 *Attorney-General's Department Annual Report 2017–18*, p. 47.

18 *Attorney-General's Department Annual Report 2017–18*, pp. 29-30.

adjudication and correctional systems are effective and whether the system is impartial, free of corruption and improper influence, and protective of due process and the rights of the accused'.¹⁹ Australia's ranking in the Index is number 13 out of 113 countries;²⁰

- Strategic Priority 5, KPI 2: Effectiveness – Stakeholder and client satisfaction with the AGD's effectiveness in enabling a free society. The AGD reported a 75 per cent result, missing its target of 80 per cent;²¹ and
- Strategic Priority 5, KPI 4: Community impact – Australia's regional and global position on fundamental rights (Factor 4) in the World Justice Project's Rule of Law Index. The AGD's goal was for Australia to achieve position 10 or above in the Index, but instead achieved position 13.²² The annual report stated that the 2017 Index noted a significant decline globally in Factor 4, resulting in 71 out of 113 countries included in the Index experiencing a ranking drop, while Australia's ranking remained steady.²³

1.16 The AGD's performance evaluations also noted programs or areas of the AGD which had subsequently been moved to a separate portfolio after machinery-of-government changes. For example, one of the key activities under Strategic Priority 4, the leadership of the development and coordination of policy concerning a national domestic violence order scheme, was noted to have transferred to the Department of Home Affairs.²⁴

Financial performance

1.17 The report provided commentary on the financial performance of the AGD, marking an improvement in its financial reporting since the committee's previous examinations of its annual report.²⁵

1.18 The Secretary's Review included a short summary of financial results, stating that the AGD achieved an operating result of a \$20.506 million surplus post-income tax expense and asset revaluation increases. This was contrasted with the analysis of financial performance of the previous financial year, which reported an operating result of a \$7.558 million surplus.²⁶ Mr Moraitis attributed the AGD's results

19 *Attorney-General's Department Annual Report 2017–18*, p. 40.

20 *Attorney-General's Department Annual Report 2017–18*, p. 41.

21 *Attorney-General's Department Annual Report 2017–18*, p. 48.

22 *Attorney-General's Department Annual Report 2017–18*, p. 48.

23 *Attorney-General's Department Annual Report 2017–18*, p. 47.

24 *Attorney-General's Department Annual Report 2017–18*, p. 41.

25 See: Senate Legal and Constitutional Affairs Legislation Committee, *Report on Annual Reports (No. 1 of 2018)*, pp. 3–4.

26 *Attorney-General's Department Annual Report 2017–18*, p. 78.

particularly to the strong performance by the Australian Government Solicitor and the timing of implementing budget measures.²⁷

1.19 The total administered expenses for the financial year was reported to be \$426.166 million, which was a reduced figure compared to the 2016–17 period which reported \$622.135 million in total administered expenses. The expenses for the reported financial year included \$64.614 million for the royal commissions, \$294.887 million in grants payments, and \$14.391 million paid to the corporate entity within the portfolio, the Australian Human Rights Commission.²⁸

1.20 The report noted that the major impact on the AGD's financial results were the changes to the Administrative Arrangements Orders (AAOs) of 20 December 2017 and 10 May 2018. The AAO changes resulted in the transfer of \$23.667 million of departmental funding and \$37.438 million of administered funding being transferred to Home Affairs.²⁹

Conclusion

1.21 The committee commends the AGD's improved financial reporting in compliance with the requirements of the PGPA Rule, and considers the report to be 'apparently satisfactory'.

Department of Home Affairs

Secretary's and Commissioner's review

1.22 The Secretary of Home Affairs, Mr Michael Pezzullo, and the Commissioner of the Australian Border Force (ABF), Mr Michael Outram APM, provided separate reviews for the annual report.

1.23 The Secretary's Review noted that the 2017–18 annual report was the first annual report provided for Home Affairs, which was established on 20 December 2017.³⁰ The creation of the portfolio was stated to be one of the most significant reforms in national security in the past 40 years, and reflected the need to remain vigilant to external threats while promoting inclusiveness and an open society.³¹

1.24 Key areas of the review included: the establishment of two new Commonwealth coordination functions for Transnational, Serious and Organised Crime and Counter Foreign Interference; creating the Criminal Justice and Law Enforcement Forum of Commonwealth Agencies; engaging with a range of agencies in order to improve cooperation with national and local community groups in relation to countering violent extremism; implementing new measures with the Aviation and Maritime Security Division to strengthen security at airports, mail and air cargo facilities; establishing a national resilience taskforce to create a whole-of-government

27 *Attorney-General's Department Annual Report 2017–18*, p. 3.

28 *Attorney-General's Department Annual Report 2017–18*, p. 78.

29 *Attorney-General's Department Annual Report 2017–18*, p. 78.

30 *Department of Home Affairs Annual Report 2017–18*, p. 14.

31 *Department of Home Affairs Annual Report 2017–18*, p. 14.

approach to intensifying natural hazards; providing support to Operation Sovereign Borders and addressing the legacy caseload of illegal maritime arrivals; migration and humanitarian entrants into Australia; enabling online visa applications from countries such as China and India; and visa intelligence and security capability operations to better manage applications.³²

1.25 In his Review, the ABF Commissioner stated that the ABF was continuing its transition to 'a modern border law enforcement agency ensuring the integrity of Australia's borders and facilitating legitimate trade and travel'.³³ Mr Outram noted that the establishment of the Home Affairs portfolio marked a significant shift in the ABF's evolution, and would continue to collaborate, coordinate and share information with other agencies across the Portfolio to enhance intelligence and build collective capabilities.³⁴

1.26 The Commissioner also reported a number of achievements throughout the 2017–18 period, including: processing 43 million air travellers at the border, with more than 25 million travellers using automated SmartGate technology; growing cargo volumes, including over 50 million air cargo consignments, more than 3 million sea cargo manifests processed, and over 54 million international mail items inspected; over 43,000 detections of illicit and restricted drugs; a 50 per cent increase in voluntary disclosures which contributed to significant revenue recovery; contribution to the National Illicit Firearms Strategy through Operation Athena and the Counter Terrorism Unit at Australian ports of entry; continued responsibility of Operation Sovereign Borders, including the interception of two people smuggling ventures bound for Australia; and ensuring the facilitation of international trade, including management of the Australian Trusted Trader program.³⁵

Performance reporting

1.27 The annual report for 2017–18 provides comprehensive reporting on performance in accordance with the requirements of the PGPA Act and PGPA Rule.

1.28 Performance reporting is displayed in a clear format and footnotes throughout provide information about the source of each criterion, including page references from the PBS and/or Corporate Plan, explanations of the distinction between deliverables and KPIs, and relevant outcome and/or program information. Due to the creation of the Home Affairs Portfolio, the Corporate Plan refers to the Department of Immigration and Border Protection rather than Home Affairs.

1.29 As a result of the AAO changes, a number of performance deliverables and KPIs were transferred to Home Affairs from other departments or portfolios. Where this was applicable, the annual report clearly provides details regarding the previous source of the criterion in addition to the outcome.

32 *Department of Home Affairs Annual Report 2017–18*, pp. 14–17.

33 *Department of Home Affairs Annual Report 2017–18*, p. 28.

34 *Department of Home Affairs Annual Report 2017–18*, p. 28.

35 *Department of Home Affairs Annual Report 2017–18*, pp. 28–30.

1.30 Home Affairs' overall standard of performance reporting in this annual report was extremely high. The committee notes that Home Affairs appears to have addressed comments made in the *Report on Annual Reports (No. 1 of 2018)* in relation to the clear reporting of KPIs being met or not met.³⁶

1.31 The annual report states that while Home Affairs met a substantial proportion of its KPIs, a number were not met across the following Purposes:

- Purpose 2 (Promote responsive migration): Encourage voluntary compliance to reduce overall non-compliance, measured by more than 75 per cent of unlawful non-citizens engage voluntarily with the Department to resolve their visa status. Home Affairs explained that while this number had reduced to 73 per cent in the 2017–18 period, this number had been relatively steady over the past four years, and had coincided with changes to the Status Resolution Program and the introduction of online services.³⁷
- Purpose 3 (Advance trade and revenue): Percentage of tariff clarifications, valuation of rules of origin advices completed within service standards, measured by services and support provided to industry – regarding tariff classification, valuation and rules of origin advice – completed within service standards. Home Affairs explained that one of the service standards was not maintained or improved due to an increase in requests for advice.³⁸
- Purpose 3 (Advance trade and revenue): Engage with the international community to improve consistency in global trade practices, measured by improvement in consistency of global trade practices, reported through department survey of industry groups. Home Affairs advised in its explanation of the missed KPI that, while it did not undertake a formal survey to measure the improvement in consistency of global trading practice, Home Affairs regularly engaged with industry on a range of matters in relation to the global trading practice.³⁹
- Success measure 25, sourced from the *Department of Infrastructure, Regional Development and Cities Corporate Plan 2017–18*, required a target result, by 2017–18, of having source data and establishing a baseline to monitor progress and inform targets. The target result was in relation to regulated industry participants' understanding of security risk to their operations and obligations under the transport security regulatory regime by 2017–18. Home Affairs explained that while data sources have been established, a baseline

36 See: Senate Legal and Constitutional Affairs Legislation Committee, *Report on Annual Reports (No. 1 of 2018)*, p. 5.

37 *Department of Home Affairs Annual Report 2017–18*, p. 66.

38 *Department of Home Affairs Annual Report 2017–18*, p. 73.

39 *Department of Home Affairs Annual Report 2017–18*, p. 66.

was still being established based on the significant volume of industry responses, and had thus not met the KPI.⁴⁰

- Strategic Priority 4.1, sourced from the *Attorney-General's Department Corporate Plan 2017–18*, requiring that stakeholder and client satisfaction with the department's effectiveness in maintaining the Commonwealth justice system and community safety reach a rating of 80 per cent or higher. The department notes in its result that 79 per cent of respondents were satisfied, although it is unclear whether this survey was conducted in reference to the work of the Department of Home Affairs or the Attorney-General's Department.⁴¹
- Strategic Priority 4.4, sourced from the *Attorney-General's Department Corporate Plan 2017–18*, requiring that Australia's regional and global position on criminal justice (Factor 8) in the World Justice Project's Rule of Law Index – measuring how the rule of law is experienced by the public countries around the world – be at position 10 or higher. This target was missed, as Australia was positioned at 13.⁴²

1.32 The committee notes the failure to meet a number of the required KPIs. However, the committee recognises that Home Affairs largely explained the causes of having missed the KPIs. The committee also notes that a number of performance indicator targets were added to the portfolio as a result of machinery-of-government changes, and that Home Affairs may have had limited time in which to achieve the KPIs assigned to it. The committee thus commends Home Affairs' overall excellent results, particularly in light of the dynamic changes to the portfolio's structure.

Financial performance

1.33 The total departmental operating result for 2017–18 was \$324.4 million operating deficit, which increased in comparison to 2016–17 which reported a \$276.6 million operating deficit. The annual report noted that, had the Australian Government funded depreciation and amortisation expenses, the total departmental operating result would have been a \$33.9 million deficit.⁴³

1.34 The operating deficit (excluding depreciation and amortisation) was stated to be as a result of non-cash expenses relating to write-down and impairment of assets, and expenses relating to the uplift in employee provisions in relation to a four per cent pay rise granted through the Statement of Intent from the Fair Work Commission in June 2018.⁴⁴

40 *Department of Home Affairs Annual Report 2017–18*, p. 81.

41 *Department of Home Affairs Annual Report 2017–18*, p. 88.

42 *Department of Home Affairs Annual Report 2017–18*, p. 90.

43 *Department of Home Affairs Annual Report 2017–18*, p. 102.

44 *Department of Home Affairs Annual Report 2017–18*, p. 102.

1.35 The DHA reported that the reporting period's administered expenses were \$2.36 billion, which was an increase from the 2016–17 reporting period of \$2.12 billion. This was attributable to a one-off non-cash capital grant expense in relation to the gifting of infrastructure to the Papua New Guinea government after the cessation of Australia's involvement in managing the Manus Island Regional Processing Centre.⁴⁵

1.36 Home Affairs' net asset position was strengthened to \$1.32 billion (assets minus liabilities), representing an increase from the previous reporting period of \$158.88 million. Liabilities equated to 38 per cent of the total asset base.⁴⁶

Management of human resources

1.37 The PGPA Rule requires that statistics be provided regarding an entity's APS employees on an ongoing or non-ongoing basis, including staffing classification level, full-time employees, part-time employees, gender, staff location, and employees who identify as Indigenous.⁴⁷

1.38 In *Report on Annual Reports (No. 1 of 2018)*, the committee noted that the annual report for the 2016–17 reporting period did not provide statistics regarding employees who identify as Indigenous. The committee encouraged the then Department of Immigration and Citizenship to provide statistics in relation to Indigenous staff in future reports.⁴⁸

1.39 The 2017–18 annual report again failed to provide statistics regarding employees who identify as Indigenous. It provided detail in relation to targeted diversity recruitment, including the recruitment of 14 apprentices in 2017.⁴⁹ However, statistics in relation to the number, location and classification of employees that identify as Indigenous were not provided.

1.40 The committee again encourages Home Affairs to provide statistics on Indigenous staff as required by the reporting guidelines.

Conclusion

1.41 The committee found the annual report to be 'apparently satisfactory'.

45 *Department of Home Affairs Annual Report 2017–18*, p. 102.

46 *Department of Home Affairs Annual Report 2017–18*, p. 102.

47 *Public Governance, Performance and Accountability Rule 2014* (PGPA Rule), p. 27.

48 See: Senate Legal and Constitutional Affairs Legislation Committee, *Report on Annual Reports (No. 1 of 2018)*, pp. 8–9.

49 *Department of Home Affairs Annual Report 2017–18*, p. 203.

