

## The Committee's Review

2.1 The Committee reviewed the following key issues during this phase of the inquiry:

- Implementation of Recommendations from JCPAA Report 453
- Broader Public Management Reform Agenda issues
- Annual Reports
  - ⇒ Consideration of the 2015-16 Annual Report Rules
  - ⇒ Annual Report delivery and tabling dates
  - ⇒ Feedback from other Committees
  - ⇒ Recommendations of the Belcher Review

### **Implementation of Recommendations from JCPAA Report 453**

2.2 A full response to the recommendations in JCPAA Report 453 is yet to be provided.<sup>1</sup> Finance provided an 'interim',<sup>2</sup> informal response to the Committee's recommendations to assist with the progress of the inquiry.

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1 Dr Stein Helgeby, Department of Finance, *Transcript of Evidence*, 25 February 2016, p. 2. It should be noted a Government Response to Report 453 had not yet fallen due at the time of inquiry and reporting.

2 Dr Stein Helgeby, Department of Finance, *Transcript of Evidence*, 25 February 2016, p. 2.

## Recommendations 1 and 2 – Guidance to demonstrate a ‘clear read’, and including clear performance information criteria in guidance

- 2.3 Finance advised that PBS Guidance for 2016-17 would provide examples of how an entity might approach providing performance information, stating that better practice examples would develop over time and that Finance would consider including these in future guidance.<sup>3</sup> Further, Finance stated that work undertaken by the University of Sydney Business School in examining 2015-16 Corporate Plans was being used as part of Finance’s review into the guidance for Corporate Plans.<sup>4</sup>
- 2.4 Additionally, Finance advised that it would also issue guidance that would discuss ‘relevant, reliable and complete performance information drawing on the [Commonwealth Performance] Framework.’<sup>5</sup>

## Recommendation 3 – Developing a monitoring, review and evaluation framework

- 2.5 In its appearance before the Committee, Finance stated that it already had a monitoring role, by producing a lessons learned document, and running a symposium in conjunction with the University of Sydney, and that guidance had been adapted to assist entities.<sup>6</sup> Further, Finance advised that it was working closely with the Australian National Audit Office (ANAO) on the issue.<sup>7</sup> Finance advised that Section 112 of the *Public Governance, Performance and Accountability Act 2014* (PGPA Act) provided for an independent review of the framework in 2017, and that this review mechanism would determine ‘how this thing has gone’.<sup>8</sup>
- 2.6 Finance stated that its role should be to:
- ...not only design the new framework but to champion it within the system and to work with the [ANAO] to ensure that the framework is robust in the sense that it meets the Parliament’s expectation and the public’s expectation about proper use of public resources.<sup>9</sup>

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3 Department of Finance, *Submission No. 1*, p. 3.

4 Department of Finance, *Submission No. 1*, p. 4.

5 Dr Stein Helgeby, Department of Finance, *Transcript of Evidence*, 25 February 2016, p. 4.

6 Mr Lembit Suur, Department of Finance, *Transcript of Evidence*, 25 February 2016, p. 2.

7 Mr Lembit Suur, Department of Finance, *Transcript of Evidence*, 25 February 2016, p. 3.

8 Mr Lembit Suur, Department of Finance, *Transcript of Evidence*, 25 February 2016, p. 3.

9 Mr Lembit Suur, Department of Finance, *Transcript of Evidence*, 25 February 2016, p. 3.

- 2.7 Further, Finance cautioned against adopting a 'more compliance focussed or stronger role in relation to overseeing these changes', as 'the challenge in all of this stuff is cultural change', and 'you have to give [people] the chance to do that'.<sup>10</sup>
- 2.8 In its second supplementary submission, Finance advised that it would begin to survey entities annually to identify issues relating to the operation of the resource management framework (RMF), including compliance issues. This would enable Finance to identify instances of significant or systemic legislative non-compliance, issues that entities may have in applying the RMF, and requirements that create compliance burdens.<sup>11</sup>

#### **Recommendation 4 – Ensuring Portfolio Budget Statements state targets**

- 2.9 In its submission, Finance advised that the Secretary's Direction on Portfolio Budget Statements would explicitly address the issue of targets.<sup>12</sup> The Committee understands that this has now occurred.

#### **Recommendation 5 – Including Annual Performance Statements in Portfolio Budget Statements**

- 2.10 Finance stated that a minimum requirement would be issued for an entity's most recent Annual Performance Statement to be included in an entity's PBS. However, this could not occur until the 2017-18 PBS as the first Annual Performance Statements will be published in October 2016.<sup>13</sup>

#### **Recommendation 6 – Updating Corporate Plans, and providing draft updates for Estimates purposes**

- 2.11 In its submission, Finance reported that requirements for entities to provide detailed information for programs that are new or have been materially changed due to budget measures will be outlined in the PBS guidance for the 2016-17 Budget.<sup>14</sup> At its appearance before the Committee, Finance confirmed that it had issued requirements that all

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10 Mr Lembit Suur, Department of Finance, *Transcript of Evidence*, 25 February 2016, p. 3.

11 Department of Finance, *Submission No. 1.2*, pp 5-6.

12 Department of Finance, *Submission No. 1*, p. 5.

13 Department of Finance, *Submission No. 1*, p. 6.

14 Department of Finance, *Submission No. 1*, p. 6.

performance criteria, targets, and expected dates of achievement for new or materially changed programs be included in the PBS.<sup>15</sup>

## Broader Public Management Reform Agenda issues

- 2.12 In Report 453, the JCPAA requested that Finance consider and report back on several issues beyond the performance framework as part of Finance's submission to this inquiry. These broader Public Management Reform Agenda (PMRA) issues were:
- Joined-up government
  - Differential regulation
  - Improving risk management practices
- 2.13 Regarding joined-up government, Finance advised that internal work had commenced on scoping options for improving joined-up government.<sup>16</sup>
- 2.14 Regarding differential regulation, Finance stated that it was 'currently exploring a differential approach to regulation (previously referred to as 'earned autonomy')'<sup>17</sup> Finance stated that the previous RMF (comprising *The Financial Management and Accountability Act 1997* and the *Commonwealth Authorities and Companies Act 1997*) was criticised due to its 'one size fits all' approach, and that such an approach had created barriers to productivity and innovation, and also imposed compliance costs. Finance stated that an internal 'proof of concept' paper was being considered internally, and that a discussion paper was planned for release in the middle of 2016.<sup>18</sup>
- 2.15 Regarding improving risk management practices, in its first supplementary submission, Finance stated that the 2015 Commonwealth Risk Management Benchmarking Survey had indicated that a significant number of entities surveyed had risk management practices aligned with the Commonwealth Risk Management Policy. Further, internal entity audit committees facilitated progress in this area, and that the passage of the PGPA Act required entities to review the appropriateness of their risk oversight and management systems.<sup>19</sup>
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15 Dr Stein Helgeby, Department of Finance, *Transcript of Evidence*, 25 February 2016, p. 4.

16 Department of Finance, *Submission No. 1.2*, p. 8.

17 Department of Finance, *Submission No. 1.1*, p. 3.

18 Department of Finance, *Submission No. 1.2*, p. 8.

19 Department of Finance, *Submission No. 1.1*, p. 3.

- 2.16 Finance's second supplementary submission advised that the 2016 Commonwealth Risk Management Benchmarking Survey had been undertaken, and that results would be available by the end of May 2016.<sup>20</sup>

## Annual reports

### Consideration of the 2015-16 Annual Report Rules

- 2.17 Section 46 (4) of the PGPA Act requires the Committee to approve the rules for the development of entity Annual Reports for both non-corporate and corporate entities.
- 2.18 The Committee considered the draft 2015-16 Annual Report Rules<sup>21</sup> (the Rules) for non-corporate and corporate Commonwealth entities as part of this inquiry. 2016 marked the year in which the Requirements for Annual Reports became a formal Rule as part of the PGPA Act. This required changes to the format of the Requirements to fit the legislative style required by formal Rules, and also required other elements of the old Requirements to be issued instead in guidance to entities.
- 2.19 Finance advised that the 'some minor refinements' were required to introduce Annual Performance Statements into the Rules, to replace performance reporting information.<sup>22</sup> Finance further noted that at the Committee's request, entity Annual Performance Statements will also report on the performance criteria contained in entity Portfolio Budget Statements.<sup>23</sup>
- 2.20 The Annual Report requirements for Corporate Commonwealth entities were previously contained in the *Commonwealth Authorities (Annual Reporting) Orders 2011* (the Orders). Finance also revised the Orders in similar terms to the Rules. Through this process, finance proposed to delete the 'Exemptions' clauses present in the Orders which 'provided the Minister for Finance with the power to grant written exemptions to the accountable authorities of entities and companies from any requirements

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20 Department of Finance, *Submission No. 1.2*, p. 8.

21 Formally the *Public Governance, Performance and Accountability Amendment (Non-corporate Commonwealth Entity Annual Reporting) Rule 2016*, and the *Public Governance, Performance and Accountability Amendment (Corporate Commonwealth Entity Annual Reporting) Rule 2016*.

22 Department of Finance, *Submission No. 1.2*, p. 4.

23 Department of Finance, *Submission No. 1.2*, p. 4.

of these orders'.<sup>24</sup> Finance advised that there was no evidence that these powers had ever been used, and suggested 'the continuation of such a power creates a conflict with the power vested in the Committee'.<sup>25</sup>

- 2.21 Finance also proposed to introduce a new Annual Report requirement from 2015-16 to require both corporate and non-corporate entities to report significant instances of non-compliance with the PGPA Act and PGPA Rules.<sup>26</sup> Finance stated that this initiative had been suggested by the Auditor-General, and would:

... [provide] transparency of significant non-compliance at the level of each individual entity, rather than on an aggregated category basis at a portfolio level, as had previously occurred through the 'Certificate of Compliance Report to the Parliament' published in time for the Additional Estimates process. It extends the public reporting requirements to corporate entities, applying a consistent treatment to both non-corporate and corporate entities.<sup>27</sup>

## Annual Report delivery and tabling dates

- 2.22 Finance provided the Committee with historical context around the report delivery and tabling dates currently in effect:

... section 46(2) [of the PGPA Act] currently talks about the provision of the annual report to the responsible Minister by the 15<sup>th</sup> day of the fourth month but it is silent about when an annual report has to be tabled in the Parliament. In that way, it is structured similarly to the previous FMA and CAC Acts which were also silent on a tabling date to the Parliament. If you recall, the 15<sup>th</sup> day of the fourth month was an amendment that was done at the request of this Committee, following an approach from Senator Bernardi, who had written to the Chair of this Committee expressing his concern that tabling on the last day of the fourth month meant that Senate Estimates Committees could potentially miss out...<sup>28</sup>

- 2.23 Finance noted the issue of bringing delivery and tabling dates forward was 'under active consideration', and that the Secretary of the Department of Finance had written to the Auditor-General stating that there was
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24 Department of Finance, *Submission No. 1.2*, p. 3.

25 Department of Finance, *Submission No. 1.2*, p. 3.

26 Department of Finance, *Submission No. 1.2*, p. 4.

27 Department of Finance, *Submission No. 1.2*, p. 5.

28 Mr Lembit Suur, Department of Finance, *Transcript of Evidence*, 25 February 2016, p. 5.

scope to bring forward the tabling date for Annual Reports to 30 September each year.<sup>29</sup>

- 2.24 The Auditor-General stated that it would be 'entirely feasible'<sup>30</sup> to move delivery and tabling dates forward, as, in the future, he would seek to ensure that the ANAO completed its audit of entity financial statements earlier than the current deadline.
- 2.25 In its second supplementary submission, Finance advised that it had consulted on this issue with Commonwealth entities and companies, and that a majority of entities who had responded indicated they thought they could comply with an earlier delivery and tabling date, though some entities and companies identified potential obstacles, namely that Annual Reports require provision of information by third parties, that some data is not available until 'well after' the end of the financial year, and that some enabling legislation sets different annual report timing requirements.<sup>31</sup>
- 2.26 Finance noted that bringing delivery and tabling dates forward would require amendment to the PGPA Act, and that it would not be possible to amend the act in time to bring delivery and tabling dates forward in time for 2015-16 Annual Reports. Finance committed to continue to explore this issue further as part of an ongoing discussion with the Committee about Annual Reports.<sup>32</sup>

## Feedback from other Committees

- 2.27 The Committee sought feedback from other Parliamentary Committees on Annual Reports, and also whether committees had comments on Corporate Plans, Portfolio Budget Statements and any other issues related to the PMRA.
- 2.28 Several issues were identified and communicated to the Committee, which, in turn, forwarded these issues to Finance for further consideration. The issues identified included that:
- Entity Corporate Plans should not be used to replace the role played by PBSs and Annual Reports

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29 Dr Stein Helgeby, Department of Finance, *Transcript of Evidence*, 25 February 2016, p. 5.

30 Mr Grant Hehir, Australian National Audit Office, *Transcript of Evidence*, 25 February 2016, p. 5.

31 Department of Finance, *Submission No. 1.2*, p. 7.

32 Department of Finance, *Submission No. 1.2*, p. 7.

- Entity Annual Reports should be seen as both a record of an entity at a consistent point in time, as well as ‘book end’ to the Budget Papers and PBSs
- While continuous or near-time reporting had benefits, that it should not replace the Annual Report process, and that Machinery of Government changes presented a challenge to the preservation of electronic Annual Report data over time
- There had been a reduction in the reporting of remuneration of entity Directors and Senior Executives and that this constituted a reduction in transparency
- Committees had directly influenced the content of entity Annual Reports by providing feedback and seeking further information in future reports
- There should be no reduction in the information contained in Annual Reports
- Annual Reports were, in some cases, not received on or before the legislatively required date, or not received by Committees in time for adequate scrutiny before October’s Supplementary Estimates hearings.
- There were questions over whether entities should set their own Key Performance Indicators or choose which ones to display in their Annual Reports

## Recommendations of the Belcher Review

- 2.29 The Committee also discussed Barbara Belcher’s *Independent Review of Whole-of-Government Internal Regulation* (The Belcher Review<sup>33</sup>); commissioned by the Government, which made several recommendations about entity Annual Reports.
- 2.30 Finance noted that there were ‘a range of recommendations in the Belcher Review’, and that it would ‘consult appropriately’ with the Parliament on any Belcher Review recommendations that involved the Parliament.<sup>34</sup>

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33 Department of Finance, *The Independent Review of Whole-of-Government Internal Regulation* (Belcher Red Tape Review), <http://www.finance.gov.au/publications/reducingredtape/> (accessed 20/4/16).

34 Dr Stein Helgeby, Department of Finance, *Transcript of Evidence*, 25 February 2016, p. 6.



## Committee Comment

### Annual Reporting Rules

- 2.31 The Committee has reviewed the draft Rules for 2015-16 and is satisfied with their content.
- 2.32 On 3 May 2016, **the Committee approved the draft Rules as submitted** without amendment for non-corporate and corporate entities for the 2015-16 reporting year.
- 2.33 The Committee notes Finance's proposed non-transferal of the 'Exemptions' clause for Commonwealth corporate entities. The Committee accepts the rationale for the proposed change and supports Finance's proposal.
- 2.34 The Committee welcomes the staged, or evolutionary, approach taken to transferring the previous Requirements into the current Rule under the PGPA legislative framework for non-corporate entities. In addition, the Committee thanks Finance and the Office of Parliamentary Counsel for their work in ensuring that a clear and complete set of Rules were submitted for consideration.
- 2.35 Regarding timeframes for delivery and tabling of Annual Reports, the Committee believes that bringing forward both of these dates, and formalising the required tabling date in legislation, is both viable and valuable. If achieved, it will provide some certainty to Senate Estimates Committees in particular that the important performance information in annual reports will be made available in a timely manner to assist scrutiny. However, the Committee acknowledges that implementation for the 2015-16 reporting year is not practical, and that detailed implementation planning is required before these dates can be brought forward in legislation. The Committee will continue to work with Finance and the ANAO in this regard.
- 2.36 The Committee notes that until the above legislative change is implemented the requirement to table annual reports in the Parliament by 31 October each year remains Government Policy – as specified in the draft guidance to the Rule provided by Finance. The Committee strongly encourages all entities and Ministers to do their utmost to table annual reports ahead of this deadline in time for Senate Estimates.

- 2.37 The Committee welcomes the valuable contributions made by other parliamentary committees in regard to the annual reporting rule and other elements of the performance framework. The Committee has requested that Finance provide a detailed consideration of each of the issues raised to inform the Committee's consideration of the next year's Annual Reporting Rule.
- 2.38 Regarding relevant parts of the Belcher Review, the Committee looks forward to continuing to discuss with Finance implementation of potential reforms. The Committee notes however that any changes will need to balance red tape reduction with an acknowledgement that Annual Reports have the dual purposes of providing an accountability report on entity performance and being a document of historic record. The Committee does not object to discussions about potentially removing an item of reporting, provided that, if that item is still considered valuable by the Parliament, the item is made available elsewhere through requirements with the same level of authority as the Annual Report Rules. With this in mind the Committee welcomes a continuing conversation with Finance about issues such as a central repository of data and continuous reporting of entity performance.

### **Broader Public Management Reform Agenda issues**

- 2.39 The Committee has taken an active role in the PMRA since its inception. The first phase included initial policy development and legislation – resulting in the passing of the PGPA Act. The second phase focused on development of the Commonwealth Performance Framework.
- 2.40 The next phase will be about driving high quality implementation of the frameworks now in place, and Finance's delivery of the broader elements of the PMRA – such as joined-up government and differential regulation. This phase will be overseen by the JCPAA of the 45th Parliament.
- 2.41 Ensuring a high quality resource management and performance framework is core business for the Committee. Driving to ensure the potential of this framework is captured through better practice implementation is also central to the Committee's mandate. Therefore, the Committee will continue to participate in development of the broader elements of the PMRA, and will continue to monitor entity implementation.

- 2.42 To this end, the Committee strongly supports the ANAO's indication that they will continue to conduct audits into entities implementation of the various elements of the performance framework.
- 2.43 Additionally, the Committee welcomes Finance's undertaking to conduct an annual survey of entities to identify issues relating to the operation of the resource management framework, including compliance issues. The Committee agrees that such a survey will assist with better assessment of the value and burden of the performance framework under PGPA Act and PGPA Rules.

### **Recommendation 1**

**To facilitate prompt and thorough engagement with the Public Management Reform Agenda by the Joint Committee of Public Accounts and Audit of the 45<sup>th</sup> Parliament, the Committee recommends that the Department of Finance prepare an incoming brief addressing the following issues:**

- **A summary of the history of the PMRA - including its achievements and challenges to date**
- **Progress on key elements of Phase 3 of the Public Management Reform Agenda**
- **A summary of the forward plan for the Public Management Reform Agenda - including priority areas and key timeframes as appropriate.**

## **Recommendation 2**

**To facilitate consideration of the 2016-17 Annual Reporting Rule, the Committee recommends that the Department of Finance include the following elements in their submission to the Committee:**

- **An update on progress to bringing forward and formally legislating earlier Annual Report delivery and tabling dates**
- **A detailed consideration of issues raised by other Parliamentary Committees, as forwarded to the Department of Finance by this Committee**
- **Consideration of proposals for change to the Annual Reporting Rule, including those stemming from the recommendations of the Belcher Review**

Hon Ian Macfarlane MP  
Chair  
Date: 3 May 2016