

Committee review

Introduction

- 3.1 The Joint Committee of Public Accounts and Audit (JCPAA), through its review of submissions made to the inquiry and the public hearing, identified four themes of interest:
- Value for money
 - Record keeping
 - Key Performance Indicators (KPIs)
 - Conformity with the relevant Commonwealth Acts

The themes

Value for money

- 3.2 As the ANAO acknowledged, value-for-money is what all Commonwealth departments should be striving for 'without saying'.¹ However, the Department of Health (Health) stated that suitable checks to ensure that value for money was being achieved under the 5PCA were absent:

I think that the ANAO report highlights that the Commonwealth does not have an overall evidence chain as to whether value for money was obtained. That has been some cause for thought and we are trying hard to improve our understanding of that, going forward. What I can tell you is that a range of programs were

¹ Dr Tom Ioannou, Group Executive Director, PASG, ANAO, *Committee Hansard*, Canberra, 13 August 2015, p. 5.

delivered, which have been evaluated and found to have positive outcomes, and that a great many scripts were delivered to the community through this supply chain in an effective manner, to the health benefit of the Australian community – but a specific evaluation of that? No.²

3.3 The Consumer Health Forum agreed that the value-for-money aspect was something that was not quantifiable:

We do not know, really, because this matter has not been explored since 1989, as you have heard. We argue, though, that we need more transparency in the whole pharmacy operation because there is a lot of money being paid out for it and it is not entirely clear, and nor are the key performance indicators telling us: 'For the several dollars you pay each time you get a prescribed medicine dispensed, what are you actually getting?' The pharmacists argue fairly that they are always there to advise the patient, but of course many times that is not needed. So we think that, given the vast amount involved and given the other issue of primary care... there is a lot of potential there for us to look at it and perhaps try to get better value for money.³

3.4 Health explained that certain reviews were done, and that closer examination of programs would be take place in future:

There were evaluations undertaken, during the fifth agreement, of areas of programs under the agreement. The department can give an account of what the volumes of services provided under the agreement were and what was bought and paid for. The more specific question being asked is about value for money, and that is something I think we are seeking to address more closely and clearly in the coming two-year review.

...the two-year review that we are going to undertake, which includes a review of the remuneration for the entire supply chain, both the wholesalers and the community pharmacy element. The review is to look at the remuneration components – which is the vast majority of the funding under the agreement – and to understand the economic efficiency of that funding.⁴

2 Mr Andrew Stuart, Deputy Secretary, Department of Health, *Committee Hansard*, Canberra, 13 August 2015, p. 5.

3 Mr Mark Metherell, Communications Director, Consumers Health Forum of Australia, *Committee Hansard*, Canberra, 13 August 2015, p. 7.

4 Mr Andrew Stuart, Deputy Secretary, Department of Health, *Committee Hansard*, Canberra, 13 August 2015, p. 5.

- 3.5 Health stated that it is focussing on ensuring better transparency and quality of programme reporting in the 6CPA. Further, 6CPA components will undergo a formal and independent review. This will include:
- pharmacy programmes;
 - pharmacy trial programmes;
 - regulation of community pharmacy (including Pharmacy Location Rules); and
 - remuneration to community pharmacy for its dispensing role.⁵

Record keeping

- 3.6 The lack of records kept during the negotiation of the 5CPA was of concern to the Committee. For a \$15 billion programme such as this, extensive record keeping is essential and the ANAO found that the official public record relating to the actual negotiations was limited to one page – a one page Minute.⁶ Health conceded that their record keeping had been inadequate. Further they explained what transpired:

It is not correct to say that no records were kept in relation to the negotiation of the fifth pharmacy agreement. It is correct to say, as the ANAO found, that there were no formal records kept of each of the meetings. There are, however, on our files a number of kinds of documents that relate to the negotiations. For example, there are a number of versions of contracts to which changes have been made as changes were negotiated in meetings, there is correspondence between the guild and the department about the agreement that was being negotiated and there are records of emails between officers who met with the guild...⁷

The process that was undertaken was that there were drafts produced with an agreement, and the currency between the department and the guild was the moving to and fro of successive, marked-up versions of that agreement. That is what happened at the time. It would have been better practice, and the department accepts that it would have been better practice, to take minutes of those meetings and to exchange them between the parties so that we were able to document the rationale for the changes that were being made in the agreement. The department accepts that that

5 *Submission 6*, Department of Health, p. 8.

6 Dr Tom Ioannou, Group Executive Director, PASG, ANAO, *Committee Hansard*, Canberra, 13 August 2015, p. 10-11.

7 Mr Chris Reid, General Counsel, Department of Health, *Committee Hansard*, Canberra, 13 August 2015, p. 10.

record is not available, and that it would have been better for transparency as to why and how that agreement unfolded had we done so. Were there records suitable for the purpose of negotiating? Yes, there were. Were there records suitable for the purpose of later public transparency including for the ANAO? No, I do not think that was adequate.⁸

3.7 Health accepted the ANAO's findings and stated that they have improved their record keeping process for the Sixth Community Pharmacy Agreement (6CPA). At the public hearing, Health explained that its submission provided further details of its effort in this area.⁹ Indeed:

The Department organised and implemented an internal review of its record keeping arrangements and processes in relation to the 5CPA in light of the ANAO's more detailed recommendations prior to the negotiation of the 6CPA to ensure that the lessons from the past informed processes for the 6CPA... This includes:

- the establishment and regular reminders to staff of record management disciplines;
- the provision of record-keeping and risk- management training to staff;
- specific assignment of responsibilities such as nominating individual staff members as 'record keepers' for large projects and negotiations such as the 6CPA;
- introduction of a mandatory requirements for all PBD staff to undertake record managements training and this requirement is required to be included in individual and team performance development agreements; and
- periodic review of records being kept.

Further in 2015, the Department ran for all staff in the Pharmaceutical Benefits Division, refresher training in record keeping and records management.¹⁰

Key Performance Indicators (KPIs)

3.8 The agreement's KPIs were also an issue that garnered the Committee's scrutiny given its interest in having suitable KPIs across the whole breadth of Commonwealth government. The ANAO reported that they:

8 Mr Andrew Stuart, Deputy Secretary, Department of Health, *Committee Hansard*, Canberra, 13 August 2015, p. 11.

9 Mr Andrew Stuart, Deputy Secretary, Department of Health, *Committee Hansard*, Canberra, 13 August 2015, p. 11.

10 *Submission 6*, Department of Health, pp. 6-7.

... examined Health's 2013–14 annual report to assess the extent of reporting of the costs, deliverables, and KPIs for the key components of the 5CPA... The ANAO also examined the department's website to identify any further information on costs, deliverables and KPIs.

In summary, in 2013–14, Health's reporting of the key components of the 5CPA was limited, both in its annual report and on its website. Health has not published the separate costs for the key components of the 5CPA, or any other component. Similarly, there were no deliverables or KPIs reported for any of the key components of the 5CPA. Without basic information about costs, deliverables or KPIs for 5CPA programs and activities it is difficult for stakeholders, including the Parliament, to form an overall view of what the 5CPA has actually delivered.¹¹

- 3.9 Given the relatively disappointing level of KPI reporting, the Committee sought information on what KPI's had been included as part of the Sixth Community Pharmacy Agreement. In response, Health stated:

We have the KPIs in place for the administration, but the KPIs for the individual programs have not been finalised as yet. They will be published either as part of our portfolio budget additional estimates statements or in the Mid-Year Economic and Fiscal Outlook. They are under active work.¹²

As to what the final KPIs are going to be with respect to the services and the outcomes that are achieved is something that is still being finalised by the department in consultation with the guild as they finalise those arrangements.¹³

- 3.10 In their submission, the Health explained further:

The Department has reviewed the current performance reporting structure to ensure the alignment between the 6CPA and public reporting against program objectives is improved. As a result, appropriate updates to the performance reporting structure for Programme Group 2.1 and 2.2 will be implemented as part of the 2015-16 Portfolio Additional Estimates Statements to align with [ANAO Recommendation 8].

11 ANAO, *Report No. 25 2014-15*, p. 201.

12 Ms Felicity McNeill, First Assistant Secretary, Office of Health Protection, Department of Health, *Committee Hansard*, Canberra, 13 August 2015, p. 12.

13 Ms Felicity McNeill, First Assistant Secretary, Office of Health Protection, Department of Health, *Committee Hansard*, Canberra, 13 August 2015, p. 13.

The measures associated with the 6CPA were announced after the 2015-16 Budget process, therefore they were not available for linking or updating the Department's objectives, deliverables and KPIs with respect to the 6CPA, in the 2015-16 Portfolio Budget Statements.¹⁴

Conformity with the relevant Commonwealth Acts

3.11 Ensuring that Commonwealth expenditure is conducted responsibly and accountably is governed by Acts of Parliament. Since 2013, the *Public Governance Performance and Accountability Act 2013* (PGPA Act) has been the relevant piece of legislation and it stipulates:

The objects of this Act are:

- (a) to establish a coherent system of governance and accountability across Commonwealth entities; and
- (b) to establish a performance framework across Commonwealth entities; and
- (c) to require the Commonwealth and Commonwealth entities:
 - ⇒ (i) to meet high standards of governance, performance and accountability; and
 - ⇒ (ii) to provide meaningful information to the Parliament and the public; and
 - ⇒ (iii) to use and manage public resources properly; and
 - ⇒ (iv) to work cooperatively with others to achieve common objectives, where practicable; and
- (d) to require Commonwealth companies to meet high standards of governance, performance and accountability.¹⁵

3.12 For most of the 5CPA, the *Financial Management and Accountability Act 1997* (FMA Act) was the relevant piece of legislation that governed Commonwealth expenditures but its principles are very similar to the PGPA Act. ANAO identified a breach of the FMA Act:

Section 12 of the FMA Act established special requirements for agencies that entered into agreements or arrangements for the receipt, custody or payment of public money by 'outsiders' (third parties such as the Pharmacy Guild). Agencies either had to ensure that outsiders complied with all the requirements of the financial framework, or alternatively could make special arrangements through a 'section 12 agreement', which specified a set of requirements to be met by the outsider.

14 *Submission 6*, Department of Health, p. 8.

15 Australian Government, ComLaw, *Public Governance, Performance and Accountability Act 2013*, <<https://www.comlaw.gov.au/Details/C2013A00123>>, accessed 1 September 2015.

The ANAO sought Health's advice on whether the department had an FMA section 12 agreement in place to cover its arrangements with the Pharmacy Guild. It took Health some time to respond that it did not have any agreements in place under Section 12 of the FMA Act to support arrangements with the Pharmacy Guild.¹⁶

3.13 ANAO further testified that:

...the FMA Act applied for the majority of the period of the 5CPA. What we encountered was that there were some complex aspects of the *Financial Management and Accountability Act* that perhaps the department had not fully thought through, especially around the question of third-party administrators, such as the guild, handling public monies. We drew this to the attention of the department. We also took legal advice from [Australian Government Solicitor] AGS to help us settle our own position. The bottom line for us was that, given there was a transition from one specific framework to another – ...the general principles of the two acts are not dissimilar – was that we strongly suggested to the department, but did not recommend, that they pause and reflect on ongoing compliance with the new framework.¹⁷

3.14 Health has indicated that ANAO advice has been incorporated into the new 6CPA.

Yes [compliance with the new framework has occurred] through the negotiation process with the probity adviser, who was also across all of the issues of the PGPA Act and who provided us support and advice in that area. Again, we had a legal team that was also providing us support not just in respect of the PGPA Act but also the National Health Act, because that also has some specific legal requirements that we must also meet with respect to the medicines and how things are costed. Of course, the contracts for the services are now being entered into for administration of those programs. I am aware that my successor, Ms Jonasson, and Ms Quaine are actively working with the relevant areas of the department to make sure that contracts entered into are compliant with the requirements of the PGPA Act.¹⁸

16 ANAO, *Report No. 25 2014-15*, p. 186.

17 Dr Tom Ioannou, Group Executive Director, PASG, ANAO, *Committee Hansard*, Canberra, 13 August 2015, p. 15.

18 Ms Felicity McNeill, First Assistant Secretary, Office of Health Protection, Department of Health, *Committee Hansard*, Canberra, 13 August 2015, p. 15.

Committee Comment

- 3.15 The ANAO report uncovered a number of failings within the 5CPA implementation and administration and the Committee would like to commend the ANAO for its excellent work.
- 3.16 Given the the importance of health care to Australian community, the size of the 5CPA, and the experience the Department of Health has had with the previous four Community Pharmacy Agreements, the failures of process observed in this agreement are very disappointing.
- 3.17 The failure to provide suitable records for public accountability and the breach of the *Financial Management and Accountability Act* governing public expenditure were particularly egregious given the \$15 billion agreement.
- 3.18 Setting realistic and measurable KPIs both broadly and with particular respect to 'value-for-money' is also something the Committee strongly advocates. Ambiguous goals with even more ambiguous outcomes do not serve the goal of efficient use of public funds.
- 3.19 The Committee notes the up-coming independent two year review that Health will be conducting into the 6CPA. The Committee wishes to be updated on the review and its outcomes.
- 3.20 The Committee further notes that the 6CPA KPIs for the individual programs are still being finalised. The Committee recommends that Health report back on the KPIs for components of the 6CPA and how outcomes are to be achieved and measured.

Recommendation 1

The Joint Committee of Public Accounts and Audit (JCPAA) recommends that the Department of Health report back to the JCPAA:

- **within 6 months of tabling this report with an update on progress of the two year review of remuneration and regulation of the 6th Community Pharmacy Agreement, including considerations of 'value-for-money' spending; and**
- **a further report upon the completion of the two year review.**

Recommendation 2

The Joint Committee of Public Accounts and Audit (JCPAA) recommends that the Department of Health reports back to the JCPAA on the final Key Performance Indicators (KPIs) for components of the 6th Community Pharmacy Agreement. That report should include:

- the KPIs;
- how the KPIs will be achieved; and
- how outcomes to the KPIs will be monitored and measured and reported.

3.21 The ANAO report's eight recommendations have been agreed to by all parties, and Health has given assurances that the 6CPA has incorporated the advice proffered by ANAO. Given the size of the expenditure for the 6CPA – some \$18.9 billion over the next five years¹⁹ – the Committee is of the view that the implementation of the 6CPA should be closely scrutinised to ensure that the lessons learnt from the 5CPA and this ANAO report are not lost.

Recommendation 3

The Joint Committee of Public Accounts and Audit recommends that the Australian National Audit Office (ANAO) consider conducting a follow-up audit on the implementation of the Sixth Community Pharmacy Agreement to be completed no later than 30 months into the agreement's term.

The Hon Ian Macfarlane MP

Chair

Date: 23 November 2015

19 'Update – 6th Community Pharmacy Agreement', The Hon Sussan Ley MP, Minister for Health, Minister for Sport, <<https://www.health.gov.au/internet/ministers/publishing.nsf/Content/health-mediarel-yr2015-ley053.htm>> accessed 2 September 2015.

