

The Senate

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Foreign Affairs, Defence and Trade  
Legislation Committee

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Annual reports (No. 1 of 2020)

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Senator Tim Ayres	ALP, NSW
Senator the Hon David Fawcett	LP, SA
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# Table of Contents

<b>Committee Membership</b> .....	<b>iii</b>
<b>Chapter 1</b> .....	<b>1</b>
Introduction .....	1
Terms of reference.....	1
Allocated portfolios .....	2
Role of annual report .....	2
Reports examined .....	2
Reports not examined .....	3
Assessment of annual reports .....	4
Annual reporting requirements.....	4
Timeliness.....	9
Senate debate .....	14
Non-reporting bodies .....	14
Assessment of reports.....	15
<b>Chapter 2</b> .....	<b>17</b>
<b>Overview of the annual reports examined</b> .....	<b>17</b>
Reports of Commonwealth entities and companies .....	17
Reports of statutory office holders/offices .....	24
<b>Appendix 1</b> .....	<b>27</b>
<b>Dates relating to the presentation of reports between</b> <b>1 May 2019 to 14 February 2020</b> .....	<b>27</b>



# Chapter 1

## Introduction

1.1 Under Senate Standing Order 25(20), the annual reports of departments and agencies under the Senate Foreign Affairs, Defence and Trade Legislation Committee's (the Committee) allocated portfolios stand referred to the Committee for examination and report. Under the Standing Order, in the year's first report, the committee is required to examine those annual reports presented to the Parliament between 1 May and 31 October 2019. On this occasion, the Committee has chosen to also include reports tabled after 31 October 2019 that were available at the time of preparing this report.<sup>1</sup>

1.2 Copies of this and other Committee reports can be obtained from the Senate Table Office or online at the Committee's webpage.

## Terms of reference

1.3 Under Standing Order 25(20) the committee is required to:

- (a) Examine each annual report referred to it and report to the Senate whether the report is apparently satisfactory.
- (b) Consider in more detail, and report to the Senate on, each annual report which is not apparently satisfactory, and on the other annual reports which it selects for more detailed consideration.
- (c) Investigate and report to the Senate on any lateness in the presentation of annual reports.
- (d) In considering an annual report, take into account any relevant remarks about the report made in debate in the Senate.
- (e) If the committee so determines, consider annual reports of departments and budget-related agencies in conjunction with examination of estimates.
- (f) Report on annual reports tabled by 31 October each year by the tenth sitting day of the following year, and on annual reports tabled by 30 April each year by the tenth sitting day after 30 June of that year.
- (g) Draw the attention of the Senate to any significant matters relating to the operations and performance of the bodies furnishing the annual reports.
- (h) Report to the Senate each year whether there are any bodies which do not present annual reports to the Senate and which should present such reports.

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1 See Appendix 1.

## Allocated portfolios

1.4 In accordance with the resolution of the Senate on 4 July 2019, the Committee has oversight of the following portfolios:

- Defence, including Veterans' Affairs; and
- Foreign Affairs and Trade.<sup>2</sup>

## Role of annual report

1.5 Annual reports inform the Parliament, stakeholders and other interested parties of the operations and performance of public sector departments, agencies, companies and statutory office holders. Annual reports are a key publication under the Commonwealth performance framework and remain 'the primary document through which responsible Ministers report to the Parliament.'<sup>3</sup> Additionally, they are an important reference document and form a critical part of the historical record.<sup>4</sup>

## Reports examined

1.6 During the period 1 May 2019 to 14 February 2020, 25 annual reports of bodies were presented to the Parliament and referred to the Committee for examination. Reports examined included those from the following categories of bodies under the *Public Governance, Performance and Accountability Act 2013* (PGPA Act), and those which are prepared by statutory offices or office holders:

### *Non-corporate Commonwealth entities*

- Australian Signals Directorate—Report for 2018-19
- Department of Defence—Report for 2018-19
- Repatriation Commission, Military Rehabilitation and Compensation Commission and the Department of Veterans' Affairs—Reports for 2018-19
- Department of Foreign Affairs and Trade—Report for 2018-19
- Australian Trade and Investment Commission – Report for 2018-19
- Australian Centre for International Agricultural Research – 2018-19

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2 *Journals of the Senate*, No. 3, 4 July 2019, pp 83-84. This resolution was subsequently amended on 13 February 2020; however, the amendments did not relate to these portfolios. See *Journals of the Senate*, No. 42, 13 February 2020, pp. 1268-69.

3 Department of Finance, *Resource Management Guide No. 130 – Overview of the enhanced Commonwealth performance framework*, July 2016, p. 7.

4 Department of Finance, *Resource Management Guide No. 135: Annual report for non-corporate Commonwealth entities*, May 2019, p. 7; *Resource Management Guide No. 136: Annual reports for corporate Commonwealth entities*, May 2019, p. 5; *Resource Management Guide No. 137: Annual reports for Commonwealth companies*, May 2019, p. 5.



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### *Corporate Commonwealth entities*

- Australian War Memorial – Report for 2018-19
- Defence Housing Australia—Report for 2018-19
- Royal Australian Air Force Veterans’ Residences Trust—Report for 2018-19
- Royal Australian Navy Central Canteens Board (Navy Canteens)—Report for 2018-19
- Services Trust Funds—Report for 2018-19, includes:
  - Royal Australian Navy Relief Trust Fund
  - Australian Military Forces Relief Trust Fund
  - Royal Australian Air Force Welfare Trust Fund
- Army and Air Force Canteen Service (AAFCANS)—Report for 2018-19
- Export Finance Australia—Report for 2018-19
- Tourism Australia – Report for 2018-19

### *Commonwealth companies*

- Australian Strategic Policy Institute – Report for 2018-19
- AAF Company – Report for 2018-19
- Royal Australian Air Force (RAAF) Welfare Recreational Company—Report for 2018-19

### *Statutory offices/office holders*

- Inspector-General of the Australian Defence Force – Report for 2017-18
- Judge Advocate General – Report for 2018
- Director of Military Prosecutions – Report for 2018
- Repatriation Medical Authority—Report for 2018-19
- Veterans' Review Board—Report for 2018-19
- Australian Safeguards and Non-Proliferation Office – Report for 2018-19

### **Reports not examined**

1.7 The Committee is not obliged to examine reports on the operation of Acts, policy papers, budget documents, corporate plans or periodical reports required under guidelines. Accordingly, the following documents were also referred to the Committee but not examined:

- Department of Defence – Special Purpose Flights – Schedule for the period 1 July 2018 to 31 December 2018
- Final Budget Outcome 2018-19

- Tax Benchmarks and Variations Statement 2019
- Consolidated Financial Statement for the year ended 30 June 2019
- Mid-year Economic and Fiscal Outlook 2019-20
- Report on Advances Provided Under the Annual Appropriation Acts for the Year Ended 30 June 2019

1.8 Where a report is referred to two standing committees, the Committee has deferred examination of those reports to the Committee which has primary oversight of the portfolio where that agency sits. Accordingly, the following reports were not examined:

- Australian Naval Infrastructure Pty Ltd—Report for 2018-19 (*Also referred to the Finance and Public Administration Legislation Committee*)
- ASC Pty Ltd—Report for 2018-19 (*Also referred to the Finance and Public Administration Legislation Committee*)

### **Assessment of annual reports**

1.9 Senate Standing Order 25(20) requires the Committee to examine reports referred to it to determine whether they are timely and 'apparently satisfactory'. The Committee must consider whether the reports comply with the relevant legislation or requirements for the preparation of annual reports in forming its assessment.

### **Annual reporting requirements**

#### ***Public Governance, Performance and Accountability Act 2013***

1.10 The PGPA Act is the legislative basis of the Commonwealth performance framework which governs how the Commonwealth public sector uses and manages public resources. It sets out the key requirements for governance, performance reporting and accountability required of Commonwealth entities and companies. A description of different governance structures of these bodies for the purposes of the PGPA Act is set out below:

- Non-corporate Commonwealth entity – legally and financially part of the Commonwealth, including departments of state, parliamentary departments or listed entities (a body, person, group of persons or organisation that is prescribed by rules made under the PGPA Act).
- Corporate Commonwealth entity – a body corporate, that is, a separate legal personality from the Commonwealth. It can act in its own right exercising certain legal rights such as entering into contracts and owning properties.

- Commonwealth company – a company established by the Commonwealth under the *Corporations Act 2001* that is wholly controlled by the Commonwealth.<sup>5</sup>

### *Annual reports*

1.11 Section 46 of the PGPA Act sets out the annual reporting requirements in relation to Commonwealth entities, which states that annual reports must comply with any requirements prescribed by rules. Section 97 sets out the annual reporting requirements for Commonwealth companies, including those of the *Corporations Act 2001* and any additional information prescribed by the rules.

### *Corporate plans and annual performance statements*

1.12 The Commonwealth performance framework also includes the requirement for Commonwealth entities and companies to prepare and publish corporate plans each year, pursuant to sections 35 and 95 of the PGPA Act. Under section 39 of the PGPA Act, Commonwealth entities must prepare an annual performance statement and include this statement in the annual report. Entities use the annual performance statement to report on results achieved against the targets, goals and measures established at the beginning of a reporting year in its corporate plan, in addition to key performance indicators set out in portfolio budget/additional estimates statements.

1.13 It is noted that Commonwealth companies are not required to prepare annual performance statements. However, under section 27A of the Public Governance, Performance and Accountability Rule 2014 (PGPA Rule), companies are required to include in their annual report a report on the actual performance results achieved against the performance information published in their corporate plan.<sup>6</sup>

### *Public Governance, Performance and Accountability Rule 2014*

1.14 The PGPA Rule sets out the detailed mandatory requirements for the preparation of corporate plans, annual performance statements and annual reports for Commonwealth entities and, where relevant, Commonwealth companies.

1.15 The Department of Finance publishes resource management guides (RMGs) for Commonwealth entities on a wide range of topics, including on the annual reporting obligations under the PGPA Act and mandatory requirements for the content of annual reports as prescribed by the PGPA Rule.

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5 See <https://www.finance.gov.au/resource-management/governance/overview/> (accessed 4 June 2019).

6 Department of Finance, *Resource Management Guide No. 134 – Annual performance statements for entities*, July 2017, p. 7.

## Changes to the PGPA Rule for 2018-19 annual reports

### *Executive remuneration*

1.16 New executive remuneration reporting requirements came into effect for the 2018-19 annual reports of Commonwealth entities and companies.<sup>7</sup> The Public Governance, Performance and Accountability Amendment (Reporting Executive Remuneration) Rules 2019, dated 4 April 2019, amended the PGPA Rule to require Commonwealth entities and companies to include details of the remuneration of each of their key management personnel and the policies and practices that underpin remuneration in their annual reports. Commonwealth entities are now also required to disclose details of aggregated remuneration of their senior executives and other highly paid staff.<sup>8</sup>

1.17 Schedule 3 of the PGPA Rule provides templates for the presentation of the required information about the remuneration for key management personnel and senior executives.

### *Publication in the digital reporting tool*

1.18 The Public Governance, Performance and Accountability Amendment (Annual Reporting) Rules 2019 (Amending Rule), dated 4 April 2019, amended the PGPA Rule to require annual reports of Commonwealth entities and companies to be published using the digital reporting tool administered by the Finance Minister as soon as practicable after presentation to the Parliament. The Transparency Portal at [transparency.gov.au](http://transparency.gov.au) was launched by the Government on 13 March 2019 as part of its initiative to provide for the full digitisation of the Commonwealth's annual plans and reports. In launching the pilot of the website the Minister for Finance outlined the planned benefits of the initiative:

People can use this single website to search for data and to make instant comparisons of data between government bodies, using viewer-generated tables and graphs.<sup>9</sup>

This is a new website where the public and the Parliament can more easily find information about what Government is doing, and how public money is being spent.

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7 Department of Finance, *Public Governance, Performance and Accountability Newsletter 55*, 2 August 2019, [p. 1].

8 Public Governance, Performance and Accountability Amendment (Reporting Executive Remuneration) Rules 2019 Explanatory Statement, p. 1.

9 Senator the Hon Mathias Cormann and Senator the Hon Zed Seselja, Joint Media Release, Launch of Government transparency website, 13 March 2019, <https://www.financeminister.gov.au/media-release/2019/03/13/launch-government-transparency-website> (accessed 4 February 2020).

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The website will help give the community confidence that the public sector is adding value and achieving results.<sup>10</sup>

1.19 Finance's RMGs elaborated on this new requirement:

The digital reporting tool enables entities to draft content and publish annual reports to the Transparency Portal at [transparency.gov.au](http://transparency.gov.au). Commencing from the 2018-19 reporting period all Commonwealth entities' and companies' annual reports will be published on and accessible from [transparency.gov.au](http://transparency.gov.au) following the presentation of these reports to the Parliament.<sup>11</sup>

1.20 The Amending Rule also included some additional reporting requirements, including details of the accountable authority for non-corporate Commonwealth entities; and statistics on ongoing and non-ongoing employees across the three types of bodies. Finance's resource management guides for the preparation of annual reports for each type of body, numbers 135, 136 and 137, provide templates for the presentation of this information in a standard format in annual reports.

***Statutory office holders and statutory bodies***

1.21 Statutory office holders are engaged or employed under an Act which may prescribe annual reporting requirements pursuant to the office. It is also noted that there may be reporting requirements in the enabling legislation for statutory bodies (which may also be a Commonwealth entity).

***Non-Statutory bodies***

1.22 Non-statutory bodies (NSBs) are established by a Minister and are not pursuant to a statute. Annual reporting requirements for NSBs are contained in the government response to the Senate Standing Committee on Finance and Public Administration Report on Non-Statutory Bodies, dated 8 December 1987.<sup>12</sup>

***Summary of annual reporting requirements***

1.23 Below is a summary of the legislative authority and requirements under which annual reports are prepared for different types of bodies:

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10 Senator the Hon Mathias Cormann, Minister for Finance, Speech at *Modernising the Public Sector Expo*, 13 March 2019, p. 4.

11 Department of Finance, *Resource Management Guide 135, Annual reports for non-corporate Commonwealth entities*, p. 12; *Resource Management Guide 136, Annual report for corporate Commonwealth entities*, p. 12; *Resource Management Guide 137, Annual report for Commonwealth companies*, p. 9.

12 Government response to the Senate Standing Committee on Finance and Public Administration Report on Non-Statutory bodies, *Senate Hansard*, 8 December 1987, pp. 2632–45.

*Non-corporate Commonwealth entities*

- PGPA Act, section 46 and the PGPA Rule 2014, Division 3A(A);
- for parliamentary departments, the *Parliamentary Service Act 1999*, section 65; and
- for statutory bodies: relevant enabling legislation.

*Corporate Commonwealth entities*

- PGPA Act, section 46 and the PGPA Rule 2014, Division 3A(B); and
- for statutory bodies: relevant enabling legislation.

*Commonwealth companies*

- PGPA Act, section 97, which also refers to requirements under the *Corporations Act 2001* and the PGPA Rule 2014, Part 3-3; and
- for statutory bodies: relevant enabling legislation.

*Non-statutory bodies*

- annual reporting requirements are contained in the government response to the Senate Standing Committee on Finance and Public Administration Report on Non-Statutory bodies, *Senate Hansard*, 8 December 1987.<sup>13</sup>

*Statutory offices or office holders*

- any requirements in the enabling legislation.

***Review of the PGPA Act***

1.24 In its last report, the Committee noted the Government response to the report of the *Independent review into the operation of the Public Governance, Performance and Accountability Act 2013 and Rule*, tabled on 5 April 2019, where the Government accepted in principle 48 out of 52 recommendations that were directed to the Government.<sup>14</sup> The Committee notes that as at 19 December 2019, 20 recommendations have been implemented or actioned.<sup>15</sup> In particular, it welcomes the progress on Recommendation 31 regarding the digital reporting platform; and Recommendations 35 and 36 regarding more transparent reporting of executive remuneration, which applied to the 2018-19 annual reports.

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13 Government response to the Senate Standing Committee on Finance and Public Administration Report on Non-Statutory bodies, *Senate Hansard*, 8 December 1987, pp. 2632–45.

14 Senator the Hon Mathias Cormann, Minister for Finance and the Public Service, *Australian Government Response to the Independent Review into the PGPA Act and Rule*, dated 2 April 2019.

15 Senate Finance and Public Administration Legislation Committee, Supplementary Budget Estimates 2019-20, Department of Finance, Answer to Question on Notice No. F248, p. 2.

## Timeliness

1.25 Under Standing Order 25(20)(c), the Committee must report to the Senate any lateness in the presentation of annual reports. The Committee notes the different reporting timeframes for different categories of bodies.

### *Commonwealth entities*

1.26 Section 46(2) of the PGPA Act requires the accountable authority for a Commonwealth entity to prepare an annual report and provide it to the responsible minister by the fifteenth day of the fourth month after the end of the reporting period for the entity. This section of the Act does not currently prescribe a timeframe for the Minister to present the report to the Parliament, neither does the PGPA Rule.

1.27 The PGPA Rule states that annual reports for corporate Commonwealth entities, non-corporate Commonwealth entities and Commonwealth companies must comply with the 'the guidelines for presenting documents to the Parliament'.<sup>16</sup>

1.28 The Department of Prime Minister and Cabinet [Tabling Guidelines](#) advise that in relation to the tabling of annual reports:

Enquiries about the preparation, content and reporting timeframes should be directed to the Department of Finance...Relevant guidance for Commonwealth entities and companies annual reporting requirements can be located at <https://www.finance.gov.au/resource-management/performance/>.<sup>17</sup>

1.29 Finance's RMGs include advice about the timetable for tabling annual reports. For Commonwealth entities, the guides advise that:

It has been practice for the responsible Minister to present the report to each house of the Parliament on or before 31 October. If Senate Supplementary Budget Estimates hearings are scheduled to occur before 31 October, Ministers have sought to table annual reports prior to those hearings.<sup>18</sup>

1.30 The *Tabling Guidelines* also refer to periodic advice issued by PM&C through Tabling Circulars which supplement the Guidelines from time to time and may include arrangements for the tabling of annual reports. Tabling Circular No. 2 of 2019 advised agencies that in relation to the tabling timetable for 2018-19 annual reports:

Normally Annual Reports are tabled on or before 31 October, however this year the 2019 Supplementary Budget Estimates hearings commence on

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16 See PGPA Rule, sections 17BC, 17AB and 28C.

17 Department of the Prime Minister and Cabinet, *Tabling Guidelines*, June 2019, pp. 4-5.

18 Department of Finance, *Resource Management Guide No. 135 – Annual report for non-corporate Commonwealth entities*, May 2019, p. 11; and *Resource Management Guide No. 136 – Annual report for corporate Commonwealth entities*, p. 9.

21 October 2019. Please note it is expected Annual Reports are tabled **prior** to those hearings. This ensures Annual Reports are available for scrutiny by the relevant Senate Standing committee.<sup>19</sup>

### *Commonwealth companies*

1.31 Under section 97(2) of the PGPA Act, Commonwealth companies are required to prepare an annual report and provide it to the responsible Minister:

(a) if the company is required by the *Corporations Act 2001* to hold an annual general meeting—the earlier of the following:

(i) 21 days before the next annual general meeting after the end of the reporting period for the company;

(ii) 4 months after the end of the reporting period for the company; and

(b) in any other case—4 months after the end of the reporting period for the company; or the end of such further period granted under subsection 34C(5) of the *Acts Interpretation Act 1901*.

1.32 In relation to the tabling of the annual report in the Parliament, section 97(5) of the PGPA Act states that:

(5) If the Commonwealth company is a wholly-owned Commonwealth company, or is not required to hold an annual general meeting, the responsible Minister must table the documents in each House of the Parliament as soon as practicable after receiving them. In all other cases, the responsible Minister must table the documents in each House of the Parliament as soon as practicable after the annual general meeting of the company.

1.33 The advice contained in Finance's *Resource Management Guide No. 137 – Annual reports for Commonwealth companies* aligns with the requirements under section 97(5) of the PGPA Act set out above.<sup>20</sup> Consistent with Commonwealth entities, Resource Guide No. 137 notes the provision for an application for an extension of the reporting period for Commonwealth companies:

There is scope for a company to apply in writing to their responsible Minister for an extension where it is not reasonably possible to meet the timeframes outlined in subsection 97(2). Subsection 34C(5) of the *Acts*

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19 Department of the Prime Minister and Cabinet, Tabling Circular No. 2 of 2019, Tabling of Departmental Annual Reports 2018-19, p. 1.

20 Department of Finance, *Resource Management Guide No. 137 – Annual reports for Commonwealth companies*, May 2019, p. 8.



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*Interpretation Act 1901* allows a Minister to grant an extension where he or she considers it reasonable in the circumstances.<sup>21</sup>

### ***Provisions of the Acts Interpretation Act 1901***

1.34 In the absence of specific provisions, the *Acts Interpretation Act 1901* (Acts Interpretation Act) requires bodies to present annual reports to ministers within six months after the end of the period reported upon (subsection 34C(2)), and ministers to table reports within 15 sitting days of receipt (subsection 34C(3)).

### ***Reporting timeframes for statutory offices/office holders***

#### *Judge Advocate General*

1.35 Under section 196A(1) of the *Defence Force Discipline Act 1982* (DFD Act) the Judge Advocate General shall, as soon as practicable after each 31 December, prepare and furnish to the Minister a report relating to the operation of the Act, the regulations, the rules of procedure; and the operation of any other law of the Commonwealth or of the Australian Capital Territory in so far as it relates to the discipline of the Defence Force during the year ending on that 31 December.

1.36 Section 196A(2) of the DFD Act requires the Minister to present the report to each House of the Parliament within 15 sitting days of that House after the day on which the Minister receives the report.

#### *Director of Military Prosecutions*

1.37 Under Section 196B(1) of the DFD Act, the Director of Military Prosecutions must, as soon as practicable after each 31 December, prepare and give to the Minister, for presentation to the Parliament, a report relating to the operations of the Director of Military Prosecutions during the year ending on that 31 December.

1.38 The Act does not prescribe a timeframe for the Minister to present the report to the Parliament. It appears that section 34C(3) of the Acts Interpretation Act would apply, therefore requiring the Minister to lay a copy of the report before each House of Parliament within 15 sitting days of receipt of that report.

#### *Inspector-General of the Australian Defence Force*

1.39 Section 110R(1) of the *Defence Act 1903* (Defence Act) states that as soon as practicable after the end of each financial year, the Inspector-General of the Australian Defence Force (ADF) must prepare and give to the Minister, for presentation to the Parliament, a report on the operations of the Inspector-General during the financial year. This section also notes that reference should also be made to section 34C of the

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21 Department of Finance, *Resource Management Guide No. 137 – Annual reports for Commonwealth companies*, May 2019, p. 8.

Acts Interpretation Act, which requires the Minister to lay a copy of the report before each House of Parliament within 15 sitting days of receipt of that report.

### *Repatriation Medical Authority*

1.40 The Repatriation Medical Authority is established under the *Veterans' Entitlement Act 1986* and there does not appear to be a statutory requirement to table an annual report under the Act but the Authority has done so since its inception.

1.41 In the committee's report *Annual reports (No.1 and No. 2 of 2019)*, it recommended that unless there was a strong public policy reasons to the contrary, on the occasion of any amendment to the *Veterans' Entitlement Act 1986*, the Government consider including a clause requiring the Repatriation Medical Authority to table an annual report.<sup>22</sup> The committee welcomed the Government response to the report on 28 October 2019 agreeing to the recommendation:

The Government agrees that, at an opportune time, a clause requiring the Repatriation Medical Authority to table an annual report be included in a future amendment to the *Veterans' Entitlement Act 1986*.

The Department of Veterans' Affairs will prepare this clause for consideration in due course.<sup>23</sup>

### *Veterans' Review Board*

1.42 Section 215(4) of the *Veterans' Entitlements Act 1986* states that the Principal Board Member shall, as soon as practicable after 30 June in each year, prepare and furnish to the Minister a report on the operations of the Board during the year that ended on that 30 June. Section 215(5) states that the Minister shall cause a copy of a report furnished to the Minister under subsection (4) to be laid before each House of the Parliament within 15 sitting days of that House after the day on which the Minister receives the report.

### *Repatriation Commission*

1.43 Section 215 of the *Veterans' Entitlements Act 1986* requires the Repatriation Commission, as soon as practicable after 30 June in each year, to prepare and furnish to the Minister a report on the operation of the Act during the year; with the Minister required to present report to the Parliament within 15 sitting days after receipt.

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22 Senate Foreign Affairs, Defence and Trade Legislation Committee, *Report on Annual Report (No.1 and 2 of 2019)*, p. 10.

23 *Australian Government response to the Senate Foreign Affairs, Defence and Trade Legislation Committee Report – Annual reports (No.1 and No. 2 of 2019)*.

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### *Military Rehabilitation and Compensation Commission*

1.44 Under section 385 of the *Military Rehabilitation and Compensation Commission Act 2004*, the Chair of the commission must, as soon as possible after 30 June each year, give the Minister for presentation to the Parliament, a report of the Commission's activities for the financial year ended on that day.

### *Australian Safeguards and Non-proliferation Office*

1.45 Under section 51 of the *Nuclear Non-Proliferation (Safeguards) Act 1987*, section 96 of the *Chemical Weapons (Prohibition) Act 1994* and section 71 of the *Comprehensive Nuclear Test-Ban Treaty Act 1998*, the Director of the Australian Safeguards and Non-Proliferation Office must, as soon as practicable after 30 June in each year, prepare a report of operations and furnish it to Minister. The above legislative sections require the Minister to cause a copy of the report to be laid before each House within 15 sitting days.

### ***Review of timeliness of reports examined***

1.46 Standing Order 25(20)(c) requires the Committee to investigate and report to the Senate on any lateness in the presentation of annual reports. The Committee considers the timely presentation of annual reports to the Parliament an important element of accountability.

1.47 Appendix 1 lists the annual reports tabled between 1 May 2019 and 14 February 2020 and referred to the committee for examination. This table includes the dates the reports were tabled in the Senate (or received by the President out of session) and the House of Representatives. For the purposes of the Committee's examination of timeliness, the earlier date is taken as the presentation date to the Parliament. The table also includes the dates the reports were submitted to, and received by, the Minister, if available.

1.48 As noted above, there are two elements regarding the timeframe for the preparation and presentation of annual reports: the provision of the report to the Minister and the presentation of the report to the Parliament. Both of these elements were examined by the Committee in investigating any lateness in presentation of the annual reports.

### *Commonwealth entities and companies*

1.49 All of the 2018-19 annual reports of agencies within the Defence Portfolio and Foreign Affairs and Trade Portfolio met the required date for the provision of the report to the Minister. All but two annual reports were presented to the Parliament prior to the commencement of the committee's Supplementary Budget Estimates hearings which commenced on 23 October 2019, with most presented a week before, on 16 October 2019. The annual report of Australian Centre for International Agricultural Research was presented on 23 October 2019, and Tourism Australia's on 30 October 2019.

1.50 The Committee appreciates the prompt tabling of the 2018-19 annual reports and the availability of most reports well before the commencement of the estimates hearings in accordance with the PGPA Act and relevant guidance documents as outlined earlier in this chapter.

#### *Statutory office/office holders*

1.51 As noted above, the annual reports of statutory office/office holders follow less prescriptive tabling requirements. While the Minister, upon receipt of the annual report, must present the report to the Parliament within 15 sitting days, the preparation and furnishing of the report to the Minister is 'as soon as practicable' or 'as soon as possible' after the end of the reporting period. The tabling timeframe for reports falling into this category were considered to have generally met the legislative requirements.

1.52 However, it was noted that the Inspector-General of the Australian Defence Force (IGADF) Annual Report 2017-18 was received by the President of the Senate out of sitting on 28 August 2019. The report was submitted to, and received by the Minister, on 28 June 2019 and 28 August 2019 respectively. As noted earlier, under the Defence Act, the IGADF is required to prepare the annual report and provide it to the Minister 'as soon as practicable after the end of each financial year'. On this occasion, this period was approximately a year after the financial year it reported on. This is considerably longer than the time period for the provision of the report to the Minister for the previous three reports which was approximately nine months after the end of the financial year for the 2015-16 annual report; and just over five months for the 2014-15 and 2016-17 annual reports. The Committee was pleased to note that the Minister presented the report promptly, on the day of receipt, meeting the legislative requirements of within 15 sitting days of receipt.

1.53 While the 2017-18 report does not specifically address the time period for the provision of the annual report to the Minister, the Inspector-General did note that 'the operating tempo in the Office...was higher in 2017-18 than in previous reporting periods'<sup>24</sup> which may have been a contributing factor.

#### **Senate debate**

1.54 In accordance with Standing Order 25(20)(d) the Committee is required to take into account any relevant remarks about the reports made in debate in the Senate. The committee notes that none of the annual reports examined in this report have been the subject of comments or debate in the Senate at the time of preparing this report.

#### **Non-reporting bodies**

1.55 Standing Order 25(20)(h) requires that the Committee inquire into, and report on, any bodies which do not present annual reports to the Senate but should present

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24 *Inspector-General of the Australian Defence Force – Annual Report 2017-18*, p. 3.

such reports. The Committee makes no recommendation for any bodies not presenting an annual report to do so.

### **Assessment of reports**

1.56 Under Standing Order 25(20)(a), the Committee is required to examine the annual reports of departments and agencies and report to the Senate on whether they are 'apparently satisfactory'. In its examination of the annual reports referred, the committee found them to be of a satisfactory standard and largely adhere to relevant requirements. The Committee considers the reports examined to be 'apparently satisfactory'.



## Chapter 2

### Overview of the annual reports examined

2.1 In accordance with Standing Order 25(20)(a) the Committee has examined annual reports against relevant reporting requirements and found them to be 'apparently satisfactory'. This chapter highlights some of the Committee's findings in relation to agencies' annual reporting.

#### Reports of Commonwealth entities and companies

##### *Availability of corporate plans and budget documents*

2.2 Corporate plans are an integral part of the Commonwealth performance framework which encompasses performance planning, measurement and reporting. The corporate plan is developed at the beginning of the reporting cycle and identifies an entity's purpose, strategies for achieving its purpose/s, and how success will be measured.<sup>1</sup> Therefore, access to an agency's corporate plan when examining the annual report for the corresponding year is necessary in order to reconcile all planned performance measures with those reported on in the annual report.

2.3 All 2018-19 corporate plans (or Statement of Corporate Intent) for the bodies of annual reports examined were located on the Internet. All but three were accessible from agencies' websites. The corporate plans for the Department of Foreign Affairs and Trade's (DFAT), Defence Housing Australia (DHA)<sup>2</sup> and Tourism Australia were located via an Internet search, but were not located from a link on the agency website. The Committee has previously noted the failure of DFAT and DHA to provide a link to earlier corporate plans on their website.<sup>3</sup>

2.4 The Committee reminds agencies of the importance of archiving corporate plans on their websites so they are still available when the annual report is tabled in the following year. The Committee notes that the new Transparency Portal website provides a link to agencies' 2019-20 corporate plans on the agency website. Therefore it will be essential for agencies to maintain an archive of their corporate plans on their website to ensure they continue to be accessible via links from the Transparency Portal.

2.5 It is noted that Portfolio Budget Statements (PBS) and Portfolio Additional Estimates Statements (PAES) of Commonwealth entities also set out performance information, that is, the funding for the entity and how the impact of that expenditure

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1 Department of Finance, *Resource Management Guide No. 132, Corporate Plans for Commonwealth entities*, January 2017, p. 8; *Resource Guide No. 133, Corporate Plans for Commonwealth Companies*, January 2017, p. 5.

2 DHA does not publish its Corporate Plan in order to protect commercial sensitivities, but makes publicly available its Statement of Corporate Intent which provides an overview of its key objectives and priorities for the financial year, see DHA Annual Report 2018-19, p. 42.

3 Senate Foreign Affairs, Defence and Trade Legislation Committee, *Annual reports (No. 1 and No. 2 of 2019)*, July 2019, pp. 32-33 and 43.

will be measured.<sup>4</sup> Therefore, these documents should also be archived on the portfolio department website. It is noted that the Department of Defence had these documents available on its website back to 2004-05; and DFAT had them available on its website back to 2007-08.

2.6 The Committee notes the importance of agencies receiving appropriate guidance on keeping corporate plans available to ensure they continue to be accessible from this new platform.

### *Performance reporting*

#### Navigation between annual reports and source documents

2.7 The Commonwealth Performance Framework encompasses the processes for planning, measuring and reporting of non-financial performance of Commonwealth entities and companies. It is expected that:

Performance planning and reporting should draw clear links between the entity's key activities and the results achieved and provides meaningful performance information with a clear line of sight between planned and actual performance. This allows a reader (including the Parliament) to assess the extent to which an entity's or company's intended results were achieved and the factors that affected performance.<sup>5</sup>

2.8 Annual reports of Commonwealth entities and companies are required to report on performance measures set out in the corporate plan, and if relevant the PBS/PAES. In its audit report, *Commonwealth Resource Management Framework and the Clear Read Principle*, the Australian National Audit Office (ANAO), advised that for the purpose of its audit it referred to the 'clear read principle' as including the following characteristic:

Performance information is presented clearly and consistently and is reconcilable throughout an entity's PBS, corporate plan and annual report within one reporting cycle.<sup>6</sup>

2.9 In examining the annual reports the Committee noted if the performance information was presented clearly and was readily reconcilable between the PBS, corporate plan and annual report within the 2018-19 reporting cycle. It found that in most cases agencies have demonstrated a 'clear read' for performance information across documents; however, the Committee noted some areas for improvement.

2.10 The inclusion of a page reference from the source document in the performance statement, particularly for agencies with a large number of performance measures aided navigation. The annual performance statements for the Department of

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4 Department of Finance, *Resource Management Guide No. 132, Corporate Plans for Commonwealth entities*, January 2017, p. 8.

5 See <https://www.finance.gov.au/government/managing-commonwealth-resources/planning-reporting/commonwealth-performance-framework>, (accessed 5 February 2020).

6 Australian National Audit Office, Report No. 14 2019-20, *Commonwealth Resource Management Framework and Clear Read Principle*, pp. 20-21.



Veterans' Affairs (DVA), Export Finance Australia (EFA), Tourism Australia, DFAT, and the Royal Australian Navy Relief Trust Fund included page numbers to one, or both, source document/s for each performance measure. It was noted that, in addition to providing a page reference in the annual report, DVA also included a specific page reference to the relevant measure from the PBS in the corporate plan. A number of agencies included the reference to a relevant table or departmental program within the source document for each performance which also assisted in navigation.

2.11 The Committee was pleased to note that most annual reports included results for all performance measures listed in the PBS and corporate plan. However, there were some instances where it was not immediately clear where measures listed in the PBS or corporate plan were reported against in the annual report, nor was there an explanation for the omission. For example, one measure for Tourism Australia<sup>7</sup>, and the Australian Strategic Policy Institute (ASPI)<sup>8</sup>, and two measures for the Department of Defence (Defence)<sup>9</sup>, were not located in the agencies' reports on performance. The performance statement for the Australian Signals Directorate (ASD) did not include the performance criterion from the 2018-19 PBS, but the annual report noted that the performance criteria from the 2018-19 corporate plan 'addresses ASD Portfolio Budget Statements 2018-19.'<sup>10</sup>

### Measures and targets

2.12 Reflecting the diversity of functions across the portfolios, agencies use a range of criteria and assessment techniques to measure their performance to demonstrate the extent to which they have achieved their purpose. The Committee has previously noted the challenge for some agencies in developing meaningful and measurable criteria.<sup>11</sup> DFAT's departmental overview noted that:

Measuring policy performance is inherently difficult and the dynamic international environment only adds to the complexity. The department seeks to ensure that our assessments of policy performance are supported by verifiable evidence.<sup>12</sup>

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7 See corporate key performance indicator 'Corporate costs as a percentage of overall budget', Tourism Australia Corporate Plan 2018-2022, p. 30.

8 See performance criterion for Objective 2 'reacting to government and industry demands', ASPI Corporate Plan 2018-2022, p. 7.

9 See performance criteria for Program 2.8 'Effective implementation of the Integrated Investment Program' and 'Operational outcomes meet the requirements of Government Policy', Defence PBS 2018-19, p. 70. It is noted that these criteria were amended for 2019-20, see Defence PBS 2019-20, p. 66.

10 *Australian Signals Directorate Annual Report 2018-19*, p. 22.

11 See for example Senate Foreign Affairs, Defence and Trade Legislation Committee, *Report on Annual Reports (No.1 and No. 2 of 2019)*, p. 35.

12 *Department of Foreign Affairs and Trade Annual Report 2018-19*, p. 14.

2.13 The Committee notes that DFAT amended performance measures for 2018-19 and did not use case studies to the extent it did in the previous year, which the Committee had noted have the potential for bias when selected ex-post.<sup>13</sup>

2.14 The Committee welcomes advice from some agencies on their continuing work on their performance measures in order to provide a more robust framework. For example, Australian Centre for International Agricultural Research (ACIAR) reported that the result for each of the six performance criteria was 'ongoing' and listed a selection of projects and programs that demonstrated achievement of the measure. Discussion of the achievements was not included in the annual performance statement, but provided in the Chief Executive Officer's Review and in five case studies presented throughout the report.<sup>14</sup> The Committee welcomes its undertaking to further develop its performance framework:

ACIAR performance is reported by identifying and listing examples of projects and programs where the output addressed performance criteria and targets...

It is important to note that performance measures are evolving to more closely align to and be measurable against the six high-level objectives presented in the ACIAR 10-Year Strategy, which was launched in February 2018, and to more closely align with the other agencies in the Foreign Affairs and Trade Portfolio. The ACIAR Monitoring and Evaluation framework continues the development and refinement of indicators and their measurability.<sup>15</sup>

2.15 The inclusion of targets where possible for performance measures provides a standard against which to assess performance and improves the quality of performance information. The Committee notes that some bodies could enhance performance information with the inclusion of a target where possible, to clearly set out the expected standard upfront. For example, the performance information presented by Defence for activity 2.6a under 'Intended Result 2.6: Defence provides appropriate health and welfare services' was:

Activity	Performance criterion	Target
2.6a Deliver health support to meet the requirements of the Australian Defence Force.	Quality of health services delivered to Australian Defence Force members and families.	Delivery of health services meets standards.

2.16 This criterion was reported as being achieved. The analysis advised a number of positive quantitative results, including:

There was an improvement in health services quality measures, including a 24 per cent decrease in complaints and a 12.5 per cent decrease in clinical

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13 See for example Senate Foreign Affairs, Defence and Trade Legislation Committee, *Report on Annual Reports (No.1 and No. 2 of 2019)*, p. 35.

14 *Australian Centre for International Agricultural Research Annual Report 2018-19*, p. 22.

15 *Australian Centre for International Agricultural Research Annual Report 2018-19*, p. 22.

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incidents. The annual Joint Health Command customer satisfaction survey reported a slight increase in survey participants who indicated they ‘agree’ or ‘strongly agree’ that the quality of health care was excellent.

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There was an overall increase of 1,493 in Australian Defence Force Family Health Program registrations.<sup>16</sup>

2.17 While the results presented were positive, with a significant decrease in complaints and clinical incidents, the reader does not have the current and expected level of both. Similarly, the Joint Health Command customer satisfaction survey also returned a positive result, that is, movement in the right direction, but the reader does not know what the expected service level is, or whether the slight increase was moving from a low base. It was also reported that there was an increase of 1,493 in the number of registrations in ADF Family Health Program. While an increase was a positive outcome, the reader does not know whether this figure was close to the expectation, significantly below or above. The inclusion of targets for these measures would have provided a stronger base to assess performance for this measure.

#### Trend information

2.18 While not a requirement and not always possible, the inclusion of results from the previous year or years was a helpful inclusion in some performance statements examined. The Committee noted that DVA, EFA and Tourism Australia also included results for the previous year. For a number of its performance criteria, Austrade included results for the previous four years.

#### Statement of preparation by the accountable authority

2.19 Section 16F of the PGPA Rule requires annual performance statements by Commonwealth entities to include a statement of preparation which is endorsed by the accountable authority. This statement must advise that the performance statements were prepared in accordance with, and comply with, the relevant sections of the PGPA Act; specify the reporting period for which they are prepared; and that they accurately present the entity's performance. This statement parallels the statement required by the agency head and chief finance officer in relation to the preparation of an agency's financial statements.<sup>17</sup>

2.20 The Committee noted that all annual performance statements by Commonwealth entities included this statement with the exception of the Australian War Memorial.

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16 *Department of Defence Annual Report 2018-19*, p. 49.

17 *Resource Management Guide 134 – Annual performance statements for Commonwealth entities*, July 2017, pp. 11-12.

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*Enhanced reporting requirements for 2018-19 annual reports*Executive remuneration

2.21 The Committee was pleased to note that most bodies addressed the new disclosure requirements in their annual report in the required format as prescribed under Schedule 3 of the PGPA Rule for both individual key management personnel and in aggregated form for senior executive and other highly paid staff.

2.22 There were a number of corporate Commonwealth entities and companies in the Defence Portfolio where the requirement to report individual executive remuneration for key management personnel (KMP) appeared not to be applicable. These agencies identified the trustees or directors of the body as KMP who were engaged on an honorary basis and did not receive remuneration.<sup>18</sup> The report of the Royal Australian Navy Central Canteens Board (Navy Canteens) included information for one senior executive in the required table.<sup>19</sup> The report for the Army and Air Force Canteen Service (AAFCANS) included details of executive remuneration in aggregate in the notes to the financial statements, which included five senior management personnel.<sup>20</sup>

2.23 The ANAO in its report, *Audits of the Financial Statements of Australian Government Entities for the Period Ended 30 June 2019* advised that it was already required to audit the note in the financial statements relating to remuneration of key management personnel. In its audit of the 2018-19 financial statements, the ANAO advised that in auditing this note in the financial statements, it assessed the additional annual report disclosures to ensure they were consistent.<sup>21</sup> The ANAO reported a number of instances where there were variances between the two, including the following two:

- The Australian War Memorial has incorrectly excluded council members from its annual report KMP disclosures. The council members were, correctly included in the financial statements disclosure.
- The financial statements for the Australian Institute of Health and Welfare and Tourism Australia correctly disclosed KMP. The annual reports included some senior executives who were classified as KMP in the senior executives table rather than the KMP table. As a result, the salary was

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18 These included Royal Australian Air Force Veterans' Residences Trust, Navy Canteens, the Royal Australian Navy Relief Trust Fund, Australian Military Forces Relief Trust Fund, Royal Australian Air Force Welfare Trust Fund, AAF Company and Royal Welfare Recreational Company.

19 *Royal Australian Navy Central Canteens Board Annual Report 2018-19*, p.19.

20 *Army and Air Force Canteen Service Annual Report 2018-19*, p. 44.

21 Australian National Audit Office, Report No. 20 2019-20, *Audits of the Financial Statements of Australian Government Entities for the Period Ended 30 June 2019*, p. 43.

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banded and average salary was reported rather than each individual's salary as required by the PGPA Rule.<sup>22</sup>

2.24 With the exception of some variances, including those listed above, the ANAO concluded that:

entities have adopted the new disclosures resulting in increased transparency.<sup>23</sup>

#### Transparency.gov.au

2.25 At the time of preparing this report, the Committee notes that all agencies for the portfolios it oversees except for ACIAR had uploaded content for the 2018-19 annual reports to the Transparency Portal.

#### New staffing statistics

2.26 The Committee also looked at how agencies addressed the new staffing statistics required under the enhanced reporting requirements contained in the PGPA Amendment (Annual Reporting) Rules 2019.

2.27 It found that most reports included the required information in accordance with the templates for the digital reporting tool data for ongoing and non-ongoing staffing as contained in the appendices to the relevant Finance resource management guides.<sup>24</sup> Some agencies, however, such as ASD and EFA, did not present the full breakdown of statistics in this format. The inclusion of staffing data in the recommended templates was useful and the Committee hopes to see all agencies using the relevant templates in future reports.

2.28 The Committee notes that a number of the smaller corporate Commonwealth entities and companies within the Defence Portfolio did not include this information, with some indicating that it was 'not applicable'.<sup>25</sup> It is noted that these are small agencies with staffing arrangements which may preclude this requirement; however as with any reporting requirement that is not applicable to an entity, a clear statement indicating this clarifies why that item was not included in the report. The Committee notes that even though the Royal Australian Air Force Welfare Trust Fund only had two employees, a breakdown of most of the required information was included.<sup>26</sup>

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22 Australian National Audit Office, Report No. 20 2019-20, *Audits of the Financial Statements of Australian Government Entities for the Period Ended 30 June 2019*, p. 44.

23 Australian National Audit Office, Report No. 20 2019-20, *Audits of the Financial Statements of Australian Government Entities for the Period Ended 30 June 2019*, p. 44.

24 See Department of Finance, *Resource Management Guide No. 135 – Annual reports for non-corporate Commonwealth entities*, May 2019, Appendix G; *Resource Management Guide No. 136 – Annual report for corporate Commonwealth entities*, Appendix D; and *Resource Management Guide 137 – Annual reports for Commonwealth companies*, Appendix B.

25 See *AAF Company Annual Report 2018-19*, p. 21; and *Australian Military Forces Relief Trust Fund Annual Report 2018-19*, p. 32.

26 *Royal Australian Air Force Welfare Trust Fund Annual Report 2018-19*, p. 32.

### *Compliance indexes*

2.29 The PGPA Rule and relevant Finance resource management guides require all bodies to include the list of relevant reporting requirements and details of the location of the information in the annual report.

2.30 The inclusion of this item by most agencies assisted the Committee in its examination of the 2018-19 reports. However, some problems were noted, including some agencies not including a complete or up-to-date list of requirements.<sup>27</sup> The Committee also found instances of agencies grouping a range of required items together as one item and/or providing a reference to a page range, section or chapter, rather than exact page number which did not assist in locating some items.<sup>28</sup> The reports of Navy Canteens and the Royal Australian Air Force Veterans' Residence Trust did not include a compliance index of requirements and the Committee hopes to see it included in future reports. The Committee reminds agencies that the inclusion of an up-to-date and complete compliance index is an important element of accountability in annual reporting.

### *Issues raised in 2017-18 annual reports*

2.31 The Committee thanks agencies for addressing issues that were raised in its last report. The DVA 2018-19 annual report included a correction to its previous report in relation to the section on 'External Scrutiny' which did not include the Senate Foreign Affairs and Trade References Committee's inquiry into suicide by veterans' which reported in August 2017 and the subsequent Government response.<sup>29</sup> The annual report noted that this had also been corrected on the DVA website.

2.32 It was also noted that Tourism Australia included an up-to-date and complete compliance index for a corporate Commonwealth entity in this year's report which assisted in examination of its report.<sup>30</sup>

### **Reports of statutory office holders/offices**

2.33 All reports of statutory office holders/offices met the relevant legislative reporting requirements. On this occasion, the Committee has chosen to follow-up on progress in the area of reform of the *Defence Force Disciplinary Act 1982* (DFDA) which has been raised in earlier reports of statutory office holders within the military justice system and which the Committee has previously noted.<sup>31</sup>

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27 See for example the annual reports of ASD, ASPI, RAAF Welfare Trust Fund, RAAF Welfare Recreational Company, AAFCANS and ACIAR.

28 See for example the annual reports of EFA, Royal Australian Navy Relief Trust Fund, Royal Australian Air Force Welfare Trust Fund and ASPI.

29 *Department of Veterans' Affairs Annual Report 2018-19*, p. 253.

30 *Tourism Australia Annual Report 2018-19*, pp. 162-164.

31 Senate Foreign Affairs, Defence and Trade Legislation Committee, *Annual reports (No. 1 of 2018)*, March 2018, pp. 28-33; and Senate Foreign Affairs, Defence and Trade Legislation Committee, *Annual reports (No. 1 and No. 2 of 2019)*, July 2019, pp. 49-54.

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*Reform of the DFDA in relation to superior service tribunals*

2.34 The Inspector-General of the Australian Defence Force (IGADF), Mr James Gaynor CSC, in his 2017-18 report endorsed the reforms of superior service tribunals proposed by the Judge Advocate General (JAG) in his 2017-18 annual report, and which were noted by the Committee in its 2019 report.<sup>32</sup> The IGADF advised:

...I endorse the remarks by the Judge Advocate General...which identified a range of legislative reform proposals to the superior service tribunals, including those relating to mentally impaired ADF members appearing before service tribunals, improving superior service tribunal procedures to civilian best practice, strengthening the independence of judge advocates, improving courts martial sentencing transparency and effectiveness, and modernising ADF investigative powers...These legislative reform proposals, combined with those improvements that will be pursued as a consequence of the Summary Discipline System Review, will only enhance and promote the military discipline system as a fair, efficient and functional tool in support of command.<sup>33</sup>

2.35 While noting the above issues, the IGADF reflected on the operation of military justice system in 2017-18, concluding:

A fair and effective military justice system is necessary for the ADF's overall operational effectiveness. Based on the information available to the IGADF, the standard of discipline and appropriate support for individual rights across the ADF has remained strong overall. While challenges within the military justice system remain, there has been no indication of any reluctance to deal with them, or implement reform where necessary to reduce the complexity of those challenges.<sup>34</sup>

2.36 As set out in Chapter 1 of this report, Section 196A(1) of the DFDA requires the JAG to report to the Parliament annually on the operation the Act. The Committee noted in its review of the JAG's 2017 annual report the JAG's forthright comments about the need for immediate procedural reform of the DFDA to bring it in line with civilian models of criminal procedure.<sup>35</sup> Therefore, the Committee was pleased to note that the JAG reported 'substantial progress' on implementation of some of those recommended changes during 2018 to improve the efficiency and effectiveness of the military discipline system.<sup>36</sup> In his 2018 annual report, the JAG advised that:

The legislative response has been timely and well adapted to bringing about the changes that both my JAG reports and previous JAG reports of Major

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32 Senate Foreign Affairs, Defence and Trade Legislation Committee, *Annual reports (No. 1 and No. 2 of 2019)*, July 2019, pp. 49-54.

33 *Inspector-General of the Australian Defence Force Annual Report 01 July 2017 to 30 June 2018*, p. 4.

34 *Inspector-General of the Australian Defence Force Annual Report 2018-19*, p. 35.

35 Senate Foreign Affairs, Defence and Trade Legislation Committee, *Annual Reports (No. 1 and No. 2 of 2019)*, pp. 50-52.

36 *Judge Advocate General Report for the period 1 January to 31 December 2018*, pp. 9 and 24.

General Tracey have long recommended. This represents a shift in focus to rebuilding the capacity and efficiency of the court martial system and has moved past the years of no change commencing in September 2009 that followed *Lane v Morrison* during the operation of the Military Justice (Interim Measures) suite of legislation. None of this Interim Measures legislation modernised procedural aspects of the DFDA.

That changed significantly for the better during the reporting period and I was pleased to see the introduction [of the] Defence Legislation Amendment Bill 2018, which was subsequently passed by Parliament...<sup>37</sup>

2.37 The *Defence Legislation Amendment Act 2019* (DLA Act) was assented to on 1 March 2019; however, as the Bill was introduced during the reporting period, the JAG chose to comment on the Bill's amendments in relation to the DFDA in the 2018 annual report. The JAG set out how the amendments contained in the Act would enhance the independence of Judge Advocates and Defence Force Magistrates.<sup>38</sup>

2.38 While welcoming these enhancements to the DFDA, the JAG noted that further reform should be considered in a staged approach and provided a summary of priority areas, including sentencing procedural reform and modernising service police powers.<sup>39</sup> He concluded that:

...further legislative reform to the DFDA is urgently required for it to reflect comparable civilian standards in the administration of justice.

It is now critical to update the mental health provisions of the DFDA to current civilian standards to ensure fairness to all persons charged with service offences. Equally long overdue is reform of the investigation powers of service police. And persons tried and convicted by court martial should be given reasons for the imposition of punishments upon them.

In 2019, among my principal tasks I will continue to work with Defence Legal in update the SAR [Summary Authority Rules] and in the implementation of a robust scheme for publication of upcoming superior tribunal proceedings and their outcomes.<sup>40</sup>

2.39 The Committee will continue to monitor progress on this matter in future reports.

## **Senator the Hon Eric Abetz**

### **Chair**

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37 *Judge Advocate General Report for the period 1 January to 31 December 2018*, p. 9.

38 *Judge Advocate General Report for the period 1 January to 31 December 2018*, pp. 10-11.

39 *Judge Advocate General Report for the period 1 January to 31 December 2018*, pp. 11-15.

40 *Judge Advocate General Report for the period 1 January to 31 December 2018*, pp. 24-25.



# Appendix 1

## Dates relating to the presentation of reports between 1 May 2019 to 14 February 2020<sup>1</sup>

Report	Submitted to minister (if known)	Received by minister (if known)	Tabled in Senate or received by the President out of sitting	Tabled in House of Reps
<b>Defence Portfolio</b>				
Inspector-General of the Australian Defence Force – Report for 2017-18	28/06/19	28/08/19	Received 28/08/19	09/09/19
Department of Defence – Special Purpose Flights – Schedule for the period 1 July 2018 to 31 December 2018	11/06/19	12/06/19	Received 28/08/19	09/09/19
Judge Advocate General – Report 2018	09/07/19	09/07/19	Tabled 11/09/19	11/09/19
Australian Strategic Policy Institute – Report for 2018-19	20/09/19	20/09/19	Received 30/09/19	14/10/19
Director of Military Prosecutions – Report for 2018	26/03/19	26/03/19	Received 30/09/19	14/10/19
Australian War Memorial – Report for 2018-19	13/09/19	13/09/19	Tabled 14/10/19	14/10/19
AAF Company – Report for 2018-19	24/09/19	24/09/19	Tabled 16/10/19	16/10/19
Australian Signals Directorate—Report for 2018-19	14/10/19	14/10/19	Tabled 16/10/19	16/10/19
Defence Housing Australia—Report for 2018-19	30/09/19	30/09/19	Tabled 16/10/19	16/10/19
Department of Defence—Report for 2018-19	08/10/19	08/10/19	Tabled 16/10/19	16/10/19
Royal Australian Air Force Veterans' Residences Trust—Report for 2018-19	04/10/19	04/10/19	Tabled 16/10/19	16/10/19

1 Under Standing Order 25(20)(f) the committee is required to report on annual reports tabled by 31 October each year by the tenth sitting day of the following year. On this occasion, the committee has chosen to include relevant reports which were tabled after this date and available to the committee at the time of preparing this report.

Royal Australian Air Force (RAAF) Welfare Recreational Company—Report for 2018-19	27/09/19	27/09/19	Tabled 16/10/19	16/10/19
Royal Australian Navy Central Canteens Board (Navy Canteens)—Report for 2018-19	14/10/19	14/10/19	Tabled 16/10/19	16/10/19
Services Trust Funds—Report for 2018-19, includes: Royal Australian Navy Relief Trust Fund Australian Military Forces Relief Trust Fund Royal Australian Air Force Welfare Trust Fund	17/09/19	17/09/19	Tabled 16/10/19	16/10/19
Army and Air Force Canteen Service (AAFCONS)—Report for 2018-19	11/09/19	11/09/19	Tabled 11/11/19	17/10/19
Australian Naval Infrastructure Pty Ltd—Report for 2018-19 <i>Also referred to the Finance and Public Administration Legislation Committee</i>	26/09/19	26/09/19	Tabled 11/11/19	17/10/19
Repatriation Commission, Military Rehabilitation and Compensation Commission and the Department of Veterans' Affairs—Reports for 2018-19	30/09/19	30/09/19	Tabled 11/11/19	17/10/19
Repatriation Medical Authority—Report for 2018-19	27/09/19	27/09/19	Tabled 11/11/19	17/10/19
ASC Pty Ltd—Report for 2018-19 <i>Also referred to the Finance and Public Administration Legislation Committee</i>	30/09/19	30/09/19	Received 18/10/19	21/10/19
Veterans' Review Board—Report for 2018-19	24/09/19	25/09/19	Received 29/10/19	25/11/19

<b>Foreign Affairs and Trade Portfolio</b>				
Australian Safeguards and Non-Proliferation Office (ASNO) – Report for 2018-19	18/09/19	02/10/19	Tabled 16/10/19	16/10/19
Department of Foreign Affairs and Trade—Report for 2018-19	18/09/19	18/09/19	Tabled 16/10/19	16/10/19
Export Finance Australia—Report for 2018-19	25/09/19	25/09/19	Tabled 16/10/19	16/10/19
Australian Trade and Investment Commission – Report for 2018-19	19/09/19	19/09/19	Tabled 11/11/19	21/10/19

Australian Centre for International Agricultural Research – Report for 2018-19	02/10/19	03/10/19	Tabled 11/11/19	23/10/19
Tourism Australia – Report for 2018-19	15/10/19	15/10/10	Received 30/10/19	25/11/19

<b>Other</b>				
Final Budget Outcome 2018-19	16/09/19	16/09/19	Tabled 19/09/19	19/09/19
Tax Benchmarks and Variations Statement 2019	24/01/20	24/01/20	Received 31/01/20	05/02/20
Consolidated Financial Statements for the year ended 30 June 2019	12/11/19	12/11/19	Received 11/12/19	05/02/20
Mid-year Economic and Fiscal Outlook 2019-20	13/12/19	13/12/19	Tabled 10/02/20	06/02/20
Report on Advances Provided Under the Annual Appropriation Acts for the Year Ended 30 June 2019	-	-	Tabled 11/02/20	11/02/20