

Chapter 2

Annual reports of agencies

2.1 The annual reports of the following agencies in the Attorney-General's portfolio were referred to the committee for examination and report during the period 1 May to 31 October 2017:

- Administrative Appeals Tribunal;
- Australian Commission for Law Enforcement Integrity;
- Australian Financial Security Authority;
- Australian Information Commissioner
- Australian Law Reform Commission;
- Australian Security Intelligence Organisation;
- Australian Transaction Reports and Analysis Centre;
- Board of the Australian Crime Commission;
- Federal Court of Australia;
- National Archives of Australia and National Archives of Australia Advisory Council; and
- Office of Parliamentary Counsel.

2.2 As of 1 July 2015, there are no statutory agencies under the Immigration and Border Protection Portfolio.

Consideration of annual reports

2.3 The list of agencies that did not table their annual reports in the Senate during the period 1 May to 31 October 2017 is provided in the preface of this report. The committee will consider those annual reports in the *Report on Annual Reports (No. 2 of 2017)*.¹

2.4 On this occasion, the committee has examined in more detail the reports of the National Archives of Australia (NAA), as it has not been examined by the committee since its incorporation into the Legal and Constitutional Affairs portfolio; and the Office of Parliamentary Counsel (OPC), which the committee has not examined since 2008.²

National Archives of Australia

2.5 The NAA is a statutory agency, established by the *Archives Act 1983*.

1 See Preface, pp. x–xi.

2 See: Senate Legal and Constitutional Affairs Legislation Committee, *Report on Annual Reports (No 1 of 2008)*.

2.6 The NAA is responsible for the maintenance and preservation of Commonwealth records. Its key functions include: creating and maintaining standards for Australian Government entities in creating and storing records; authorising retention and disposal of Commonwealth records; identifying records of national archival value; transferring and preserving records of importance; and making publicly available the archives of the Commonwealth in accordance with legislative requirements.³

2.7 The NAA has an advisory council, the National Archives of Australia Advisory Council (the council), which provides advice to the Attorney-General and the Director-General of the NAA. The Attorney-General and the Director-General can also seek advice from the council.⁴ A report of the council's activities and expenditure is included in the NAA's annual report.

2.8 The NAA annual report for 2016–17 was prepared in accordance with section 68 of the *Archives Act 1983* and section 46 of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act).⁵ It was tabled out of session in the Senate on 31 October 2017 and was therefore not available for the Supplementary Budget Estimates hearings on 24 October 2017.⁶

Director-General's review

2.9 The Director-General, Mr David Fricker, opened his review of the 2016–17 period with a recognition of a societal transition towards digital record-keeping. Mr Fricker noted that the NAA's role remained to preserve the essential records of government, but that it must be adaptable to the needs of the digital age.⁷

2.10 Key topics included: the launch of the Information Management Standard, designed to be used by all Commonwealth Government agencies; running public engagement programs, including exhibitions on World War I, historical forced adoption, and immigration; activities regarding the recognition of Indigenous history and culture; opening the new National Archives Preservation Facility; a review of the Archives' access examination process and implementation of its subsequent recommendations.⁸

Performance reporting

2.11 Annual performance information for the NAA was well-presented and provided a 'clear read' when cross-checked with the Portfolio Budget Statement (PBS) and Corporate Plan. The presentation of performance criteria results closely matched

3 *National Archives of Australia and National Archives of Australia Advisory Council Annual Report 2016-17 (NAA Annual Report 2016-17)*, p. 8.

4 *NAA Annual Report 2016–17*, p. 8.

5 *NAA Annual Report 2016–17*, p. iii.

6 See Appendix 1.

7 *NAA Annual Report 2016–17*, p. 2.

8 *NAA Annual Report 2016–17*, pp. 2–6.

the format recommended by the Department of Finance in *Resource Management Guide No. 135*,⁹ clearly listing each criterion with its source, and providing detailed discussion of how it was or was not achieved.¹⁰

2.12 The NAA achieved most of its performance criteria set for 2016–17. It worked to the performance criteria of both the PBS and Corporate Plan, reporting on these performance criteria in the annual report.

2.13 The NAA achieved particularly strong results in Program 1.1 deliverables in the following performance criteria:

- *Number of identified at-risk items provided with preservation treatment:* A total of 389,042 at-risk items were treated, well above the target of 150,000.¹¹ This was attributed in part to the relocation of records to the new facility, resulting in the redirection of digitisation staff to preservation activities. The transfer of audiovisual material from various locations also enabled opportunities to provide preservation treatment to a large number of items.¹²
- *Number of record pages added to RecordSearch:* The NAA's target of 1.5 million pages was vastly surpassed in the addition of 9,476,711 pages to RecordSearch. The NAA explained that the impressive result was due to 'the completion of a number of outsourced projects and new, one-off funding sources which augmented usual activity'.¹³

2.14 Of the performance criteria set for 2016–17 in the PBS and Corporate Plan, the NAA failed to achieve two targets:

- Total number of visits to the Archives' online and onsite programs and services were considerably under the 11.5 million visits target, achieving a total of 4,747,254.¹⁴ The NAA explained that the missed target was due to the relocation and subsequent limited access of 15 million records to its new facility. Additionally, the retirement of older technology that provided a wider range of documents to be viewed impacted on the number of documents accessed;¹⁵ and
- The percentage of entities engaging with information management training, events and services achieved in 2016–17 was reported to be 60 per cent, missing the target of 75 per cent.¹⁶ The NAA explained that the lower than

9 Department of Finance, *Resource Management Guide No. 135: Annual reports for non-corporate Commonwealth entities*, Appendix A, pp. 37–8.

10 *NAA Annual Report 2016–17*, pp. 12–24.

11 *NAA Annual Report 2016–17*, p. 13.

12 *NAA Annual Report 2016–17*, p. 13.

13 *NAA Annual Report 2016–17*, p. 17.

14 *NAA Annual Report 2016–17*, p. 16.

15 *NAA Annual Report 2016–17*, pp. 16–7.

16 *NAA Annual Report 2016–17*, p. 21.

projected result was as a result of 'the cessation of information management training to entities in December 2016, as part of a programmed downsizing of the Archives' discretionary activities'.¹⁷ The NAA continues to run consultative forums, information sessions and events in place of training from 1 January 2017. The performance assessment noted that the shift in priorities was anticipated to continue into 2017–18.¹⁸

2.15 The committee recognises that the physical relocation of a vast multitude of the NAA's archived documents into its new facility had a significant impact on its ability to meet its deadline. The committee also appreciated the changing priorities of the agency overall and that this impacted its ability to meet its performance criteria in relation to information management training, events and services. A reflection of the changing circumstances in the PBS and Corporate Plan may be one way to enable the NAA to meet its performance criteria and provide a clear trajectory forward.

2.16 The committee identified that the terminology in describing performance was unclear at times. In describing whether results were met, the report used words such as 'achieved', 'accomplished' or 'advanced' to indicate results against the criteria.¹⁹ It is unclear why the different wording was used. Furthermore, the committee is unclear whether 'achieved' or 'accomplished' are intended to convey different meanings and thus whether the exact result was realised.

2.17 Additionally, in some instances, performance assessments failed to explicitly indicate whether the performance criteria in question were met.

2.18 The committee encourages agencies to use clear and consistent language to demonstrate whether performance criteria have been met.

2.19 The committee further notes that explanations of certain results were not tied to specific measurable targets. For example, *Performance criterion: Increased awareness of the value of the Archives' collection and understanding of Aboriginal and Torres Strait Islander people, culture and history*, sourced from the Corporate Plan, does not provide a specific and measurable target by which performance can be assessed.²⁰ The NAA provided an explanation as to measures taken with the performance criterion in mind, but it is unclear whether the measures clearly achieved the result as stated by the criterion.²¹ As noted in Chapter 1, the committee encourages the use of specific and measurable performance targets.

2.20 Notwithstanding the issues identified, the committee commends the NAA in achieving its otherwise impressive results demonstrated in the performance criteria.

17 NAA Annual Report 2016–17, p. 21.

18 NAA Annual Report 2016–17, p. 21.

19 NAA Annual Report 2016–17, pp. 13–4.

20 NAA Annual Report 2016–17, p. 18.

21 NAA Annual Report 2016–17, p. 18.

Financial performance

2.21 The NAA reported total expenditure of \$89.6 million in 2016–17, with total revenue (including appropriations) of \$85.2 million, resulting in a deficit of \$4.4 million. Excluding depreciation and amortisation, the NAA reported a net surplus of \$12.9 million for the reporting period.²²

2.22 Income for 2016–17 was supplemented by an additional \$12.7 million from the Australian Government for the National Archives Preservation Facility (NAPF). The NAA also reported \$2.6 million in income which was received from the intake of records from Australian Government entities.²³

2.23 The NAA stated that the deficit was due to lower income in comparison with total expenses in 2016–17.²⁴ Increased costs also contributed to higher expenses, such as increases in supplier expenses as a result of a rise in rental expenditure due to the NAPF. Employee expenses were reduced in order to offset increased expenses overall.²⁵

Conclusion

2.24 The committee acknowledges the NAA for its well-presented and accessible report. In particular, the NAA's clear and informative performance reporting is commended by the committee, but the committee notes the importance of specific and measurable performance targets.

2.25 The committee finds the annual report of the NAA to be 'apparently satisfactory'.

Office of Parliamentary Counsel

2.26 The OPC is a statutory agency established under the *Parliamentary Counsel Act 1970*. The OPC is the Commonwealth's principal provider of professional legislative drafting and publishing services.²⁶

2.27 The OPC annual report for 2016–17 was prepared under section 16A of the *Parliamentary Counsel Act 2010*, and section 46 of the PGPA Act, and includes reporting under the *Freedom of Information Act 1982*. The report was tabled on 17 October 2017 and was available for Supplementary Budget Estimates on 23 and 24 October 2017.²⁷

22 *NAA Annual Report 2016–17*, p. 24.

23 *NAA Annual Report 2016–17*, p. 24.

24 *NAA Annual Report 2016–17*, p. 24.

25 *NAA Annual Report 2016–17*, p. 24.

26 *Office of Parliamentary Counsel Annual Report 2016–17*, p. 10.

27 See Appendix 1.

First Parliamentary Counsel's review

2.28 The First Parliamentary Counsel, Mr Peter Quiggin PSM, provided an overview of the work of the OPC in the 2016–17 period,²⁸ Themes included: an increase in demand for OPC's services, particularly from Treasury; creation of major items of legislation such as reforms to the parliamentary entitlements scheme and education funding legislation; providing advice to other portfolios and departments regarding sunseting instruments; encouraging high drafting standards for legislative instruments; and liaising with other departments to provide advice, including running workshops for persons involved in legislative drafting.²⁹

Performance reporting

2.29 Annual performance information for the OPC provided a 'clear read' in the overview section when cross-checked with the Portfolio Budget Statement (PBS) and Corporate Plan. The presentation of performance criteria results closely matched the format recommended by the Department of Finance in *Resource Management Guide No. 135*,³⁰ providing detailed discussion of how it was or was not achieved, but failed to include clear information regarding the source of the performance criteria.³¹

2.30 The OPC met each of its performance criteria targets in the 2016–17 period.³² The performance statement provided a detailed explanation for how each performance criteria was met for the period.³³

2.31 During the reporting period, 217 bills, totalling 7,368 pages, were drafted in the OPC and were introduced into the Parliament.³⁴ The performance statement provided statistics on: classification of bills drafted; placement on the original Parliamentary Business Committee program; bills introduced into Parliament; and the total number and type of bills introduced in each parliamentary session.³⁵

2.32 The First Parliamentary Counsel's review stated that the number of bills and pages introduced into Parliament was a 'substantial increase over recent years';³⁶ however, no reference to previous years' statistics was included in the report to provide a comparison.

28 *Office of Parliamentary Counsel Annual Report 2016–17*, pp. 1–9.

29 *Office of Parliamentary Counsel Annual Report 2016–17*, pp. 1–9.

30 Department of Finance, *Resource Management Guide No. 135: Annual reports for non-corporate Commonwealth entities*, Appendix A, pp. 37–8.

31 *Office of Parliamentary Counsel Annual Report 2016–17*, pp. 13–35.

32 *Office of Parliamentary Counsel Annual Report 2016–17*, pp. 13–4.

33 *Office of Parliamentary Counsel Annual Report 2016–17*, pp. 13–35.

34 *Office of Parliamentary Counsel Annual Report 2016–17*, p. 17.

35 *Office of Parliamentary Counsel Annual Report 2016–17*, p. 18.

36 *Office of Parliamentary Counsel Annual Report 2016–17*, p. 1.

2.33 Statistics regarding parliamentary amendments drafted were also provided.³⁷ Here, retrospective comparisons of statistics were presented to compare results to previous years.

2.34 The OPC used client surveys as a method of assessing performance, as required by Performance criterion 1.1 and 1.2.³⁸ In particular, the target identified in the PBS for 'overall satisfaction' is a rating of 4 out of 5.³⁹ The OPC achieved an average rating of 4.9 out of 5 for responses received on client survey forms for overall satisfaction with the drafting process and draft legislation.⁴⁰ The performance statement provided excerpts from surveys, which supported the high levels of satisfaction reported.⁴¹

2.35 The committee commends the OPC on meeting, and in some instances exceeding, all its targets.

Financial reporting

2.36 The OPC reported total expenditure of \$20.573 million in 2016–17, with total revenue (including appropriations) of \$20.4 million.⁴² Consequently, the deficit attributable to the Australian Government for 2016–17 was \$0.186 million. After adding back non-cost recovered depreciation and amortisation, this resulted in a total surplus of \$0.437 million for 2016–17.⁴³

2.37 Revenue from the Australian Government decreased by \$0.366 million to \$13.773 million, as per the ongoing budget measure *Attorney General's—one-off efficiency savings to specific agencies*.⁴⁴ Own-source revenue decreased by \$0.047 million, while employee expenses increased by \$0.146 million and supplier expenses increased by \$0.184 million compared to 2015–16.⁴⁵

2.38 In his review, the First Parliamentary Counsel noted that increased demand from Treasury for drafting services in 2016–17 had led to additional funding being provided to the OPC from 2017–18 onwards.⁴⁶

37 *Office of Parliamentary Counsel Annual Report 2016–17*, p. 20.

38 *Office of Parliamentary Counsel Annual Report 2016–17*, p. 13.

39 PBS, pp. 278-9, Table 2.2.

40 *Office of Parliamentary Counsel Annual Report 2016–17*, pp. 18–9.

41 *Office of Parliamentary Counsel Annual Report 2016–17*, pp. 18–9.

42 *Office of Parliamentary Counsel Annual Report 2016–17*, p. 39.

43 *Office of Parliamentary Counsel Annual Report 2016–17*, pp. 38–9; 92.

44 *Office of Parliamentary Counsel Annual Report 2016–17*, p. 39.

45 *Office of Parliamentary Counsel Annual Report 2016–17*, p. 39.

46 *Office of Parliamentary Counsel Annual Report 2016–17*, p. 5.

PGPA Rule mandatory requirements

2.39 Section 17AG(4)(b) of the PGPA Rule requires that an annual report provides statistics on the entity's APS employees on an ongoing and non-ongoing basis, including statistics such as: staffing classification; full-time employees; part-time employees; gender; staff location; and employees who identify as indigenous.⁴⁷ The PGPA Rule does not provide advice on how agencies should provide these statistics or to what extent, but the committee encourages agencies to provide information as fulsomely as possible.

2.40 The OPC provided an excellent presentation of statistics regarding its workforce. It provided statistics on all required fields, including additional statistics not required by the Rule, including employees on leave without pay, employees on maternity leave, and employees on temporary transfer.⁴⁸ This significant level of detail is infrequently provided in annual reports, and the committee commends the OPC's efforts in this regard.

Style

2.41 The OPC has chosen to present its annual report in a style which, while appealing in its simplicity, does not always aid reading. Chapters and headings are not clearly marked, which can be confusing for readers to identify where a subject matter ends and another begins. On the whole, the style appears to be disjointed at times and not ideally suited for an annual report.

2.42 The two-column format, in particular, appears to create issues in the document's readability. For example, where text surrounds an inserted table, the text cuts off around the table and continues in an illogical placement on the page, disrupting the reading process.

2.43 The committee further notes that the OPC annual reports in recent years were presented in the same style.⁴⁹

2.44 The committee asks that the OPC consider updating its reporting style to aid the reader in accessing the wealth of information provided.

47 PGPA Rule, p. 29.

48 PGPA Rule, pp. 20–1.

49 See: *Office of Parliamentary Counsel Annual Report 2014–15*; *Office of Parliamentary Counsel Annual Report 2015–16*.

Conclusion

2.45 The committee thanks the OPC on its thorough and detailed reporting, particularly by fulfilling and referencing all mandatory requirements of the PGPA Rule, and in some cases providing further information. However, it recommends that the OPC examine the style and format used in preparing its annual reports and consider changes to improve readability.

2.46 The committee considers the annual report of the OPC to be 'apparently satisfactory'.

**Senator the Hon Ian Macdonald
Chair**