

The Parliament of the Commonwealth of Australia

**SENATE LEGAL AND CONSTITUTIONAL
LEGISLATION COMMITTEE**

**REPORT ON THE EXAMINATION OF ANNUAL
REPORTS**

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- 1 To substitute for Senator Greig for matters relating to the Indigenous Affairs portfolio
 - 2 To substitute for Senator McKiernan from 13 March 2002 until 12 April 2002.

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PREFACE

Terms of Reference

On 1 May 1996 a resolution of the Senate allocated the following portfolios to the Legal and Constitutional Legislation Committee:

- Attorney-General's Portfolio; and
- Immigration and Multicultural Affairs Portfolio.

This report was prepared pursuant to Standing Order 25(21) relating to the consideration of annual reports by legislation committees. The Standing Order states:

Annual reports of departments and agencies shall stand referred to the legislation committees in accordance with an allocation of departments and agencies in a resolution of the Senate. Each committee shall:

- (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 to the attention of the Senate any significant matters relating to the operations and performance of the bodies furnishing the annual reports; and
- (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.

Role of Annual Reports

Annual reports place a great deal of information about government departments and agencies on the public record. Accordingly, the tabling of annual reports continues to be an important element of accountability to Parliament, as the information provided in annual reports assists in the effective examination of the performance of departments and agencies and the administration of government programs.

Timing of Presentation of Reports on Annual Reports

Standing order 25(21)(f) requires that legislation committees report on annual reports tabled by 31 October each year by the tenth sitting day in the following year. The Legislation Committee was required to table this report on or before 21 March 2002.

Annual Reports Referred to the Committee

This report includes those reports referred to the Committee between 1 May 2001 and 31 October 2002. During this period, forty-eight annual reports (in addition, one Errata and one Statement of Corporate Intent) were referred to the Committee. These are listed at Appendix 1.

The annual report of the Indigenous Land Corporation was considered by the Committee, and informed this report, but will be scrutinised in more substantial detail in a similar report by the Parliamentary Joint Committee on Native Title and the Aboriginal And Torres Strait Islander Land Fund.

“Apparently Satisfactory”

Under the terms of standing order 25(21)(a), the Committee is required to report to the Senate whether reports are apparently satisfactory. In making this assessment, the Committee considers such aspects as compliance with relevant reporting guidelines.¹

Timeliness

Under standing order 25(21)(c) the Committee must also report to the Senate on any lateness in the presentation of annual reports.

Structure of this Report

This report differs slightly to previous reports on Annual Reports presented by this Committee. The over-riding emphasis of the report is on how well each Annual Report provides sufficient information, adequately presented, to enable the reader to scrutinise the performance of the agency. The various reporting guidelines provide a basic plan and a minimum requirement for achieving this outcome.

The process of assessing the Annual Reports gave the Committee an opportunity to compare the various reporting approaches of different agencies, and to identify themes and issues arising from them. Chapter 1 of this report outlines some of those themes, drawing on individual reports for illustration. Chapter 2 of this report deals more specifically with a number of the Annual Reports referred.

1 *Requirements for Departmental Annual Reports*, June 2001 (for departments/agencies whose heads have powers of a secretary under the *Public Service Act 1999*); Guidelines for Annual Reports by Statutory Authorities are contained in the Commonwealth Authorities and Companies Orders 1998; and Reporting Requirements for the Annual Reports of Non-Statutory Bodies, are from the government response to the report on non-statutory bodies of the Senate Standing Committee on Finance and Government Operations, Senate *Hansard*, Vol. S.124, 8 December 1987, pp.2643-2645

Overall Assessment

Subject to the comments and criticisms expressed in this report, the Committee finds that all reports referred to it for this reporting period were “apparently satisfactory” within the meaning of standing order 25(21)(a).

Senator Marise Payne

Chair

CHAPTER 1

GENERAL ASSESSMENT OF REPORTS

Outline of Themes to be Considered

1.1 A number of common issues emerge from the range of Annual Reports considered by the Committee. These issues are listed below, and will be considered in more detail in this chapter.

1.2 The issues are:

- a) The impact of the Olympics and Paralympics;
- b) Unrepresented litigants in Commonwealth Courts;
- c) Reporting against the Outcome and Output structure;
- d) Matters relating to Freedom of Information;
- e) Matters relating to Ecologically Sustainable Development (ESD);
- f) Matters relating to the Commonwealth Disability Strategy (CDS); and
- g) Presentation of reports.

The Impact of the Olympics and Paralympics

1.3 A number of the agencies whose Annual Reports were considered by the Committee made significant contributions to the successful and safe conduct of the Olympic and Paralympic Games in Sydney in September 2000. The Department of Immigration and Multicultural Affairs and the Australian Customs Service were both required to process large numbers of incoming visitors without compromising their levels of scrutiny, and without causing unnecessary delays to non-Olympic activity. The Committee was pleased to note that both agencies were able to achieve this outcome by devising new, streamlined procedures which will provide ongoing benefits for the processing of goods and people arriving in Australia.

1.4 The Attorney General's Department, through the Protective Security Co-ordination Centre, undertook anti-terrorism preparations ahead of the Games, and participated in planning for the protection of dignitaries visiting Australia for the Games. CrimTrac assisted the Olympic Security Co-ordination Centre to process criminal history checks for Games employees and volunteers.

1.5 The Australian Federal Police were heavily involved in Games security planning and co-ordination, provided close personal protection services to a number of Australian and foreign officials, undertook intelligence sharing arrangements in support of Games security

and provided security for the Olympic torch relay and competition events which took place outside New South Wales.

1.6 The Aboriginal and Torres Strait Islander Commission (ATSIC), through its National Media and Marketing Office, and the Metropolitan Land Council combined to provide a pavilion in the Olympic precinct which promoted indigenous culture.

Unrepresented Litigants in Commonwealth Courts

1.7 The provision of support services for unrepresented litigants¹ in Commonwealth Courts was a recurring theme in most of the agencies with a judicial focus. The number of unrepresented litigants is increasing, and the Courts need to provide sufficient services to ensure that the rights of unrepresented litigants are not impeded by the absence of legal representation.

1.8 The Committee notes that one common approach taken by the Courts is to seek to use Primary Dispute Resolution (PDR) mechanisms in order to resolve legal disputes in as informal an environment as possible. This approach has benefits for all litigants, but particular benefits for unrepresented litigants, given the difficulty these litigants may have in dealing with courtroom procedure.

1.9 The Committee notes that a significant achievement for the Family Law Council during the reporting period, was the release of the report *Litigants in Person*, which was presented to the Attorney General in August 2001, and which made eighteen recommendations to the Attorney General.

1.10 Given that the role of the Federal Magistrates Service (FMS) is to deal with less complex cases, it appears reasonable that the FMS will deal with large numbers of unrepresented litigants. The Committee notes that the FMS has established a Self Represented Litigants Committee to formulate a plan for the Court, based on the Australian Institute of Judicial Administration paper *Litigant in Person Management Plans: Issues for Courts and Tribunals*.

1.11 The Family Court of Australia also deals with a large number of unrepresented litigants, and the Committee notes the Chief Justice's comments in recent Annual Reports on this issue, including the project *Self-Represented Litigants – A Challenge*.

1.12 The Committee notes the Federal Court of Australia's pro bono assistance scheme, which supports lawyers in "the provision of assistance to unrepresented litigants, many of whom are involved in migration matters".²

1.13 Finally, the Administrative Appeals Tribunal has established an Outreach program to provide unrepresented applicants before the Tribunal with information about the processes and requirements of the tribunal.

1.14 The Committee notes that these various Courts and Tribunals are all attempting to deal with the issue of unrepresented litigants, and encourages the Courts and Tribunals to establish an ongoing dialogue, both amongst themselves and with outside agencies such as

1 Also referred to in Annual Reports as self-represented litigants, or litigants in person

2 Federal Court of Australia, *Annual Report 2000-2001*, p.63

the Family Law Council, the Australian Law Reform Commission, and the Australian Institute of Judicial Administration, in order to share information in dealing with this complex issue.

Reporting Against the Outcome and Output Structure

1.15 Although the requirement for agencies to report against outcomes and outputs is still relatively new, most agencies appear to have adapted comfortably to this form of reporting. While all of the Annual Reports referred to the Committee achieved a satisfactory level of reporting against their outcomes and outputs, they still represented a range of detail and quality.

1.16 All of the agencies presented their expenditure for the year against their outcomes and outputs.

1.17 Given the focus of annual reporting requirements on outcomes and outputs, Annual Reports should focus on the achievement of outcomes and performance of outputs, as measured by defined performance indicators. While it is important that this be supplemented by an account of the processes by which outcomes were achieved, agencies should bear in mind that this material is supplemental. The Committee noted a tendency in some reports to present a detailed litany of the activities undertaken by the agency. In some cases the report of these activities was duplicated where the activity addressed more than one output. Although much of the material is of interest, more selective description of activities to illustrate performance of outputs would enable agencies to strike a better balance between brevity and accountability.

Matters related to Freedom of Information (FOI)

1.18 Subsection 8(1) of the *Freedom of Information Act 1982* sets out the Annual Reporting requirements which responsible Ministers must cause to be published and updated each year. Subsection 8(3) of the same Act provides that the information required by subsection 8(1) shall be included in the agency's Annual Report.

1.19 All agencies whose Annual Reports were referred to the Committee made some attempt to comply with these requirements, and in most cases these provide a substantial basis of information for readers who may wish to seek information from agencies under FOI provisions. For instance, both the Attorney General's Department and ATSIC provide an excellent FOI statement which goes well beyond the bare requirements of compliance.³

1.20 The Annual Report by the Attorney General on the operation of the *Freedom of Information Act 1982* (FOI Annual Report) was also referred to the Committee for scrutiny. The Committee noted that there was a slight increase in the number of requests for information made under the Act during the reporting period. The Committee also noted that there was a large decrease in the revenues received from the Act's operations. This was principally due to the Department of Immigration and Multicultural Affairs (DIMA) ceasing to charge most FOI applicants for access to their personal records. DIMA by taking this action, implemented Recommendation 16 of the Commonwealth Ombudsman's 1999 report

3 Attorney General's Department, *Annual Report 2000-2001*, Appendix 2; and Aboriginal and Torres Strait Islander Commission *Annual Report 2000-2001*, Appendix 6

Needs to Know: Own Motion Investigation into the Administration of the Freedom of Information Act 1982 in Commonwealth Agencies.

1.21 The FOI Annual Report also draws attention to the inadequacy of statistical reporting by some Commonwealth agencies. This results in the Attorney General being unable to report consistent statistics for the operation of the FOI Act. The report states:

Unfortunately, the overall quality of statistical information provided by agencies is of a mixed standard. While some agencies make the effort necessary to record accurate statistics to the extent of installing software packages to accomplish this end, this does not apply to the majority of agencies. In some cases there is no centralised collection of statistics.⁴

1.22 The Committee notes this statement, and encourages all agencies to ensure that their statistical collection with regard to FOI is sufficient to support the Attorney General's reporting obligations under the *Freedom of Information Act 1982*.

Matters relating to Ecologically Sustainable Development (ESD)

1.23 For the first time, agencies this year were required to report, in accordance with section 516A(6) of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), on the following:

- a) How the actions of, and administration (if any) of legislation by, the agency during the period accorded with the principles of ESD⁵;
- b) How the outcomes specified in the PBS for the agency contribute to ESD;
- c) What are the effects of the agency's actions on the environment;
- d) What measures the agency is taking to minimise the impact of actions by the agency on the environment; and
- e) What mechanisms the agency has for reviewing and increasing the effectiveness of those measures.

1.24 Given that this was the first attempt by agencies to comply with this requirement, the reports were all acceptable. The Committee notes that the Office of Parliamentary Counsel provides an excellent example of compliance with this requirement.

1.25 The Migration Review Tribunal responded to this reporting requirement by asserting that it had "no impact relevant to this provision".⁶ The Federal Magistrates Service and the Human Rights and Equal Opportunity Commission (HREOC) appear to have taken a similar view, as they did not provide a report in relation to ESD. The Committee considers that every agency of the Commonwealth has impacts on ESD and should report against these as required by the EPBC Act. Every Commonwealth agency is a consumer of resources – principally paper, energy and water, and every Commonwealth agency generates waste.

4 *Freedom of Information Act 1982 Annual Report 2000-2001*, p.31

5 The Principles of ESD are listed in s. 3A of the EPBC Act, and on p.19 of the *Requirement for Annual Reports*, Department of the Prime Minister and Cabinet, June 2001

6 Migration Review Tribunal, *Annual Report 2000-2001*, p.43

Most of the ESD reports made by agencies related to these aspects of their operations, indicating measures the agencies have taken to minimise these impacts of their operations. Although the impact of the FMS is likely to be small in this regard (as the FMS does not operate its own registries) an attempt to gauge its resource consumption might be made. The Committee notes that both the FMS and HREOC have minimised the impact of their activities by using video-conferencing links instead of travelling to remote areas (or requiring participants to travel to proceedings). These positive outcomes might usefully be reported in a future ESD report.

1.26 Almost all of the reports referred to this committee presented their ESD reports simply in environmental terms. The scope of Ecologically Sustainable Development is much broader than simply environmental implications. In particular, agencies should note the first principle of ESD:

- (a) decision-making processes should effectively integrate both long-term and short-term economic, environmental, social and equitable considerations.

1.27 The work of most – if not all – of the agencies within the Immigration and Multicultural Affairs and Attorney General’s portfolios addresses this principle, at least in terms of economic, social and equitable considerations. As a result, the Committee considers that agencies within these portfolios are under-representing their impact on ESD.

1.28 In the context of reporting on ESD outcomes, the annual report of the Torres Strait Regional Authority (TSRA) presents a special case as social, economic and environmental outcomes are all integral to its outputs. The Committee notes that the TSRA has provided extremely detailed and useful information on its progress in these areas⁷ and that, read together, they give a very strong assessment of the region’s progress towards ESD.

1.29 The Committee notes that, in addition to providing a strong report of its activities in support of ESD, ATSIC provided information to the Government in response to requests for Ministerial comment on proposed actions under the EPBC Act, where those actions were relevant to Aboriginal land.

1.30 The Committee notes that while the Department of Multicultural Affairs and Immigration gave a very limited report on its ESD performance, it has engaged the CSIRO to investigate these matters more fully. Similarly, the Insolvency and Trustee Service Australia has indicated that it is to develop an Environmental Management System, and the Director of Public Prosecutions is preparing an Environmental Plan. The Committee supports such serious consideration of the agencies’ obligations and looks forward to the outcomes of this research being presented in the 2001/2002 Annual Reports.

Matters relating to the Commonwealth Disability Strategy (CDS)

1.31 The Commonwealth Disability Strategy identifies five core roles of government agencies: policy adviser, regulator, purchaser, provider and employer. One of the CDS reporting strategies is to include CDS performance reporting into already established reporting mechanisms. In support of this, the *Requirements for Annual Report* requires that agencies include an assessment of their progress in implementing the CDS, in their Annual Report. It should be noted by agencies that this requirement does not simply ask for a general

7 Torres Strait Regional Authority, *Annual Report 2000-2001*, pp .28-48 but particularly pp. 38 - 41

indication of the agency's activities or policies in relation to people with disabilities. Reports should be focussed specifically on the CDS reporting framework, which requires⁸:

- the identification of the core roles of government (policy adviser, regulator, purchaser, provider and employer);
- for each role, the specification of the outcomes to be achieved for people with disabilities;
- the specification of performance indicators which address the barriers that have been identified by people with disabilities; and
- the level of achievement of those performance indicators.

1.32 A number of agencies have made very sound reports in terms of the strategy. The Attorney General's Department, for instance, provides a thorough account of its implementation of the strategy, and the CDS reports of the Human Rights and Equal Opportunity Commission, and the Office of the Federal Privacy Commissioner were outstanding.

1.33 The Refugee Review Tribunal (RRT) Annual Report contained little detail regarding its implementation of the CDS, but in the report the RRT indicated that it will review policies and procedures in accordance with the CDS. The Office of Parliamentary Counsel (OPC) has identified its roles under the CDS and identified performance measures to implement the strategy. The Committee supports these processes and looks forward to the agencies reporting the outcomes in their next Annual Report.

Presentation of reports

1.34 The reports submitted to the Committee were all well presented and in some cases great attention had gone into designing the layouts. The Committee notes the excellent layout and presentation of the Aboriginal Hostels Limited annual report.

1.35 The Committee encountered minor problems with two publications. The report initially submitted by the Family Court of Australia missed pages 27 - 42 and duplicated pages 43 - 58. The Committee understands that this was the result of a printing error in one batch of the reports, and that the problem has been corrected.

1.36 The report of the Human Rights and Equal Opportunity Commission (HREOC) appears to have been typeset incorrectly, so that only the tops of page numbers are visible. While a minor point, this renders other access aids such as the index and Table of Contents ineffective.

1.37 Commendably, HREOC's Annual Report was set in a much larger typeface than the other reports, and seems designed to be accessible to readers who may have sight impairments.

1.38 A number of the reports include a "Compliance Index" to point readers to those reporting elements which are required under the *Requirements for Annual Reports*, or other

8 Adapted from Commonwealth of Australia, *Commonwealth Disability Strategy – A Guide to the Performance Reporting Framework*

relevant guidelines. These indexes are a valuable addition, particularly for “reference” readers seeking particular information.

1.39 Most of the reports include adequate glossaries of acronyms, as well as explaining the acronym in the text of the report. While the Refugee Review Tribunal does not, it is apparent that the report has been written with great attention to maintaining a “plain English” writing style, avoiding acronyms. As a result a glossary is unnecessary in this case.

1.40 Finally, a number of the reports (for example, the Federal Court of Australia and the High Court of Australia) do not contain an index. In other cases, the indexes are cursory in nature. A sufficiently detailed index is a vital access aid for readers who approach the Annual Reports as reference material on particular issues. The Committee encourages agencies, when developing future Annual Reports, to ensure that an index is provided.

Certification of Commonwealth Authorities and Companies Act Reports

1.41 Section 4 of Schedule 1 of the CAC Act requires that the annual report on operations of Commonwealth authorities:

- is certified that it is made in accordance with a resolution of the directors;
- signed by a director;
- specify the date on which the report is made; and
- state that the directors are responsible under section 9 of the CAC Act for the preparation and content of the report on operation in accordance with the Finance Minister’s Orders.

1.42 The Committee notes that a number of Commonwealth authorities failed to include such information in their letter of transmittal, or failed to include a letter of transmittal at all, and hopes that this will be redressed in the next reporting period.

Inclusion of Annual Reports on Internet Sites

1.43 The Committee notes that a number of organisations have not placed their annual reports on their internet sites. It is important that annual reports be placed online where a website exists, in order to give the widest possible opportunity for interested persons to gain access to them.

CHAPTER 2

ANNUAL REPORTS CONSIDERED BY THE COMMITTEE

Reports Referred to the Committee for Examination and Report

2.1 The Annual Reports of two government departments, forty-two statutory bodies, and four non-statutory bodies were referred to the Committee for examination and report. A full list of these reports is at Appendix 1. In this Chapter, the Committee will highlight matters relating to the performance of a selection of agencies.

Reports of Government Departments

Department of Immigration and Multicultural Affairs (now Department of Immigration and Multicultural and Indigenous Affairs)

2.2 The Committee notes the significant events and developments which took place during the reporting period which had an impact on the Department of Immigration and Multicultural Affairs (DIMA). These include:

- the 2000 Olympic and Paralympic Games. The Department was required to process large numbers of inbound visitors without relaxing standards of border protection and security. The Department also assisted Games organisers to provide translation services to Olympic and Paralympic participants and visitors.
- continued high levels of unauthorised arrivals into Australia, particularly by boat. The Committee notes the Department's efforts to decrease the incidence of such arrivals by prosecuting the Masters and crew of ships carrying unauthorised entrants, and by co-operating with other governments to intercept and detain potential illegal migrants before their departure to Australia.
- The establishment of the Immigration Detention Advisory Group in February 2001, to advise the Minister on detention issues arising from continuing high numbers of unauthorised arrivals.
- The Committee was pleased to note the Department's efforts towards fulfilling its Humanitarian program, with 13,733 people being granted visas (from a target of 15,134 places).
- Implementation of the *New Agenda for Multicultural Australia*, which was tabled in December 1999 to promote inclusiveness and cultural diversity, and in particular the *Living in Harmony* initiative.

2.3 The Committee refers the Department to the *Freedom of Information Act 1982* reporting requirements outlined in the *Annual Report Requirements*.¹ According to the FOI Annual Report 2000/2001² DIMA receives the second highest number of FOI requests, amounting to 10,760, or 30.36% of all FOI requests. DIMA's share of FOI requests is also growing at the fastest rate of any agency (an additional 2587 in the reporting period). Under the circumstances, the Committee considers it vital that the Department's Annual Report should provide full and comprehensive FOI information for the benefit of those who may wish to make requests.

2.4 While Appendix 9 of the Annual Report³ does provide a comprehensive outline of the categories of documents maintained by the Department, and the report does provide an overview of the Departmental structure⁴, the report does not appear to provide clearly identified details of⁵:

- The arrangements for bodies or persons outside the Commonwealth to participate in the formulation of policy by the agency, or in the administration by the agency, of any enactment or scheme; or
- The facilities that are provided by the agency for enabling members of the public to obtain physical access to the documents of the agency.

2.5 In relation to the reporting requirements under Section 516A of the *Environment Protection and Biodiversity Conservation Act 1999*, the Committee notes that the report has limited information regarding the manner in which the Department's outcomes contribute to ecologically sustainable development. However the Committee is pleased to note that the Department has engaged the Wildlife and Ecology Division of the CSIRO to investigate these matters.

Attorney General's Department

2.6 The Committee notes the significant events and developments which took place during the reporting period which had an impact on the Attorney General's Department:

- The Olympics and Paralympics in Sydney, during which the Department's security agencies played important roles in ensuring that the Games, and Australia generally, were safe for participants and visitors during the Olympic period.
- The creation of the Federal Magistrates Service, which commenced operations at the beginning of this reporting period.
- The introduction of new legislation including the *Federal Law Legislation Amendment (Superannuation) Act 2001*; the *Privacy Amendment (Public Sector) Act 2000*; the *Copyright Amendment (Moral Rights) Act 2000*; and several pieces of criminal justice legislation.

1 Department of the Prime Minister and Cabinet, *Requirements for Annual Reports*, p.17

2 *Freedom of Information Act 1982 Annual Report 2000-2001*, Chart 3 and Table 2, pp. 4-5

3 Department of Immigration and Multicultural Affairs, *Annual Report 2000-2001*, p.112

4 Department of Immigration and Multicultural Affairs, *Annual Report 2000-2001*, pp. 8-9

5 Taken from Department of the Prime Minister and Cabinet, *Requirements for Annual Reports*, p.17

2.7 The Committee noted that the bulk of Part One of the report was devoted to a detailed description of the Department's activities during the year, amounting to some 70 pages. Section 11 (1) of the *Requirements for Annual Reports* notes that in such reports, "Descriptions of processes and activities should be avoided. Rather reporting should be aimed at providing an assessment of how far the agency has progressed towards outcomes." The report as currently structured provides the Committee with a great deal of information regarding the activities of the Department, but in most (though not all) cases the report provides little information regarding the effectiveness of those activities in achieving the desired outcomes.

2.8 The Committee noted the Department's candid assessment of its achievements and shortfalls in relation to workplace diversity. There is a continuing trend for many annual reports to become a vehicle for departmental self-promotion, and the committee supports the Attorney General's Department's more constructive approach in this area. The Committee looks forward to the Department reporting, in the next annual report, upon the improvements indicated.

Department of Reconciliation and Aboriginal and Torres Strait Islander Affairs

2.9 The Committee notes the formation of the Department of Reconciliation and Aboriginal and Islander Affairs (DORATSIA) on 30 January 2001, as successor to the Office of Indigenous Policy (OIP), which had previously been part of the Department of the Prime Minister and Cabinet (PM&C). As a result, this Annual Report is a part-year report, covering DORATSIA's activities from 30 January 2001 until 30 June 2001.

2.10 The Committee notes DORATSIA's key achievements, among them:

- Developing and co-ordinating the Government's response to the Senate Legal and Constitutional References Committee report *Healing: a Legacy of Generations*;
- Providing support for the Reconciliation Place Steering Committee; and
- Managing, on the Commonwealth's behalf, several significant cases of litigation relating to indigenous Australians.

Reports of Statutory Bodies

Refugee Review Tribunal

2.11 The Committee notes that the Refugee Review Tribunal (RRT) finalised 5646 cases during the year, which was 66 more than agreed in its purchasing agreement with the Department of Finance, but 547 less than for 1999/2000. Of these, 11% (or 620) resulted in the primary decision being set aside. The Committee further notes that 916 decisions (or 18.41 % of affirmed decisions) resulted in an application for judicial review. Of the 833 judicial reviews completed by the High Court and Federal Court during the year, 686 upheld the tribunal's decision.

2.12 The Committee notes that, during the reporting period, 70 percent of cases where the applicant was in detention were completed within 70 days, and 75 percent of cases where the applicant was not in detention were completed within 118 days. The Committee further notes the RRT's caseload strategy, which is designed to maintain and improve the efficiency of case processing, particularly where the applicant is in detention.

The Committee notes that in accordance with item (vii) of the *Guidelines for the Content, Preparation and Presentation of Annual Reports by Statutory Authorities* (“Operational Problems”) the RRT has raised concerns regarding the requirement for the RRT to invite applicants who are not in detention to attend the handing down of their decisions.⁶

2.13 The Committee notes these concerns and will be interested to see the response of the Department.

Migration Review Tribunal

2.14 The Committee notes that the Migration Review Tribunal (MRT) finalised 6579 cases during the reporting period, a substantial increase over the previous year, despite delays in the appointment of new Tribunal members. The Committee notes, however, that a substantial increase in the number of new applications received meant that the MRT finished the year with an increased number of cases on hand.

2.15 The Committee also notes that during the year the MRT conducted a review of the model used to prioritise applications, resulting in four tiers of priority. Perhaps because this is a new system, the MRT did not report the average time taken to finalise cases within each priority grouping. Such information would be useful in future Annual Reports.

2.16 The Committee notes that the MRT has not provided a breakdown of staff figures by gender, for each job classification level, and notes the explanation that due to the small number of staff members, the provision of this data may infringe on staff privacy. The Committee notes that MRT appointments are listed in the Public Service Gazette and are therefore a matter of public record. The Committee is unable to determine, from the report, the gender balance at higher and lower classification levels. The Committee suggests that if privacy considerations are held to preclude reporting by each classification level, then more aggregate figures could be provided (for instance, gender balance for APS1-APS6 and for Executive Level 1 – Principal Legal Officer, or gender balance for legal and non-legal staff). These figures would inform the Committee of the gender balance at (particularly senior) levels within the MRT, whilst protecting staff privacy.

Federal Magistrates Service

2.17 The Committee notes the significant events and developments which took place during the reporting period which had an impact on the Federal Magistrates Service. These include:

- The commencement of the Court Rules on 30 July 2001;
- Significant and regular Circuit sittings of the Court in rural and regional Australia; and
- The establishment of contracts for Primary Dispute Resolution services

2.18 The Committee notes that the Court’s success has attracted an increasing caseload, particularly in the areas of Family Law and Bankruptcy, and notes the Court’s concern that it cannot continue to expand its caseload without additional Magistrates.

6 Refugee Review Tribunal, *Annual Report 2000-2001* p.13

Federal Court of Australia

2.19 The Committee notes the continuing challenges the caseload of the Court presents, and notes the initiatives underway within the Court to manage this caseload. These measures include the greater use of technology in the Court's processes. The Committee further notes that the formation of the Federal Magistrates Service has assisted the Federal Court to manage its caseload, by relieving the Court of its responsibility for simpler cases.

2.20 The Committee notes the Court's efforts to deal with migration matters within 28 days, and to deal with in excess of 90 percent of non-native title cases within 18 months.

2.21 The Committee suggests that the inclusion of an index and a glossary would both be useful in future Annual Reports. The Court has made an obvious attempt to provide a full report, however, extensive lists of Judges' activities, for instance⁷, may be replaced by a shorter narrative with a few illustrative examples.

Human Rights and Equal Opportunity Commission

2.22 The Committee notes the activities of the Human Rights and Equal Opportunity Commission (HREOC) in 2000/2001, and notes in particular the achievement of finalising 88% of complaints within 12 months of their receipt, and finalising 35% of those by conciliation. The Committee also notes the significant preparations made by the Commission for involvement in the United Nations World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.

2.23 Like some other reports received, the HREOC Annual Report erred on the side of providing overly detailed information regarding its activities. The report had an outstanding section on compliance with the Commonwealth Disability Strategy, as might be expected given HREOC's substantive responsibilities.

2.24 There was no statement within the Annual Report regarding compliance with the EPBC. Given that based on a reading of the activities of HREOC, it is likely to have substantially contributed to Ecologically Sustainable Development, particularly against Principle (a), that decision-making processes should effectively integrate both long-term and short-term economic, environmental, social and equitable considerations, that is a disappointing omission.

Australian Government Solicitor

2.25 The Committee notes the \$4.3 Million Dividend returned to government by the AGS for the year 2000/2001, and welcomes the marked improvement in the AGS' performance, as established by client surveys.

2.26 The AGS report was a concise report, well laid out. In terms of presentation and content it was among the better reports considered by the committee. It did not contain an index, a glossary, an FOI statement or a statement in relation to the Commonwealth Disability Strategy. With the addition of these elements it would be an excellent report.

⁷ *Federal Court of Australia, Annual Report 2000-2001*, pp.71-76

2.27 The Committee notes the AGS Statement of Corporate Intent 2001-2002, which gives information about the AGS, its vision and strategies through 2004, its organisation, responsibilities, and risk management processes.

Aboriginal and Torres Strait Islander Commission

2.28 The Committee wishes to express its condolences and respect in relation to the passing of ATSIC Commissioner Kwementyaye Perkins, who made an outstanding contribution to ATSIC and to Australian government and public life.

2.29 The Committee notes the substantial progress made by ATSIC during the reporting period towards implementation of the ATSIC 2000 Restructure, which has resulted in significant “flattening” of the ATSIC structure, with the replacement of State and Local ATSIC units with a Regional Network. This process has also resulted in the decentralisation of many of ATSIC’s functions, from Canberra to other centres around Australia.

2.30 While the report presents an exhaustively detailed account of ATSIC’s activities and achievements during the year, the Committee felt that the report was very long. The “Performance Information” tables provided for each output were excellent, and these could stand alone, perhaps supported by selective, illustrative information about actual activities undertaken by ATSIC during the year.

Errata

2.31 The Committee notes the following errata:

- The *Migration Agents Registration Authority* indicated a number of corrections to its 1999/2000 annual report, by letter from Senator Paterson to the President of the Senate, December 2000;
- The *Australian Federal Police* indicated a correction to its 1999/2000 Annual Report, in its 2000/2001 Annual Report at p.92; and
- The *Australian Customs Service* indicated a correction to its 1999/2000 Annual Report, in its 2000/2001 Annual Report at p.114.

APPENDIX 1

LIST OF ANNUAL REPORTS FOR 2000-2001 REFERRED TO THE COMMITTEE DURING THIS REPORTING PERIOD

Under normal circumstances, a substantial number of reports are tabled in the Senate by their due date (31 October) and referred to the Committee. In 2001, Parliament rose on 27 September, and on 8 October 2001, His Excellency the Governor General issued writs for a General Election. As a result, the first day of sitting following the due date for Annual Reports was not until 12 February 2002. As a result, most of the Annual Reports considered in this report were tabled out of session. Unless indicated otherwise, the dates in this table refer to the date the Report was received. All Reports in this table which were presented out of session were tabled in the Senate on 12 February 2002.

Agency	Received
Aboriginal and Torres Strait Islander Commission	31 – 10 – 2001
Aboriginal Hostels Limited	18 – 10 – 2001
Administrative Appeals Tribunal	1 – 11 – 2001
Anindilyakwa Land Council	29 – 10 – 2001
Attorney General's Department	1 – 11 – 2001
Australian Customs Service	25 – 10 – 2001
Australian Federal Police, including a report pursuant to the <i>Complaints (Australian Federal Police) Act 1981</i>	26 – 10 – 2001
Australian Government Solicitor	1 – 11 – 2001
Australian Government Solicitor, Statement of Corporate Intent	7 – 1 – 2002
Australian Institute of Aboriginal and Torres Strait Islander Studies	26 – 10 – 2001
Australian Institute of Criminology and Criminology Research Council	26 – 10 – 2001
Australian Law Reform Commission	15 – 11 – 2001
Australian Police Ministers Council – National Common Police Services	Tabled 7-8-2001

Australian Transaction Reports and Analysis Centre	21 – 11 – 2001
<i>Bankruptcy Act 1966</i>	29 – 10 – 2001
Central Land Council	26 – 10 – 2001
Central Queensland Land Council Aboriginal Corporation	9 – 1 – 2002
Commonwealth Ombudsman and Defence Force Ombudsman, including a report pursuant to the <i>Complaints (Australian Federal Police) Act 1981</i>	1 – 11 – 2001
<i>Crimes Act 1914</i>	30 – 10 – 2001
CrimTrac Agency	14 – 11 – 2001
Department of Reconciliation and Aboriginal and Torres Strait Islander Affairs	23 – 10 – 2001
Department of Immigration and Multicultural Affairs, including reports pursuant to the <i>Immigration (Education) Act 1971</i> and <i>Australian Citizenship Act 1948</i>	23 – 10 – 2001
Director of Public Prosecutions	31 – 10 – 2001
Family Court of Australia	23 – 11 – 2001
Family Law Council	23 – 11 – 2001
Federal Court of Australia	1 – 11 – 2001
Federal Magistrates Service	5 – 11 – 2001
Federal Police Disciplinary Tribunal	31 – 10 – 2001
<i>Freedom of Information Act 1982</i>	21 – 12 – 2001
Goldfields Land and Sea Council	28 – 11 – 2001
High Court of Australia	21 – 1 – 2002
Human Rights and Equal Opportunity Commission	19 – 12 – 2001
Indigenous Land Corporation	18 – 10 – 2001
Industrial Relations Court of Australia	1 – 11 – 2001

Insolvency and Trustee Service of Australia	29 – 10 – 2001
Migration Agents Registration Authority	12 – 11 – 2001
Migration Review Tribunal	31 – 10 – 2001
National Native Title Tribunal	15 – 11 – 2001
North Queensland Land Council Aboriginal Corporation	9 – 1 – 2002
Northern Land Council	18 – 10 – 2001
Office of Film and Literature Classification: Classification Board and Classification Review Board	31 – 10 – 2001
Office of Parliamentary Counsel	1 – 11 – 2001
Office of the Federal Privacy Commissioner	15 – 11 – 2001
Refugee Review Tribunal	31 – 10 – 2001
Tiwi Land Council	16 – 10 – 2001
Torres Strait Regional Authority	16 – 10 – 2001
<i>War Crimes Act 1945</i>	Tabled 18-9-2001
<i>Witness Protection Act 1994</i>	30 – 10 – 2001

APPENDIX 2

EXCERPT FROM *REQUIREMENTS FOR ANNUAL REPORTS*

June 2001

An excerpt from the *Requirements for Annual Reports* is provided in this report to give an overview of the requirements against which the Committee has considered the Annual Reports. The full text of the requirements can be obtained from the Department of Prime Minister and Cabinet, or found online on the Department of Prime Minister and Cabinet website (www.dpmc.gov.au).

Authority for the Requirements

These annual report requirements are prepared pursuant to subsections 63(2) and 70(2) of the *Public Service Act 1999* and were approved by the Joint Committee of Public Accounts and Audit on 7 June 2001.

Commencement and Reporting Period

The requirements apply to annual reports for financial years ending on or after 30 June 2001.

Application

The requirements apply to annual reports for departments of state pursuant to subsection 63(2) and for Executive Agencies pursuant to subsection 70(2) of the *Public Service Act 1999*. As a matter of policy, they also apply to prescribed agencies under section 5 of the *Financial Management and Accountability Act 1997*.

Timetable

A copy of the annual report is to be laid before each House of the Parliament on or before 31 October in the year in which the report is given.

The provisions of section 34C of the *Acts Interpretation Act 1901* apply in relation to an application for extension of the period and related matters.

Checklist of Requirements

Part of Report	Description	Requirement
	Letter of transmittal	Mandatory
	Table of contents	Mandatory
	Index	Mandatory
	Glossary	Mandatory
	Contact officer(s)	Mandatory
	Internet home page address and Internet address for report	Mandatory
Review by Secretary	Review by departmental secretary	Mandatory
	Summary of significant issues and developments	Suggested
	Overview of department's performance and financial results	Suggested
	Outlook for following year	Suggested
	Significant issues and developments – portfolio	Portfolio departments – suggested
Departmental Overview	Overview description of department	Mandatory
	Role and functions	Mandatory
	Organisational structure	Mandatory
	Outcome and output structure	Mandatory
	Where outcome and output structures differ from PBS format, details of variation and reasons for change	Mandatory
	Portfolio structure	Portfolio departments – mandatory
Report on Performance	Review of performance during the year in relation to outputs and contribution to outcomes	Mandatory
	Actual performance in relation to performance targets set out in PBS/ PAES	Mandatory
	Performance of purchaser/ provider arrangements	If applicable, mandatory
	Where performance targets differ from the PBS/ PAES, + details of both former and new targets, and reasons for the change	Mandatory
	Narrative discussion and analysis of performance	Mandatory
	Trend information	Suggested
	Factors, events or trends influencing departmental performance	Suggested
	Significant changes in nature of principal functions/ services	Suggested
	Performance against service charter customer service standards, complaints data, and the department's response to complaints	If applicable, mandatory
	Social justice and equity impacts	If applicable, mandatory
	Discussion and analysis of the department's financial performance	mandatory
	Discussion of any significant changes from the prior year or from budget.	Suggested
	Summary resource tables by outcomes	Mandatory
	Developments since the end of the financial year that have affected or may significantly affect the department's operations or financial results in future	If applicable, mandatory
Management Accountability		

<i>Corporate Governance</i>	<i>Statement of the main corporate governance practices in place</i>	<i>Mandatory</i>
	Names of the senior executive and their responsibilities	Suggested
	Senior management committees and their roles	Suggested
	Corporate and operational planning and associated performance reporting and review	Suggested
	Approach adopted to identifying areas of significant financial or operational risk and arrangements in place to manage risks	Suggested
	Policy and practices on the establishment and maintenance of appropriate ethical standards	Suggested
	How nature and amount of remuneration for senior executive service employees officers is determined	Suggested
<i>External Scrutiny</i>	<i>Significant developments in external scrutiny</i>	<i>Mandatory</i>
	Judicial decisions and decisions of administrative tribunals	Mandatory
	Reports by the Auditor-General, a Parliamentary Committee or the Commonwealth Ombudsman	Mandatory
<i>Management of Human Resources</i>	<i>Assessment of effectiveness in managing and developing human resources to achieve departmental objectives</i>	<i>Mandatory</i>
	Workforce planning, staff turnover and retention	Suggested
	Training and development undertaken and its impact	Suggested
	Impact and features of certified agreements and AWAs	Suggested
	Occupational health and safety performance	Suggested
	Statistics on staffing	Mandatory
	Performance pay	Mandatory
<i>Purchasing</i>	Assessment of purchasing against core policies and principles	Mandatory
<i>Assets management</i>	Assessment of effectiveness of assets management	If applicable, mandatory
<i>Consultants and Competitive Tendering and Contracting</i>	Number of consultancy services contracts let and total expenditure on consultancy services. (Additional information as in Attachment C to be available on request or published.)	Mandatory
	Competitive tendering and contracting contracts let and outcomes, including any net savings	Mandatory
<i>Providing access to people with disabilities</i>	Report on performance in implementing the Commonwealth Disability Strategy	Mandatory
Financial Statements	Financial Statements	Mandatory
Other Information		
	Occupational health and safety (section 74 of the <i>Occupational Health and Safety (Commonwealth Employment) Act 1991</i>)	Mandatory
	Freedom of Information (subsection 8(1) of the <i>Freedom of Information Act 1982</i>)	Mandatory
	Advertising and Market Research (Section 311A of the <i>Commonwealth Electoral Act 1918</i>)	Mandatory
	Ecologically sustainable development and environmental performance (Section 516A of the <i>Environment Protection and Biodiversity Conservation Act 1999</i>)	Mandatory
<i>Other</i>	Discretionary Grants	Mandatory
	Correction of material errors in previous annual report	If applicable, mandatory

APPENDIX 3

GUIDELINES FOR THE CONTENT, PREPARATION AND PRESENTATION OF ANNUAL REPORTS BY STATUTORY AUTHORITIES

11 November 1982

Introduction

These guidelines are intended to cover generally the annual reporting requirements for statutory authorities (incorporated or unincorporated authorities established by or pursuant to a law of the Commonwealth or of the ACT) and are subject to refinement in the light of experience.

Reports of small unincorporated authorities and office holders within the public account may continue to be included in the related departmental reports where it is practical to do so.

The guidelines do not, of course, override statutory requirements imposed by the legislation on individual authorities, but to the extent that they require a higher standard than does the legislation, they should be followed by all such authorities.

All authorities are to provide annual reports as soon as possible after the end of their financial year, if possible in time for the estimates debate in the Budget Sittings. At the very latest reports should be submitted within six months (unless a shorter period is provided in the legislation of an individual authority). An explanation will be submitted to Parliament if the deadline has to be extended in exceptional cases (the new deadline is to be mentioned in the explanation). Ministers will ensure that reports are tabled within fifteen sitting days of receipt.

Where there is a requirement for a form of financial statements to be approved by the Minister for Finance, authorities should commence negotiations with the Department of Finance early enough to allow issues to be resolved without delaying the annual report. Authorities also need to bear in mind the need for reasonable time to be allowed for completion of auditing of the financial statement within the six month deadline.

Report contents

Reports should be the means of providing a wide dissemination of information on authorities, with special attention being given to making available material that might not otherwise be made public as a matter of course.

The following information is to be provided in future annual reports:

- (i) Enabling Legislation: A clear statement of the legislation (if any) under which the organisation operates.

- (ii) Responsible Minister: To be shown. A description of any statutory powers of direction which the Minister has over the authority and details of the exercise of any such powers, subject to the need to protect confidential information, to be included.
- (iii) Powers, Functions and Objects: To be detailed.
- (iv) Membership and Staff: A list of the members of the body and their terms of appointment, together with listing of senior executive staff and a statement of the total number of staff employed by the organisation. In addition, the basis for staffing the organisations should be identified. The address and phone number of the information officer should also be included.
- (v) Financial Statements: All Government bodies should provide statements which adequately disclose financial aspects of their activities. For example, where the form of a body's financial statements is approved by the Minister for Finance, the approval form must, of course, be followed; where an unincorporated body has no specific financial responsibilities and no financial reporting requirement exists, it might be appropriate to disclose departmental receipts and expenditures relevant to its operations, while avoiding unnecessary duplication of the information contained in the annual Financial Statements prepared by the Minister for Finance. The requirement for adequate disclosure will extend to bodies incorporated under companies legislation if the Commonwealth is sole owner or shareholder; this will not affect the need to satisfy the reporting requirements under company law. The Department of Finance and the Auditor-General's Office are preparing guidelines which will assist Commonwealth undertakings in preparing financial statements; an exposure draft entitled 'Proposed Guidelines for the Form and Standard of Financial Statements of Commonwealth Undertakings' was issued in August 1980. The Exposure Draft has been considered by the relevant Parliamentary Committees.
- (vi) Activities and Reports: A description of the principal programs and activities of the body noting objectives and reviewing achievements. Information on interaction with other authorities, departments and State and international bodies should be provided as should a list of publications during the reporting period.
- (vii) Operational Problems: A description of the major problems which have arisen in the body's activities, including details of requisite Government action to overcome such problems, e.g. the amendment of the enabling Act.
- (viii) Subsidiaries: Details of subsidiary companies formed, or interest acquired in existing companies, are to be provided. It is a desirable practice to include the annual report of such subsidiaries as are controlled by the parent authority with the report of that authority, where this is feasible.

(Senate, *Hansard*, Vol. S.96, 11 November 1982, pp. 2261-2)

APPENDIX 4

REPORTING REQUIREMENTS FOR THE ANNUAL REPORTS OF NON-STATUTORY BODIES

8 December 1987

1. The date of establishment of each new non-statutory body (NSB) and, in relation to an existing NSB, information regarding the date of its establishment in as much detail as is available.
2. A statement of each NSB's objectives and functions.
3. An account of each NSB's significant activities during the year.
4. An indication that the creation or continued existence of each NSB, its functions and its organisation have received Ministerial approval.
5. The date on which each NSB will cease to exist or before which it will be reviewed (whichever is the earlier).
6. In the case of any NSB whose continued existence, functions and organisation have been reviewed and whose continued existence has been approved by the Minister, a summary of the outcome of the review.
7. A list of any positions provided for ex-officio government members on each NSB and of any positions provided for representatives nominated by particular non-government organisations.
8. The maximum term of appointment to each other position on an NSB.
9. Except in cases where there may be little or no continuity of membership from one meeting to the next, the names of individual members of each NSB, and their terms of appointment.
10. The manner in which the level of remuneration (if any) paid to members of each NSB is determined.
11. The manner in which each NSB is funded.
12. A summary of any other financial arrangements such as the kinds of expenditure that can be made from the funds provided, and the nature of secretariat services provided and the way in which these are funded.
13. An indication, in respect of each NSB, as to whether one of its functions is to distribute funds to other organisations or individuals.
14. In the case of each NSB with its own accounting system, an audited financial statement.

15. In the case of each NSB that operates through its parent body's accounts, an account of receipts and expenditures, to be provided on a program basis
- with the NSB's work reflected in the parent body's published program structure
 - and with performance related to objectives and measured in terms of stated criteria, in accordance with standard program budgeting techniques; and
 - the amounts of any grants made by each NSB.

(After Senate, *Hansard*, Vol. S.124, 8 December 1987, pp. 2643-5)

