

JCPAA functions and methods of operation

Introduction

- 1.1 The Joint Committee of Public Accounts and Audit (JCPAA) is a committee of the Commonwealth Parliament. The Committee is established pursuant to the *Public Accounts and Audit Committee Act 1951* and is empowered to scrutinise the monies spent by Commonwealth agencies from funds appropriated to them.¹

Committee duties

- 1.2 The duties of the JCPAA are described in detail in sections 8 and 8A of the Committee's Act. In general terms, the duties are to:
- examine the financial affairs of authorities of the Commonwealth;
 - examine all reports of the Auditor-General that are tabled in Parliament;
 - consider the operation and resources of the Australian National Audit Office (ANAO);
 - approve or reject any nomination for appointment of any person to the office of Auditor-General or Independent Auditor of the ANAO; and
 - increase parliamentary and public awareness of the financial and related operations of government.

1 The Act can be viewed at the Committee's website at www.aph.gov.au/house/committee/jcpaa.

- 1.3 Importantly, the Act provides that the Committee may report to the Parliament, with any comment it thinks fit, on any items or matters concerning the financial accounts and affairs of Commonwealth authorities, any report of the Auditor-General tabled in Parliament, or any circumstances connected with either. This power allows the Committee to essentially set its own work program, ensuring a high degree of autonomy from executive government.
- 1.4 More detailed information on the Committee's functions follows. Further information on the JCPAA's work is available through its website at www.aph.gov.au/house/committee/jcpaa, or by contacting the Committee secretariat at e-mail jcpaa@aph.gov.au or on ph 02 6277 4615. The website contains information on the Committee and its members, details of current and former inquiries including reports and evidence received, government responses to Committee recommendations, and advice on how to give evidence to the Committee.

Review Auditor-General's reports and conduct policy inquiries

- 1.5 Under its Act the Committee must examine all of the Auditor-General's reports on behalf of the Parliament.
- 1.6 In support of this process, every few months officers of the ANAO privately brief the Committee on the findings of all audit reports tabled since the last such briefing. The briefing includes suggestions from the ANAO as to which of its reports it thinks the Committee could most usefully examine in detail at a public hearing.
- 1.7 After the briefing the Committee formally selects audit reports it wishes to publicly review (the selection will not necessarily coincide with those reports proposed by the ANAO). The Committee will typically select reports where the ANAO has been particularly critical; where the agency concerned has a history of poor performance; where there is a high financial risk or safety risk to the community; or where the Committee is the obvious candidate to conduct a parliamentary review.
- 1.8 The Committee then conducts a public hearing in a "roundtable" format, with the witnesses from the audited agency, and the ANAO audit team, at the table together. The hearings usually focus on the findings of the audit report – how any deficiencies arose, and what actions the agency is undertaking in response to the ANAO's recommendations.
- 1.9 The Committee periodically tables reports in Parliament on recently-reviewed audit reports, including any recommendations it wishes to make additional to those already made by the Auditor-General. The

Committee, unlike the ANAO, is able to make recommendations about Government policy. The Committee can also use the ANAO's recommendations to draw conclusions for broader Government administration.

- 1.10 It should be noted that other committees are also able to review Auditor-General's reports relevant to their area of portfolio coverage. House of Representatives Standing Order 215(c) requires that the JCPAA be notified in writing if a House committee decides to review an Auditor-General's report.
- 1.11 The Committee also has the power to initiate its own policy inquiries. Such inquiries may arise either from findings of the Auditor-General or at the initiative of Committee members.

Advise the Auditor-General of the audit priorities of the Parliament

- 1.12 Under its Act, the Committee determines the audit priorities of the Parliament and advises the Auditor-General of those priorities. The Committee performs this function by writing to all other parliamentary committees each year, asking for their advice on any programs or functions within their portfolio area they believe should be audited.
- 1.13 Those suggestions – and any the JCPAA wishes to put forward itself – are then referred to the Auditor-General for his consideration in finalising his work program for the following financial year (subject to a basic screening process to make sure the topics suggested are appropriate; for example, not asking the ANAO to comment on the merits of Government policy).
- 1.14 The *Auditor-General Act 1997* properly stipulates that the Auditor-General has autonomy in determining his work program, and as such he is free to reject, delay or amend suggested audits. However, the process ensures that the Auditor-General is cognisant of the views of the Parliament, and that the Parliament is engaged in planning scrutiny strategies rather than simply being presented with the final result of investigations.

Approve or reject any nomination for an appointment as Auditor-General or Independent Auditor

- 1.15 The *Auditor-General Act 1997* provides that the Audit Minister, when nominating a new Auditor-General, must not recommend an appointment to the Governor-General unless the proposed recommendation has first been approved by the Committee on behalf of the Parliament.

- 1.16 The Committee's Act in turn provides that within 14 days of receipt of the nomination, it must either: approve or reject the nomination by absolute majority; or seek an extension of time of 30 days. Failure to reach a decision within that period shall be taken to be approval of the nomination.
- 1.17 In the same way the Committee also approves or rejects any nomination for the position of Independent Auditor. The Independent Auditor is a person from the private sector appointed on a part-time basis to serve as external auditor to the ANAO – s/he audits the ANAO's financial statements, and periodically conducts performance audits of the ANAO following consultation with the Committee.

Review the annual budget of the ANAO

- 1.18 The Committee's Act requires it to consider draft estimates for the ANAO and the level of fees determined by the Auditor-General, and to make recommendations on the draft estimates to both Houses of Parliament and the Minister who administers the *Auditor-General Act 1997*.
- 1.19 In support of this process, over the second half of the financial year the Auditor-General briefs the Committee on the funds he will be seeking in the budget and why, and the ANAO's informal understanding of which of its proposals are likely to be successful or unsuccessful. The *Auditor-General Act* empowers the Auditor-General to disclose to the JCPAA, before the federal budget, the draft estimates for the Audit Office. The Committee then has the information it requires to make formal representations to government on behalf of the ANAO if necessary.
- 1.20 Immediately before the federal budget is delivered to the Parliament, the ANAO briefs the Committee on its funding allocation for the following year. The Chair then makes a statement to the Parliament, on budget day, on whether the Committee believes the ANAO has been given sufficient funding to carry out its functions.
- 1.21 This power is intended to discourage governments from trying to influence the Auditor-General by unduly restricting his funding, and is reinforced behind the scenes by the Committee having the information needed to engage government during the budget process.

Approve the annual report requirements for Commonwealth agencies

- 1.22 To ensure that Commonwealth agencies' annual reports are in a form that is useful to the Parliament, the *Public Service Act 1999* requires that those reports be prepared in accordance with detailed *Requirements for Annual Reports* approved by the JCPAA. The draft Requirements are prepared by the Department of Prime Minister and Cabinet (DPM&C).
- 1.23 Amongst other things the Requirements state that annual reports should provide "...sufficient information and analysis for the Parliament to make a fully informed judgement on departmental performance".

Biannual hearings with the Commissioner of Taxation

- 1.24 The Committee in the 41st Parliament initiated an inquiry into certain taxation matters. During the course of the inquiry the Commissioner of Taxation agreed to appear before the Committee at a public hearing twice each year, to update the Parliament and the public on recent developments in tax administration.
- 1.25 Seven of the biannual hearings have been held to date. The hearings are typically preceded by private briefings from tax law academics and interest groups. Transcripts of the hearings are available through the Parliament's website or from the Committee secretariat.

Annual hearing on the ANAO/Defence "Major Projects Report"

- 1.26 During the course of an inquiry into Defence financial reporting and equipment acquisition, the Committee in the 41st Parliament recommended that the ANAO be funded to produce an annual report on progress in major Defence acquisition projects, based on a similar process in the UK.² The Senate had previously requested that the Auditor-General produce such a report, based on recommendations of its Foreign Affairs, Defence and Trade References Committee.³
- 1.27 The JCPAA's belief was that an annual progress report would put the ANAO, and the Parliament, in a stronger position to review major Defence projects while they are still in train, rather than relying solely on scrutiny of individual projects via an audit, and parliamentary review, sometime after the event. The Committee was also of the view that

2 JCPAA, *Report 411: Progress on equipment acquisition and financial reporting in Defence*, August 2008, p. 158.

3 Senate Foreign Affairs, Defence and Trade References Committee, *Material Acquisition and Management in Defence*, March 2003, p. 79.

continuous monitoring through the annual review would assist in promoting cultural change in the management of Defence projects.

- 1.28 The first “Major Projects Report” (which comprises summary information on selected projects provided by the Defence Materiel Organisation and subjected to assurance review by the ANAO) was released in November 2008. A further two reports have since been released. The Committee has determined to hold a public hearing with the ANAO and the DMO after the release of each Major Projects Report.

Australasian Council of Public Accounts Committees (ACPAC)

- 1.29 The JCPAA, like the PACs or equivalent committees of the States and Territories, New Zealand, Papua New Guinea, the Solomon Islands and (when applicable) Fiji is a member of the Australasian Council of Public Accounts Committees (ACPAC). ACPAC is designed to share knowledge amongst the PACs and discuss common challenges.
- 1.30 ACPAC conducts its business at biennial conferences which rotate amongst the jurisdictions. The jurisdictions’ Auditors-General usually conduct their own conference immediately beforehand, and then attend the ACPAC conference.

How the Committee operates

Conduct of inquiries

- 1.31 The Committee usually advertises its inquiries in the national media and on the internet, and invites interested organisations and individuals to make written submissions. Public hearings and inspections are conducted around Australia as required.
- 1.32 While the Committee can receive confidential submissions and take evidence in camera, the Committee prefers to take as much of its evidence as possible in public. With limited exceptions its hearings are conducted in open session and broadcast through the parliamentary website. Interested parties can also access transcripts of the hearings, and written submissions, through the Committee’s website or by contacting the secretariat.
- 1.33 The Committee is able to divide itself into smaller “Sectional Committees” (sub-committees) for specific inquiries and reviews, although a Sectional

Committee's draft report must be adopted by the full Committee before tabling in Parliament.

- 1.34 As with other parliamentary committees, the JCPAA can summons witnesses to appear before it and produce documents, and can issue a warrant for the arrest of anyone who disobeys a summons. The Committee's Act states that it is able to take evidence on oath, and sets out a penalty of up to five years' imprisonment for anyone who deliberately gives false evidence while under oath.
- 1.35 As with other committees, proceedings before the JCPAA attract parliamentary privilege – the submissions made to it, and comments made by members and witnesses at public hearings, are part of the proceedings of Parliament and cannot be used in legal proceedings. It is also illegal to prejudice any person on the basis of evidence they have given, or propose to give, to a parliamentary committee.
- 1.36 The Committee presents the findings of its inquiries in reports containing recommendations for the Government's consideration. The reports are tabled in both Houses of Parliament. Copies are distributed to all submitters, witnesses and Commonwealth agencies with a responsibility for matters raised in the report. The reports are available to the public and can be accessed on the Committee's website.

Government responses to JCPAA reports

- 1.37 The JCPAA's reports are referred to the Minister for Finance and Deregulation after tabling in Parliament. The Minister's department in turn refers the Committee's recommendations to relevant agencies for attention.
- 1.38 Government responses to the JCPAA's policy recommendations are usually presented in a manner common to other committees, namely tabling in the Parliament by the relevant Minister. For the JCPAA's "administrative" recommendations (typically, those recommendations directed to agencies in the Committee's reviews of Auditor-General reports) responses are received in the form of what are termed "Executive Minutes" from individual agencies, addressing those recommendations addressed to them in the Committee's report. Executive Minutes are required to be presented within six months of the Committee's report.
- 1.39 The JCPAA authorises publication of Executive Minutes on its website as soon as practicable after receipt. Responses not previously tabled in Parliament will be presented in conjunction with this report. Authorising an Executive Minute for publication does not imply that the Committee is

necessarily satisfied with the relevant agency's response to its recommendations; the Committee reserves the right to follow up responses with agencies and Ministers.

The Committee secretariat

- 1.40 The Committee's secretariat is staffed by officers of the Department of the House of Representatives, and may be supplemented from time to time with secondees from the ANAO or relevant agencies (in particular, the Committee has a regular program of secondments from the ANAO). The secretariat provides procedural advice and administrative, research, analytical and drafting support to the Committee.