

Committee Conclusion

- 5.1 How public money and resources are used by governments has direct consequences for Australia's wellbeing. This goes further than just the policy priorities of the government of the day. The principles, controls and culture surrounding officials who spend public money are also critical factors.
- 5.2 The significance of the financial framework should not be underestimated. The current financial framework, with the FMA and CAC Acts at its heart, was world leading when introduced and has served Australia well over the last 15 years. Almost 200 organisations are operating under this framework and the associated rules, which largely set the controls for spending of around \$400 billion per year.
- 5.3 It flows that any improvement in the efficiency and effectiveness of the financial structure will have major on-the-ground benefits. The JCPAA, perhaps more than any other parliamentary committee, knows that improvements to government administration remain to be realised. Therefore, the Committee commends the renewed focus and fresh thinking brought by Finance in an aim of modernising Australia's financial framework.
- 5.4 The Committee strongly supports the broad objectives of the CFAR process and the Bill, as do most stakeholders. Attempts to bring additional coherence to the system, including through improving the planning, performance and accountability processes, are welcome. Specifically, the Committee supports the introduction of: more mature approaches to risk management; the concept of earned autonomy; positive obligations to cooperate and partner with others; better recognition of the resource management cycle of planning through to evaluation; and the intent of improved performance reporting and transparency to the Parliament and the public.

- 5.5 The Committee recognises that there has been significant consultation efforts to date through the CFAR policy development process, and highly commends Finance in this regard. It is obvious they have taken a genuinely open and collaborative approach to this significant task and this should be given due acknowledgement. The months of effort and consultation on the options and position papers has allowed a high level of engagement from stakeholders at the conceptual level.
- 5.6 Due to the significance of the financial framework to how money is spent and how the public sector is organised, the Committee believes that care is warranted as we move from concept, to a piece of legislation based on principles, to rules. Stakeholders, from the public through to key officials such as the Auditor-General, need to be convinced of the virtue of the objectives and that the practical implications have been well considered.
- 5.7 Maintaining stakeholder support from concept through to the detailed rules stage is critical when a principle-based approach to legislative change is followed. Despite principle-based approaches being considered best practice, if stakeholders are not provided with comfort on how they will be impacted from day to day they are understandably hesitant. Although some stakeholders may argue that the rules should be available for scrutiny at the same time as the legislation, the Committee understands this is often impractical and sometimes undesirable.
- 5.8 As noted above, there has been extensive consultation during the conceptual stage, including the Committee receiving regular updates from Finance during the CFAR process. In addition, Finance has made efforts to consult broadly on the draft Bill, but the Committee retains questions about whether this consultation has allowed enough time for full and proper consideration by the many stakeholders involved. There is a clear need, however, for ongoing open engagement on development of the rules, as many agencies seem to be reserving judgement on the entire process until the rules are known.
- 5.9 Regarding consultation on development of the rules, the Committee is pleased that the Finance Minister has made a series of undertakings to consult publicly and also formally with the Committee. Finance's additional clarification that the more complex new rules, such as those for earned autonomy, will be developed over a longer period provides further assurance.
- 5.10 At the outset, the Committee's intention was to take a high level approach to scrutiny of the Bill – focusing on its intent and longer term benefits to the public sector and to Australia. The inquiry process gave a voice to

many stakeholder views and allowed important additional information to be made public.

- 5.11 The Committee found that the intent and potential benefits of the Bill were supported by almost all stakeholders. The Committee therefore strongly supports the broad intent of the CFAR process and objectives of the Bill. At the same time the Committee heard that many stakeholders wanted time to digest the impacts of the changes before implementation commenced.
- 5.12 Ultimately the issue of timing of the Bill's passage is one for the responsible Minister and the Parliament, not one for this committee. However the Committee does acknowledge that if the Bill is not passed during this Parliament, it is highly likely that commencement will be delayed until 1 July 2015. This will mean the Bill's potentially significant benefits will also be delayed.
- 5.13 If the Minister and the Parliament make the decision to pass the Bill now, it is critical that the undertakings made by Finance and the Minister are followed. Thorough public and parliamentary consultation must be completed before the rules are tabled in parliament as disallowable instruments.
- 5.14 As an alternative course, if a decision is made to delay passage of the Bill, the Committee strongly recommends that consideration be given to the Bill early in the next Parliament. Additionally, if passage is delayed, the opportunity should also be taken to bring on board concerned stakeholders, including providing further assurance on how the clauses of the Bill will be articulated in potential rules. The same opportunity should be taken regarding the extent and form of necessary consequential amendments.
- 5.15 With the above considerations in mind the Committee commends the Bill to the House for further debate and makes the following recommendations:

Recommendation 1

That the objectives of the Bill be supported, but the timing of its passage be a matter for the broader Parliament to determine.

Recommendation 2

That the issues highlighted in the referral from the Selection Committee have been examined and do not, at this stage, look to be reasons for rejection of the Bill.

Recommendation 3

That the Committee supports the introduction of additional coherence to the system – including through improving the planning, performance and accountability processes – and specifically supports the introduction of:

- more mature approaches to risk management;
- the concept of earned autonomy;
- positive obligations to cooperate and partner with others;
- better recognition of the resource management cycle of planning through to evaluation; and
- the intent of improved performance reporting and transparency to the Parliament and the public.

Recommendation 4

That, if the Bill is passed during this Parliament, that the process outlined by the Finance Minister regarding public and parliamentary consultation be closely followed.

Recommendation 5

That, if a decision is made to delay passage of the Bill, priority should be given to its consideration within the first six months of the next parliament; and that the opportunity should be taken to consult stakeholders and progress work on the rules with a view to providing:

- insight into what they look like and contain; and
- some confidence to agencies and the Parliament as to their impact.

Recommendation 6

That consequential amendments will be required to the enabling legislation of entities to ensure their independence is not compromised.

Recommendation 7

That the options developed by the Australian Government Solicitor for amendment to the Explanatory Memorandum to clarify maintenance of independence, as outlined in Supplementary Submission 9.2 from the Department of Finance and Deregulation to the Joint Committee of Public Accounts and Audit, be accepted and included in a revised Explanatory Memorandum.

Recommendation 8

That:

- evaluation requirements for the overall financial framework be explicitly included in the Bill and Explanatory Memorandum; and
- the Parliament, through the Joint Committee of Public Accounts and Audit, conduct a detailed inquiry into the financial framework following the completion of the evaluation.

Recommendation 9

That a statement on greater transparency is included in the Explanatory Memorandum, as per the Australian Information Commissioner's evidence to the Joint Committee of Public Accounts and Audit's inquiry into the Bill.

Recommendation 10

That all relevant documents are prepared in plain English and in language consistent with other relevant legislation, where practicable.

Recommendation 11

That other suggested amendments highlighted during the inquiry be further considered and changes made as appropriate.

Rob Oakeshott MP

Committee Chair

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