



# Chapter 7

## Governance and Accountability

## OVERVIEW

The department has in place an overall framework for good governance which aims to ensure that it can fulfil its responsibilities with due diligence and accountability.

The major elements of the department's governance framework include:

- *Management Structure* – The department's executive responsibilities, organisational structure and senior committees are built around suitable terms of reference, appropriate controls and the ability to monitor activity and performance.
- *Management Environment* – The department promotes a culture which provides a coherent corporate planning framework, aligning the department's vision, strategies, planning processes and performance measures to meet clearly articulated goals. This is enhanced through leadership protocols, investing in people, a learning environment and succession planning.
- *Risk Management* – The department promotes a culture which supports the identification, analysis, assessment, treatment, monitoring and review of all strategic, operational, compliance and financial risks. This is supported through the utilisation of a risk management approach grounded in Australian Public Service (APS) standards and accepted risk management standards.
- *Consistency and Compliance* – The Executive, management and staff in the department adhere to APS values, ethics and the Australian Public Service (APS) Code of Conduct in the provision of their duties and functions. This is also underpinned by the ongoing development and maintenance of systems which provide guidance on policies, procedures and behaviours.
- *Monitoring and Reporting* – The department maintains a focus on efficient and effective business and financial performance. This is achieved through regular reporting against key performance indicators and the ongoing evaluation and review of programmes, outputs and outcomes.

## SENIOR MANAGEMENT COMMITTEE SYSTEM

A senior management committee system (see Figure 7.1) provides advice and support to the department's senior Executive. The committees reflect the department's strategic approach to its business.

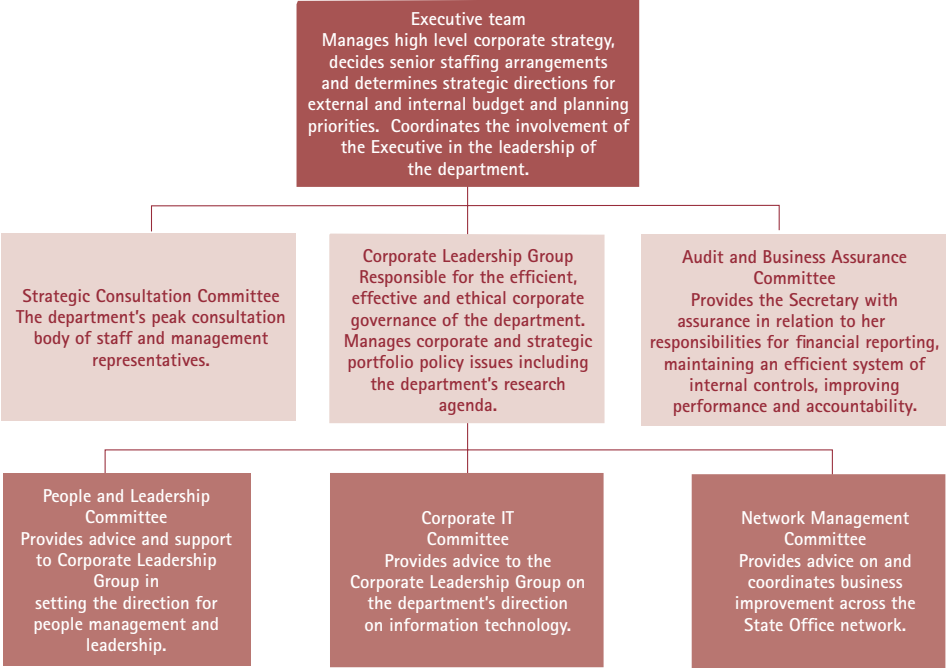
Three key committees report directly to the Executive team:

- Corporate Leadership Group, responsible for managing corporate and strategic portfolio policy issues
- Audit and Business Assurance Committee, providing the Secretary with assurance in relation to her responsibilities for financial reporting, maintaining an efficient system of internal controls, improving performance and accountability and reviewing specific matters that may arise from external audit processes
- Strategic Consultation Committee, representing the views of staff and management.

Through the Corporate Leadership Group, three strategic committees provide advice and support to the Executive in setting the department’s agenda and direction on:

- people management and leadership
- information technology
- state office operations.

Figure 7.1: Senior management committee system





*The department's Corporate Leadership Group.*

*(From top left): Mr Arthur Townsend, Mr Richard Bridge, Mr George Kriz, Mr Ewen McDonald, Mr Craig Storen, Ms Jessie Borthwick*

*Middle Row:- Mr Tony Kwan, Mr Tony Greer, Ms Fiona Buffinton, Prof. Graham Durant, Ms Trish Mercer, Ms Aurora Andruska*

*Front Row:- Mr Grahame Cook, Mr Jim Davidson, Ms Lisa Paul, Mr Bill Burmester*



*Absent (pictured above – left to right): Dr Wendy Jarvie, Mr Chris Evans, Dr Evan Arthur, Ms Rebecca Cross, Mr Colin Walters, Ms Jennifer Ledger*

## PERFORMANCE MANAGEMENT FRAMEWORK

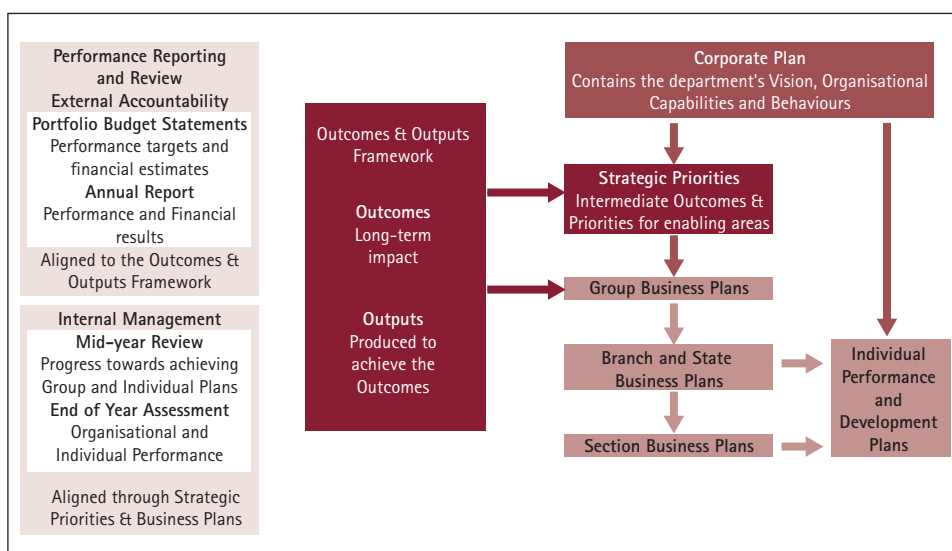
The department integrates corporate planning processes through its performance management framework (see Figure 7.2). The framework combines the department's business priorities with enabling strategies such as people management, collaboration with stakeholders, research and evaluation, risk management and information technology. It is directly aligned with the outcomes and outputs in the Portfolio Budget Statements and incorporates the following plans:

- The DEST Corporate Plan describes the vision, goals and priorities that underpin the department's business and guides the department in delivering the Australian Government's priorities. The plan recognises that the department's organisational capabilities and the professionalism of people are crucial to success. It provides a high-level focus that informs all other planning functions.
- Business Plans outline deliverables at all levels to support the achievement of the department's goals and include:
  - Group Plans, which set out the strategies to achieve the key result areas of the Corporate Plan
  - Branch Plans, State Office and Section Plans, which provide a more operational focus.

Senior Managers are accountable for their performance against the commitments in their plans.

- Individual Performance and Development Plans, which provide clarity for people in their work, include performance indicators to track progress against work requirements, and identify learning and development needs and career goals.

Figure 7.2: DEST Performance Management Framework



The governance framework is supported by the work of a range of areas in the department, in particular the Procurement, Assurance and Legal Group, Audit and Investigations, and the Corporate Strategy Group. Details of the work carried out by these areas can be found throughout chapters 7 and 8.

## ETHICAL STANDARDS

The *Public Service Act 1999*, through the APS Values and APS Code of Conduct, sets the framework for ethical and behavioural standards within the APS. The department champions the APS Values. Ethical standards govern how the department does its business, particularly the:

- relationship with the government and the Parliament
- relationship with the public
- relationships with colleagues
- personal behaviour of its staff.

A commitment to ethical standards is firmly embedded in the department's *Open for Business* principles. Through this and promotion of the APS Values and Code of Conduct, ethical standards are an integral part of the way we work and our leadership behaviours. Leadership expectations are described in the leadership protocol (see below). Values and expected standards of behaviour are incorporated into employee performance and development plans.

Information on the department's ethical standards, and expectations of individuals or companies who are contracted to provide services to the department, are included in standard contracts and is provided to all new employees during induction and orientation sessions.

## LEADERSHIP PROTOCOL

The department's leadership protocol articulates leadership expectations. Senior Executive employees are expected to:

- lead with integrity
- act collaboratively
- foster a fair and rewarding workplace
- anticipate opportunities and encourage creativity.

Individual performance assessment for Senior Executive and Executive Level 2 staff is based on how well these expectations are met.

## PROCUREMENT, ASSURANCE AND LEGAL SERVICES

The Procurement, Assurance and Legal Group provides high quality legal and legislative services, risk management, continuity management, corporate contract management and procurement management for the department.

The Group provides legal services to the Ministers, the Executive and the department. It discharges the department's Freedom of Information, Privacy, Human Rights and Equal Opportunity Commission and Ombudsman obligations including compliance and reporting. The Group also manages the department's portfolio legislation programme. The Group is responsible for developing and promulgating a risk management approach (including continuity management planning) into the department's business units. Key achievements in 2004-05 included:

- continued delivery of high quality and timely advice to clients
- a demonstrated high level of efficiency and effectiveness in the way it procures and manages legal services, as shown in the ANAO Audit Report No.52 of 2004-05, *Legal Services Arrangements in the Australian Public Service*
- recognition by Comcover as a Top Ten Risk Management champion
- implementation of Phase1 of the Procurement Management System – BUYiT AUSFTA changes, including the completion of departmental wide training to alert staff to new BUYiT changes and the impact of the Australia – United States Free Trade Agreement on the department's operations
- successful implementation of the requirements of the *Legislative Instruments Act 2003* requirements, with all current instruments registered successfully on the new system since 1 January 2005.

## RISK MANAGEMENT

The department has in place appropriate mechanisms to manage general business risk as well as fraud risk.

### General business risk

The department's risk management processes and policies have been developing and operating for more than five years. With strong executive support, a risk awareness culture has evolved. The department has developed a number of policies, procedures and tools to promote effective risk management. The principal aim of applying risk management in the department is to achieve better services and programme outcomes for the Ministers, clients and staff. Formalised risk management is central to being able to demonstrate the 'efficient, effective and ethical' use of resources required by the *Financial Management and Accountability Act 1997*. Risk identification in the department occurs at several levels:

- The Executive team identifies strategic risks that apply to most areas of the department. These risks are conveyed to the department's Senior Executives for consideration in business plans.
- Group Managers identify the main pressures, challenges and risks that may impact on their outputs and programmes, in their annual group business plans. This includes consideration of the strategic risks identified by the Executive. Specific initiatives to address each risk are outlined in the business plans.

- Programme managers and their staff document risk assessments in the department's RiskMan system for each programme and significant administrative function. Group business plans are one source of information for these risk assessments, along with the programme-specific requirements of guidelines and contracts.

Financial risk in the department is managed in accordance with the overall risk management framework. There are:

- risk assessments for each major finance function
- Chief Executive Instructions, available to all staff on the Intranet
- monthly reports to the Corporate Leadership Group and oversight by the Audit and Business Assurance Committee.

Risk management policy is maintained and promulgated by the Chief Lawyer. This strongly links risk management, procurement policy and legal advice, and maintains an emphasis on applying risk management principles to all departmental programmes and support activities. Our regular risk assessment processes indicate that the department is a relatively low risk organisation.

Analysis of risk assessments has determined that the department's main sources of risk, in decreasing order of importance, arise from:

- commercial and legal relationships (including compliance with legislation and the use of guarantees, warranties, indemnities and letters of comfort)
- personnel and human behaviour
- policy development
- information systems
- financial operations
- property and asset management.

Monitoring of risk management occurs through:

- regular monitoring of outcomes by the Executive and the Corporate Leadership Group
- an annual report to Corporate Leadership Group by the Chief Lawyer
- regular review by the Audit and Business Assurance Committee
- activities of Audit and Investigations
- advice given and monitoring undertaken by Procurement, Assurance and Legal Group
- programme and contract management by line managers.

During 2004-05, the department continued to strengthen its business continuity framework as follows:

- Recovery plans were developed for all significant programmes.
- Plans for an IT data centre located away from the department's Mort Street building and capable of providing backup communications and internet access were approved. Information Service Group began preliminary work on the centre.

- The responses of the Continuity Management Team were tested through a number of minor but real interruptions and a planned desktop exercise.
- The Emergency and Continuity Management Plan was updated.

## Fraud risk

The department is required to assess fraud risk against sources of risk identified in the Commonwealth Fraud Control Guidelines. The department has in place a fraud control plan with fraud prevention, detection, investigation, reporting and data collection procedures and processes that meet the needs of the department and comply with the guidelines. The plan is periodically updated and available to staff through the Risk Management Helpshop on the department's intranet site.

## AUDIT AND INVESTIGATIONS

The department's Audit and Investigations Branch aims to:

- provide effective, objective and independent assurance to the Executive and the Audit and Business Assurance Committee that resources are being used efficiently, effectively and ethically by providing quality, timely and cost effective audit, compliance analysis and investigation work
- contribute to achieving best practice management and programme outcomes across the department, especially with respect to performance, accountability and good governance arrangements.

The branch works under the direction of the Audit and Business Assurance Committee. The committee is chaired by Dr Wendy Jarvie, Deputy Secretary, and has two external members and one additional internal member appointed by the Secretary. The committee provides the Secretary with assurance in relation to her responsibilities for financial reporting, maintaining an effective system of internal controls, ensuring strong performance and accountability and reviewing specific matters (internal and external) that may arise from audit processes.

The activities of the Audit and Investigations Branch are aligned with the department's broader risk and control framework, including risks arising at a corporate or systemic level.

In undertaking its work, the branch works cooperatively with key external stakeholders and partners, especially the ANAO.

The Audit and Investigations Branch is proactive in its work, which includes presenting fraud awareness seminars, contributing to business improvement projects and processes, and participating in various steering committees and working groups for the development of new programmes and information and business technology systems.

## FINANCIAL MANAGEMENT

The Finance Branch of Corporate Strategy Group provides advice on, and performs tasks associated with, the management of Administered and Departmental resources and related policy.

The department has a strong record in financial management. An appraisal of the financial performance of the department over 2004-05 follows.

## ASSET MANAGEMENT

The department's non financial assets are predominantly the computer hardware and software needed to deliver the department's outputs.

The department's asset replacement strategy ensures that adequate budget and planning is in place for replacing assets as they come to the end of their useful lives.

Section 3C.1 of the Finance Minister's Orders for reporting periods ending on or after 30 June 2005 requires the department to value non financial assets (excluding intangible assets) on a fair value basis. In addition, Section 3C.3 requires that these assets be subject to a formal valuation at least once every five years.

The department's land, buildings, plant and equipment were revalued to fair value at 30 June 2005 by an external valuer. An internal assessment of possible movement in fair values in the past 12 months was undertaken and found that no external or internal factors have significantly affected the fair value of assets held by the department.

## PURCHASING

The Procurement, Assurance and Legal Group implements business rules and systems that enhance the efficiency and integrity of the department's procurement processes. The group ensures that the department meets its external reporting obligations concerning procurement. It also manages the department's main corporate contracts.

The department's new procurement system, BUYiT (introduced 1 March 2004) has direct links with SAPfihre, the department's financial management system. This further enhances procurement governance, performance and reporting (see Case Study page 171). The department's legacy procurement system, PROMISE, will be phased out over 2005-06.

New Commonwealth Procurement Guidelines were released on 1 January 2005 in conjunction with the introduction of the Australia - United States Free Trade Agreement. The new guidelines impose a number of mandatory procurement processes and thresholds in Commonwealth procurement, and the department has modified BUYiT to incorporate all of the new requirements.

## Department's financial performance 2004-05

This section summarises the department's financial performance for 2004-05. Departmental and administered results are shown in the audited financial statements (see Appendix 10), and this summary should be read in conjunction with those statements.

### Operating result

The department's Statement of Financial Performance reports an operating deficit for 2004-05 of \$0.988 million (in 2003-04 a \$2.686 million operating deficit was reported). This result was less than the breakeven result forecast in the 2004-05 Portfolio Budget Statements. The operating result was primarily due to an unanticipated increase in the estimated make-good costs associated with premises leased by the department.

Table 7.1 shows the department's key results for the financial years 2003-04 and 2004-05.

Table 7.1: Key results in financial performance

	2004-05 (\$'000)	2003-04 (\$'000)	Movement %
Revenues from government	342 544	246 664	38
Other revenues	28 575	25 574	12
<b>Total revenue</b>	<b>371 119</b>	<b>272 238</b>	<b>36</b>
Employee expenses	147 289	130 521	13
Supplier expenses	210 491	129 951	62
Other expenses	14 327	14 452	-1
<b>Total expenses</b>	<b>372 107</b>	<b>274 924</b>	<b>35</b>
<b>Operating result</b>	<b>(988)</b>	<b>(2 686)</b>	<b>-63</b>

## Statement of Financial Performance

### Revenue

Total revenue received in 2004-05 was \$371.1 million, made up of \$282.4 million from appropriations for outputs, \$60.1 million from resources received free of charge and \$28.6 million from revenue from other sources. This represented an increase of \$98.9 million over the revenue for 2003-04.

Revenues from Government increased by \$95.9 million. This was primarily due to:

- the Administrative Arrangement Order which resulted in the department taking responsibility for the administration and funding of certain student income support programmes: \$62.2 million
- appropriation funding received in the 2004-05 Budget and Additional Estimates processes to deliver on a number of new policy initiatives: \$30.1 million.

Revenue from other sources increased by \$3 million. This was due to an increase in Questacon's admission and exhibition revenue and enhanced cost recovery arrangements for international education.

## Expenses

The department's expenses for 2004-05 were \$97.2 million higher than for 2003-04. This was due to the increased employee and supplier expenses required to deliver on the additional responsibilities from Administrative Arrangement Order changes and from the implementation of new policy initiatives mentioned above.

## Statement of Financial Position

The department's net assets decreased slightly from \$60.5 million at the end of 2003-04 to \$58.8 million at 30 June 2005. The department's current ratio (that is, current assets to current liabilities) declined from 1.33 in 2003-04 to 1.21 in 2004-05. This was as a result of the department's increased investment in infrastructure, plant and equipment. However, the department's liquidity continues to be sound, providing an adequate level of coverage for emerging short-term obligations. The department's financial position strengthened, with a decline in the ratio of debt to equity from 1.36 in 2003-04 to 1.25 in 2004-05.

## Schedule of Administered Activity

Revenues administered on behalf of the government increased by 76 per cent, from \$232.9 million in 2003-04 to \$954.1 million in 2004-05. This was primarily due to a reversal of previous asset write-downs in the *Higher Education Contribution Scheme*, the *Student Financial Supplement Scheme* for Austudy and Student Allowance debt.

Expenses administered on behalf of the government increased by 9 per cent from \$14.927 billion in 2003-04 to \$16.383 billion in 2004-05.

- Expenses, most of them for grants to the schools, vocational and technical education and higher education sectors, increased by \$1.067 billion, mainly because of increases in grants to the states and territories for schools and an increase for new programmes under the *Higher Education Support Act 2003*.
- Personal Benefits increased by \$1.268 billion as a result of the Administrative Arrangements Order of 26 October 2004 where Youth Allowance, Fares Allowance and Austudy were transferred from the Department of Family and Community Services.
- Write-down and impairment of assets decreased by \$886.8 million. In 2004-05, there was a reversal of write downs for the *Higher Education Contribution Scheme*, the *Student Financial Supplement Scheme* for Austudy and Student Allowances debt following updated actuarial assessments.

Net assets administered on behalf of the government increased from \$554.1 million in 2003-04 to \$2.443 billion in 2004-05. Total assets increased by \$3.021 billion or 23 per cent, while total liabilities increased by \$1.132 billion or 11 per cent. The growth in assets was a result of the Administrative Arrangements Order of 26 October 2004 where Youth Allowance, Fares Allowance and Austudy were transferred from the Department of Family and Community Services and also an increase in the asset receivable for the Higher Education Contribution Scheme Loans. Liabilities growth was also a result of the Administrative Arrangements Order of 26 October 2004, an increase in the grants payable for state and territory governments and an increase for the multi-jurisdictional sector.

## CASE STUDY: Innovation and Accountability in DEST

Appropriate approvals and accountability requirements can be complicated when dealing with public money. To assist all DEST staff, anywhere in Australia, to make purchases confidently and with the knowledge that they are meeting the public service accountability requirements, DEST has developed its new BUYiT system. The BUYiT system is integrated into the department's finance system and implements business rules which reflect a risk management analysis of DEST's procurement profile. The system was developed by the department using in-house IT expertise.

BUYiT development and implementation costs to the end of June 2005 were around \$1.8 million, which represents 0.1 per cent of the value of the procurements in the system. The system went live on 1 March 2004.

Tom Kirkpatrick, BUYiT project manager in the Procurement, Assurance and Legal Group, says the system is unique among those used in Australian Government agencies and is attracting much attention. He and other officers have made presentations on BUYiT to other agencies and will be presenting the model in August 2005 at the Department of Finance Procurement Discussion Forum.

BUYiT is under constant review through consultation across the department. One of the by-products of BUYiT will be the introduction, during 2005-06, of a new credit card payment and acquittal system.

## CONSULTANTS

In 2004-05, the department undertook 256 consultancies with expenditure of \$15.6 million. These included 114 new consultancies let in 2004-05 with a total contract value of \$13 million. Appendix 4 gives details of consultancies let during the year.

## PAYMENTS TO ADVERTISING AND MARKET RESEARCH ORGANISATIONS

In 2004-05, the department made payments to market research and polling and media advertising organisations to assist in achieving business outcomes. Details of payments made are listed in Appendix 3.

## COMPETITIVE TENDERING AND CONTRACTING

The legal services panel arrangements continued to enable the department to get the best value for money in the legal services market. The total cost for external legal services in 2004-05 was \$1.5 million. Following an open tender exercise, a new legal services panel was selected to provide legal services to the department for three years, with an option for another two years. The new panel commenced on 1 July 2005.

## EXTERNAL SCRUTINY

External scrutiny of the department is ongoing and comes from many sources, including the Commonwealth Ombudsman, the *Compensation for Detriment for Defective Administration Scheme*, the courts, the Social Security Appeals Tribunal, the Administrative Appeals Tribunal, the Human Rights and Equal Opportunity Commission, the Federal Privacy Commissioner, freedom of information enquiries, and the Auditor-General.

### Complaints to the Commonwealth Ombudsman

During 2004-05, the Commonwealth Ombudsman received 34 complaints about the department, 12 more than in the previous year. During the year, 36 complaints covering 37 issues were finalised. The Commonwealth Ombudsman investigated 13 issues and made two findings of defective administration against the department.

These two findings concerned a failure to advise an external panel member upfront about the department's appointment and reappointment policies, and a delay in sending out correspondence.

### Compensation for Detriment for Defective Administration Scheme

The *Compensation for Detriment for Defective Administration Scheme* allows people adversely affected by the maladministration of an Australian Government agency to receive compensation when they have no legal redress. The department received no claims and made no payments under this scheme in 2004-05.

### Settlement of legal claims against the Commonwealth

In accordance with the Legal Services Directions issued by the Attorney-General, and on the basis that there was a meaningful prospect of liability, the department made one payment of \$595 in 2004-05, by way of settlement of a claim for losses arising from a company's participation in a request for quote which was subsequently cancelled by the department.

### Federal Court

In 2002-03, the University of Melbourne instituted proceedings in the Federal Court, challenging the Minister for Education, Science and Training's 2003 funding allocation decision under the Research Training Scheme. On 5 May 2005, the Federal Court issued sealed orders dismissing the application, but making no orders as to costs.

In 2003, a student appealed to the Federal Court against a decision of the Administrative Appeals Tribunal (AAT) which upheld a Centrelink decision that he was not entitled to receive Austudy payments because the value of his assets exceeded the 'asset value limit'. On 11 March 2005, the Federal Court dismissed the appeal and ordered that the person pay the department's costs.

In June 2005, a former overseas student of a university instituted Federal Court proceedings against the department and the Minister for Education, Science and Training. The proceedings concerned allegations that the department had failed to take action against the university, for

allegedly breaching the requirement for it to have adequate independent grievance handling procedures, as required by paragraph 45 of the National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students. This matter was still before the Court at 30 June 2005.

## Social Security Appeals Tribunal

The Social Security Appeals Tribunal is a first tier of external review for certain decisions, made by Centrelink on behalf of the department, about education payments. The Tribunal is an independent body, whose role is to provide a mechanism of review that is fair, economical, informal and quick. Applicants dissatisfied with decisions of the Social Security Appeals Tribunal have a further right of appeal to the AAT.

### Austudy payments and Austudy (which applied before 1 July 1998)

During 2004-05, the Social Security Appeals Tribunal made 229 decisions relating to the administration of Austudy payments and Austudy. Of these decisions:

- sixty four were set aside
- thirteen were varied
- one hundred and seven were affirmed
- eleven were dismissed
- eight were withdrawn
- twenty six were cases in which the tribunal decided it had no jurisdiction.

### Youth Allowance

During 2004-05, the Social Security Appeals Tribunal made 619 decisions relating to administration of Youth Allowance for persons who were students. Of these decisions:

- one hundred and seventy five were set aside
- twenty two were varied
- two hundred and ninety seven were affirmed
- twenty three were dismissed
- forty were withdrawn
- sixty two were cases in which the tribunal decided that it had no jurisdiction.

### ABSTUDY

During 2004-05, the Social Security Appeals Tribunal made 26 decisions relating to ABSTUDY. Of these decisions:

- seven were set aside
- one was varied
- eight were affirmed
- three were withdrawn
- seven were cases in which the tribunal decided that it had no jurisdiction.

## Administrative Appeals Tribunal

### Higher Education Contribution Scheme

The following figures relate to applications to the AAT for review of decisions made under the *Higher Education Funding Act 1988* relating to the remission of a HECS semester debt.

#### Applications lodged in 2004-05

Nine applications were lodged in 2004-05. All were lodged by individuals.

#### Applications finalised in 2004-05

Nine applications were finalised in 2004-05 in the following manner:

- one decision under review was set aside in accordance with terms of agreement lodged by the parties under s. 42C (1) of the *Administrative Appeals Tribunal Act 1975* (AAT Act)
- two decisions under review were heard and affirmed by the tribunal pursuant to s.43(1) of the AAT Act
- one decision under review was heard and varied by the tribunal pursuant to s.43(1) of the AAT Act
- three applications were withdrawn by the applicant
- one application was dismissed by the tribunal under s. 42A (5) of the AAT Act due to the applicant's failure to comply with tribunal directions
- one application did not proceed, as the applicant failed to pay the tribunal's application fee.

### Open Learning Deferred Payment Scheme

The following figures relate to applications for review of decisions of Open Learning Australia refusing to re-credit a person's FEE-HELP balance under s. 104-25 (2) of the *Higher Education Support Act 2003*.

#### Applications lodged in 2004-05:

- One application was lodged. This application was lodged by an individual.

#### Applications finalised in 2004-05:

- One application did not proceed as the applicant failed to pay the tribunal's application fee.

### Austudy

No applications relating to review of decisions under the *Student Assistance Act 1973* relating to overpayments of Austudy prior to 1 July 1998 were lodged or finalised in 2004-05.

## Youth Allowance

The following figures relate to decisions under the social security law that relates to Youth Allowance.

### Applications lodged in 2004-05

Thirty-four applications were lodged in 2004-05. All were lodged by individuals.

### Applications finalised in 2004-05

Thirty-one applications were finalised in 2004-05 in the following manner:

- four decisions under review were heard and affirmed by the tribunal pursuant to s. 43 (1) of the AAT Act
- four decisions under review were heard and set aside by the tribunal pursuant to s. 43 (1) of the AAT Act
- seven decisions under review were set aside in accordance with terms of agreement lodged by the parties under s. 42C (1) of the AAT Act
- seven applications were settled and dismissed pursuant to s. 182 of the *Social Security (Administration) Act 1999*
- eight applications were withdrawn by the applicants
- one application was dismissed due to the applicant's failure to appear at a case listing pursuant to s. 42A (2) (a) of the AAT Act.

Changes were made to the Administrative Arrangements in October 2004. The figures given relate to applications where the Secretary of the Department of Education, Science and Training was named as a party to the application, or would have been named had the change come into effect on 1 July 2004.

## Austudy payment for over 25 year olds

These figures relate to decisions under the social security law that relate to Austudy payments for persons over 25 years of age.

### Applications lodged in 2004-05

- fourteen applications were lodged in 2004-05. Thirteen were lodged by individuals and one was lodged by the Secretary of the Department of Education, Science and Training.

### Applications finalised in 2004-05

Nine applications were finalised in 2004-05 in the following manner:

- two decisions under review were heard and affirmed by the tribunal pursuant to s. 43(1) of the AAT Act
- two decisions under review were varied in accordance with terms of agreement lodged by the parties under s. 42C (1) of the AAT Act
- one decision under review was set aside in accordance with terms of agreement lodged by the parties under s. 42C (1) of the AAT Act
- two applications were dismissed due to the applicant's failure to appear at a case listing pursuant to s. 42A (2) (a) of the AAT Act

- one application was settled and dismissed pursuant to s. 182 of the *Social Security (Administration) Act 1999*
- one application was withdrawn by the applicant.

Changes were made to the Administrative Arrangements Order in October 2004. The figures given relate to applications where the Secretary of the Department of Education Science and Training was named as a party to the application, or would have been named had the change come into effect on 1 July 2004.

## ABSTUDY

These figures relate to applications for review of decisions under the *Student Assistance Act 1973* relating to overpayments of ABSTUDY.

### Applications lodged in 2004-05

- No applications were lodged in 2004-05.

### Applications finalised in 2004-05

Two applications were finalised in 2004-05 in the following manner:

- one decision under review was heard and affirmed by the tribunal pursuant to s. 43(1) of the *AAT Act*
- one decision under review was heard and set aside by the tribunal pursuant to s. 43(1) of the *AAT Act*.

## Assistance to Isolated Children

No applications for review of decision under the *Student Assistance Act 1973* relating to overpayments of assistance for isolated children were lodged or finalised in 2004-05.

## Education Services for Overseas Students

No applications for review of decisions under the *Education Services for Overseas Students Act 2000* or the *Education Services for Overseas Students Regulations 2001* were lodged or finalised in the tribunal in 2004-05.

## Higher Education Contribution Scheme and Open Learning Deferred Payment Scheme—remission of debts

Under the *Higher Education Funding Act 1988*, the Secretary or the Secretary's delegate can remit HECS and OLDPS debts for students who could not complete their studies due to special circumstances. These circumstances may include illness, work or personal reasons. If remission is not granted, the applicant can seek a review of the decision and, subsequently, can appeal the matter to the AAT. The Secretary, or the delegate, can reconsider an application to take into account any new information provided to the AAT.

Other information on HECS can be found under Strategic Priority 9 in Outcome 2.

*Note:* From 1 January 2005, the deferred payment arrangements that were available under HECS and OLDPS became part of the new *Higher Education Loan Programme* (HELP). The power to remit a person's HELP debt has been delegated to higher education providers.

During 2004-05, the department finalised 1808 applications for remission of debt, 1552 of which were received in the 2004-05 financial year. The following list shows the outcomes of those finalised applications.

Applications totalling 1631 were dealt with as follows:

- one thousand and seventy eight were successful and the debts were remitted
- five hundred and forty four were unsuccessful
- nine were in relation to debts that were erroneously incurred and were corrected by institutions.

Applications totalling 177 could not be considered for the following reasons:

- six related to up-front payments, which are the responsibility of institutions
- one hundred and thirty three were received outside the legislated time limit
- twenty five of the applicants had not incurred a debt
- four related to *Postgraduate Education Loan Scheme* debts, which are the responsibility of institutions
- nine were related to successfully completed subjects, which are not eligible for consideration.

During 2004-05, the department finalised 159 applications for review of the primary remission decisions, 150 of which were received in the 2004-05 financial year. The following list shows the outcomes of those finalised applications.

Applications totalling 144 were dealt with as follows:

- one hundred and thirteen were successful and the debts were remitted
- twenty nine were unsuccessful
- two were in relation to debts that were erroneously incurred and were corrected by institutions.

Fifteen applications could not be considered because they were received outside the legislated time limit.

Applications were made to the AAT for reviews of decisions relating to HECS. These are reported above under Administrative Appeals Tribunal: *Higher Education Contribution Scheme (HECS)* semester debt remission.

## Education Services for Overseas Students

Under the *Education Services for Overseas Students Act 2000*, the Minister or a delegate of the Minister can impose a range of sanctions on registered providers of education to overseas students for breaches of the Act or the National Code of Practice for Registration Authorities and Providers of Education and Training for Overseas Students. These sanctions include cancelling or suspending a registered provider's registration for any one or more courses for one or more states, and imposing conditions upon the registered provider's registration generally or for one or more courses for one or more states.

Information on the regulatory framework for the education and training export industry can be found under Outcome 3, Strategic Priority 15.

During 2004-05, two registered providers had their registration cancelled for all courses in one state.

During 2004-05, 81 registered providers had their registration automatically suspended or cancelled. Of these:

- twelve were automatically suspended for non-payment of the annual fund contribution
- seventeen were automatically suspended because the designated authority for the state suspended the approval of that course for the provider
- fifty two had their registration automatically cancelled when they ceased to be an approved provider for that course for that state.

## Human Rights and Equal Opportunity Commission

The Human Rights and Equal Opportunity Commission referred two employment-related complaints to the department in 2004-05.

The first complaint was referred to conciliation and had not been finalised by 30 June 2005.

The department commenced an internal investigation of the second complaint and provided requested information to the Human Rights and Equal Opportunity Commission. This matter had not been finalised by 30 June 2005.

## Federal Privacy Commissioner

The Federal Privacy Commissioner referred one employment-related complaint of a breach of privacy to the department during 2004-05. This complaint was resolved by way of apology, changes to personnel practices and payment of a small sum of compensation.

The Federal Privacy Commissioner made no reports to the Minister in accordance with s. 30 of the *Privacy Act 1988* and no determinations under s.52 of the Act.

The privacy rights of individual clients are safeguarded in contracts entered into with service providers, for example, Jobs Pathway providers and New Apprenticeships Centres. These contracts specifically prohibit providers from breaching the Information Privacy Principles contained in s.14 of the *Privacy Act*.

## Freedom of information

In 2004-05, the department handled 19 freedom of information requests. Of these:

- thirteen were granted in full or in part
- two were refused
- one was withdrawn
- three were outstanding at 30 June 2005.

Further data and information on the department's freedom of information processes, including contact details for enquiries, are available in Appendix 2.

## Reports by the Auditor-General

In 2004-05, the ANAO tabled one report in Parliament that made recommendations directly referring to the department's operations. The report was:

- *Audit Report No. 48, 2004-05 Internationalisation of Australian Education and Training.*

In addition, the ANAO tabled 18 reports that made recommendations relevant to the department's operations. Those reports were:

- *Audit Report No. 3, 2004-05 Management of Internal Audit in Commonwealth Organisations*
- *Audit Report No. 6, 2004-05 Performance Management in the Australian Public Service*
- *Audit Report No. 10, 2004-05 The Senate Order for Departmental and Agency Contracts (Calendar Year 2003 Compliance)*
- *Audit Report No. 11, 2004-05 Commonwealth Entities' Foreign Exchange Risk Management*
- *Audit Report No. 13, 2004-05 Superannuation Payments for Independent Contractors working for the Australian Government*
- *Audit Report No. 15, 2004-05 Financial Management of Special Appropriations*
- *Audit Report No. 21, 2004-05 Audits of the Financial Statements of Australian Government Entities for the Period Ended 30 June 2004*
- *Audit Report No. 22, 2004-05 Investment of Public Funds*
- *Audit Report No. 26, 2004-05 Measuring the Efficiency and Effectiveness of E-Government*
- *Audit Report No. 37, 2004-05 Management of Business Support Service Contracts*
- *Audit Report No. 41, 2004-05 Administration of Security Incidents, including the Conduct of Security Investigations*
- *Audit Report No. 46, 2004-05 Management of Trust Monies in CAC Act Entities*
- *Audit Report No. 49, 2004-05 Administration of Fringe Benefits Tax*

- *Audit Report No. 52, 2004-05 Legal Services Arrangements in the Australian Public Service*
- *Audit Report No. 54, 2004-05 Administration of Health Care Cards*
- *Audit Report No. 55, 2004-05 Workforce Planning*
- *Audit Report No. 56, 2004-05 Interim Phase of the Audit of the Financial Statements of General Government Sector Entities for the Year Ending 30 June 2005*
- *Audit Report No. 57, 2004-05 Purchasing Procedures and Practices.*

Details of these reports can be found on the ANAO website<sup>25</sup>.

## Parliamentary scrutiny

In 2004-05, the Joint Committee of Public Accounts and Audit tabled one report in Parliament that made recommendations relevant to the department's operations.

- Report 403, Access of Indigenous Australians to Law and Justice

The Senate Committee on Employment, Workplace Relations and Education tabled two reports in Parliament in 2004-05 that made recommendations relevant to the department's operations. Those reports were:

- Final Report of the Senate Inquiry into Student Income Support
- Final Report of the Senate Inquiry into Indigenous Education Funding Arrangements.

Details of these reports can be found on the Parliament of Australia website<sup>26</sup>.

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<sup>25</sup> see <http://www.anao.gov.au/>

<sup>26</sup> see <http://www.aph.gov.au>