

Audit report of the 2020-21 annual  
performance statement

Attorney General's Department



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Auditor-General for Australia



## **Attachment A**

### **Independent assurance report on the annual performance statements of the Attorney-General's Department**

#### **To the Minister for Finance**

#### ***Qualified Conclusion***

I have undertaken a reasonable assurance engagement of the attached 2020–21 Annual Performance Statements of the Attorney-General's Department (the Entity).

In my opinion, except for the effects or possible effects of the matters described in the Bases for Qualified Conclusion section of my report, the attached 2020–21 Annual Performance Statements of the Entity are prepared, in all material respects, in accordance with the requirements of Division 3 of Part 2-3 of the *Public, Governance, Performance and Accountability Act 2013* (the Act).

#### ***Bases for Qualified Conclusion***

##### ***Performance measure 1.5 'Manage significant legal issues and arrangements for Australian Government legal services'***

I assessed performance measure 1.5 'Manage significant legal issues and arrangements for Australian Government legal services'<sup>1</sup> as only partially appropriate. In my view targets 1.5.1, 1.5.2, 1.5.3 and 1.5.4 do not meet the requirements of section 16EA(e) of the Public Governance, Performance and Accountability Rule 2014 (the Rule) as they are not measures of the Entity's outputs, efficiency and effectiveness. These four performance targets were reported as being achieved.

The inclusion of four of five targets for performance measure 1.5 that do not comply with section 16EA(e) of the Rule resulted in the Entity reporting its performance against the measure as achieved, which is misleading. If targets 1.5.1, 1.5.2, 1.5.3 and 1.5.4 had not been included in determining the overall result for performance measure 1.5, the measure would have been assessed as not achieved. Accordingly, the reporting of the Entity's performance with respect to measure 1.5 does not comply with Division 3 of Part 2-3 of the Act.

##### ***Performance measures not complying with section 16EA(c)***

I assessed performance measures 1.1, 2.1, 3.4, 3.5 and 3.6 as only partially appropriate because in my view targets 1.1.2, 2.1.4, 3.4.2, 3.4.3, 3.5.2, 3.5.3 and 3.6.2 do not provide an unbiased basis for the measurement and assessment of the entity's performance, as is required under section 16EA(c) of the Rule. These targets rely on the selection of either samples of work performed or survey participants to reflect the Entity's performance. I was unable to obtain sufficient appropriate evidence that the selection of samples of work and survey participants was unbiased. Accordingly, I was unable to conclude whether the reporting of the Entity's performance with respect to these targets complied with Division 3 of Part 2-3 of the Act.

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<sup>1</sup> For all references in the Bases for Qualified Conclusion section refer to measures described in Appendix A to this report.

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***Audit criteria***

In order to assess whether the Entity's annual performance statements complied with Division 3 of Part 2-3 of the Act, including providing information about the Entity's performance in achieving its purposes, I applied the following criteria:

- whether the annual performance statements complied with Division 2 of Part 2-3 of the Rule;
- whether the performance measures presented in the annual performance statements were appropriate;
- whether the Entity had effective supporting frameworks to develop, gather, assess, monitor, assure and report in the annual performance statements; and
- whether the results reported against the performance measures in the annual performance statements were accurate and complete, and supported by appropriate records.

***Accountable Authority's responsibilities***

As the Accountable Authority of the Entity, the Secretary is responsible under the Act for:

- the preparation and fair presentation of annual performance statements that accurately reflect the Entity's performance and are free from material misstatement, and
- keeping records about the Entity's performance in accordance with requirements prescribed by the Rule.

***Independence and quality control***

I have complied with the independence and other relevant ethical requirements relating to assurance engagements, and applied Auditing Standard ASQC 1 *Quality Control for Firms that Perform Audits and Reviews of Financial Reports and Other Financial Information, Other Assurance Engagements and Related Services Engagement* in undertaking this assurance engagement.

***Auditor-General's responsibilities***

My responsibility is to express an independent opinion on the Entity's annual performance statements.

I conducted my audit in accordance with the Australian National Audit Office Auditing Standards, which include the relevant Standard on Assurance Engagements (ASAE) 3000 *Assurance Engagements Other than Audits or Reviews of Historical Financial Information* issued by the Auditing and Assurance Standards Board. In accordance with this standard I plan and perform my procedures to obtain reasonable assurance about whether the performance measures and accompanying results presented in the annual performance statements of the Entity accurately reflect the Entity's performance in achieving its purpose and comply, in all material respects, with the *Public Governance, Performance and Accountability Act 2013* and Public Governance, Performance and Accountability Rule 2014.

The nature, timing and extent of audit procedures depend on my judgment, including the assessment of the risks of material misstatement, whether due to fraud or error, in the annual performance statements. In making these risk assessments, I obtain an understanding of internal control relevant to the preparation of the annual performance statements in order to design

procedures that are appropriate in the circumstances.

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my qualified conclusion.

***Inherent limitations***

Because of inherent limitations of an assurance engagement, it is possible that fraud, error or non-compliance may occur and not be detected. An assurance engagement is not designed to detect all instances of non-compliance of the annual performance statements with the *Public Governance, Performance and Accountability Act 2013* and Public Governance, Performance and Accountability Rule 2014 as it is not performed continuously throughout the period and the assurance procedures performed are undertaken on a test basis. The reasonable assurance conclusion expressed in this report has been formed on the above basis.

Australian National Audit Office

A handwritten signature in black ink, appearing to read 'Grant Hehir'.

Grant Hehir  
Auditor-General

Canberra  
9 December 2021

## Appendix A — References for measures in the Basis for Qualified Conclusion paragraph

Key activity	Performance measure	Target
1. Provide legal services and policy advice and oversee legal services across government	1.2 Australian Government Solicitor legal services	1.1.2 Analysis shows the effectiveness of AGS's legal services, via the AGS mid-matter and end-of-matter client survey feedback
1. Provide legal services and policy advice and oversee legal services across government	1.5 Manage significant legal issues and arrangements for Australian Government legal services	1.5.1 Qualitative analysis shows that visibility of, and the Attorney-General's ability to influence, significant legal matters across the Commonwealth is maintained
1. Provide legal services and policy advice and oversee legal services across government	1.5 Manage significant legal issues and arrangements for Australian Government legal services	1.5.2 The work of the Significant Legal Issues Committee is supported by the coordination of 4 meetings each year
1. Provide legal services and policy advice and oversee legal services across government	1.5 Manage significant legal issues and arrangements for Australian Government legal services	1.5.3 Commonwealth agencies are supported in their compliance with their obligations under the Legal Services Directions 2017
1. Provide legal services and policy advice and oversee legal services across government	1.5 Manage significant legal issues and arrangements for Australian Government legal services	1.5.4 New arrangements to support government lawyers through the Australian Government Legal Service (AGLS) are implemented
1. Provide legal services and policy advice and oversee legal services across government	1.5 Manage significant legal issues and arrangements for Australian Government legal services	1.5.5 Satisfaction of government lawyers with initiatives provided by the AGLS greater than 80%
2. Manage casework	2.1: International crime cooperation, federal offender, international family law, private international law and United Nations human rights committee communications casework	2.1.4 Qualitative analysis shows that advice to decision-makers on extradition, mutual assistance, international transfer of prisoners, federal offender and international family law casework is timely and legally robust

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Key activity	Performance measure	Target
3. Administer and advise on legal and policy framework	3.4: Legal and policy advice on Australia's integrity and rights frameworks	3.4.2 Government and external stakeholders are actively engaged in discussions on policy development and improvements
3. Administer and advise on legal and policy framework	3.4: Legal and policy advice on Australia's integrity and rights frameworks	3.4.3 Qualitative analysis shows that policy advice is effective in maintaining and improving the operation of Australia's integrity frameworks
3. Administer and advise on legal and policy framework	3.5: Legal and policy advice on criminal justice and national security frameworks	3.5.2 Government and external stakeholders are actively engaged in discussions on policy development and improvements
3. Administer and advise on legal and policy framework	3.5: Legal and policy advice on criminal justice and national security frameworks	3.5.3 Qualitative analysis of the effectiveness of policy advice in maintaining and improving the operation of Australia's criminal justice and national security frameworks
3. Administer and advise on legal and policy framework	3.6: Administration of other legal frameworks for which the department is responsible	3.6.2 Qualitative analysis shows the effectiveness of administration of the native title system, including managing the Commonwealth's participation in native title claims.

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## **Appendix B — Findings in respect of specific aspects of the engagement**

During the conduct of the audit assessments and findings were made in respect of specific aspects of the engagement. These findings included below were addressed in the context of my engagement as a whole, and in forming my conclusion thereon, and I do not provide a separate conclusion on these matters.

### ***Overview of engagement***

In August 2019, the Minister for Finance requested that the Auditor-General conduct a pilot program of audits of annual performance statements in consultation with the Joint Committee of Public Accounts and Audit (JCPAA). Following the request, the Auditor-General decided to commence a pilot program under section 15 of the *Auditor-General Act 1997* and is applying the performance statements auditing methodology developed over recent years, to the 2020–21 performance statements of three entities. The Attorney-General's Department is one of the three selected entities.

### ***Overview of the applicable criteria***

I have used the criteria, described in my independent assurance report above, to assess the 2020–21 Annual Performance Statements of the Entity. In performing my assurance engagement and preparing this appendix, the following relevant considerations and interpretations were applied.

#### *Compliance*

Whether the annual performance statements complied with the requirements of the Act and the Rule and in doing so, met the objects of the Act. In considering compliance, the most important provisions considered were subsection 39(2) of the Act and sections 16E, 16EA and 16F of the Rule.

#### *Appropriateness*

Whether the performance measures presented in the Portfolio Budget Statements, corporate plan and annual performance statements were appropriate. In considering appropriateness, the most important aspects were whether the performance measures, individually and collectively, met the requirements of section 16EA of the Rule:

- (a) relate directly to one or more of those purposes or key activities; and
- (b) use sources of information and methodologies that are reliable and verifiable; and
- (c) provide an unbiased basis for the measurement and assessment of the entity's performance; and
- (d) where reasonably practicable, comprise a mix of qualitative and quantitative measures; and
- (e) include measures of the entity's outputs, efficiency and effectiveness if those things are appropriate measures of the entity's performance; and
- (f) provide a basis for an assessment of the entity's performance over time.

I also considered whether the performance measures specified targets for each of those performance measures for which it is reasonably practicable to set a target as required by section 16E of the Rule.

### *Supporting frameworks*

Whether the Entity had effective supporting frameworks to develop, gather, assess, monitor, assure and report performance information in the annual performance statements. In considering the supporting frameworks, the most important aspects were effectiveness of the following processes:

- coordination and collation of performance information;
- systems and methodologies for the collection and reporting of performance information; and
- assurance over the annual performance statements.

### *Completeness, accuracy and records*

Whether the results reported by the Entity against the performance measures in the annual performance statements were accurate and complete, and supported by appropriate records.

### **Materiality**

The concept of materiality is applied when making an assessment against the above criteria. Failure to meet one or some of the criteria characteristics will not necessarily impact the overall assessment and form of audit conclusion.

### **Audit findings and observations**

*Have the annual performance statements complied with Division 2 of Part 2-3 of the Public Governance, Performance and Accountability Rule 2014?*

The ANAO reviewed the 2020–21 Annual Performance Statements and concluded that the annual performance statements complied with Division 2 of Part 2-3 of the Public Governance, Performance and Accountability Rule 2014 with the exception of the matters outlined in the Bases for Qualified Conclusion section above.

*Are the performance measures presented in the Entity's Portfolio Budget Statements, corporate plan and 2020–21 annual performance statements appropriate?*

The ANAO reviewed the performance measures that are output, efficiency or effectiveness measures as meeting the threshold for reporting on the achievement of the Entity's purposes or key activities. All performance measures that met the threshold were considered to be of equal importance in measuring the achievement of the entity's purposes or key activities.

The performance measures and relevant performance information in the 2020–21 Annual Performance Statements were assessed as appropriate to measure the achievement of the Entity's purposes or key activities with the exception of the matters outlined in the Bases for Qualified Conclusion section above.

*Did the Entity have effective supporting frameworks to develop, gather, assess, monitor, assure and report in the annual performance statements?*

The ANAO examined the Entity's internal systems, processes, procedures, including governance and assurance mechanisms such as the audit committee, to develop, gather, assess, monitor, assure and report in the 2020–21 Annual Performance Statements. The supporting framework was assessed as effective with the exception of the matters outlined in the Bases for Qualified Conclusion section above.



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*Are the results reported by the Entity against the performance measures in the performance statements accurate and complete, and supported by appropriate records?*

The ANAO performed testing of the results against the performance measures in the annual performance statements for completeness and accuracy. The results of the performance measures were mostly complete and accurate and supported by appropriate records with the exception of the matter outlined above in the Bases for Qualified Conclusion section.

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**Australian Government**  

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**Attorney-General's Department**

# Annual Report

**2020–21**

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## Part 2: Annual performance statements

### Statement of preparation

As the accountable authority of the Attorney-General's Department, I present the 2020–21 annual performance statement of the Attorney-General's Department, as required under paragraph 39(1)(a) of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act). In my opinion, this annual performance statement is based on properly maintained records, accurately reflects the performance of the entity and complies with subsection 39(2) of the PGPA Act.



**Katherine Jones PSM**  
Secretary

## Our performance framework

In 2020, we made significant changes to our performance framework to better reflect the work of the department, improve the clarity and reliability of our performance information and facilitate a clearer read across our portfolio budget statements, corporate plan and annual report and across reporting cycles.<sup>1</sup>

As outlined in the Corporate Plan 2020–24, we achieve our purposes through **5 key activities**. Collectively they describe our critical functions and activities and are not mutually exclusive. We measure our performance through:

- **performance measures** that evaluate the significant types of work, projects or programs through which the department delivers each activity
- **targets** to assess whether each performance measure has been achieved in the reporting cycle. Under each measure we use a suite of targets to ensure a broad and balanced approach that provides a clear picture of achievement. We have targets to measure our effectiveness and efficiency. As a primarily policy and legal adviser to government, reliable and meaningful data is not always available to measure our efficiency. Accordingly, in some cases, we use proxies to help us understand how efficiently we conduct our business.

## Our results

The processes or methodologies we followed to determine our performance results are outlined at a high level in the corporate plan. Additional information has been included where necessary to assist the reader to understand our approach and results.

All performance targets are weighted equally. Where a performance measure has more than one target, achievement of the measure has been determined by reference to the number of targets achieved. Less than one-quarter of targets achieved equates to the measure not being achieved. Up to three-quarters of targets achieved equates to partly achieved and three-quarters and over of targets achieved equates to achieved. For targets that do not have a stated benchmark (for example, per cent satisfaction), where progress has been made toward the target but the target itself has not been fully met, it has been deemed to be partly achieved.

## Executive summary

The pandemic remained a dominant feature of our operating environment and will continue to impact on our work into the foreseeable future. Over the past year, we successfully contributed to the government's response to the pandemic. We provided critical support to the legal assistance sector, enabled the implementation of the JobKeeper program and delivered legal and policy advice on a wide variety of health and economic programs. Amid this focus, we also delivered on usual business priorities and maintained the strong stakeholder relationships that are critical to our success.

Across our 5 key activities, we have demonstrated our effectiveness and efficiency in achieving our purposes through 63 targets under 22 performance measures.<sup>2</sup> Overall, we achieved or partly achieved all of our performance measures, with 82% achieved or exceeded (18) and 18% partly achieved (4).

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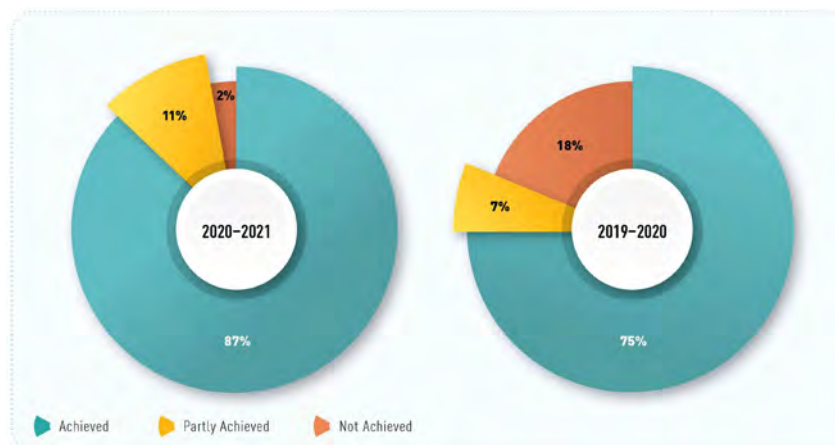
<sup>1</sup> The performance measures and targets contained in the Corporate Plan 2020–24 reset the performance criteria and targets that were presented in the department's 2020–21 Portfolio Budget Statements.

<sup>2</sup> We achieved 90% and partly achieved 8% of our effectiveness targets and achieved 84% and partly achieved 16% of our efficiency targets.

Of our targets, we achieved or exceeded 87% (55) and partly achieved 11% (7). Only one target was not achieved (2%).

This represents a significant improvement on previous years' performance results. In 2019–20, we achieved 75% of targets, partly achieved 7% and did not achieve 18%. The following figure illustrates the overall performance for 2020–21 compared with 2019–20. The achievement ratings reflect the percentage of targets we achieved, partly achieved or did not achieve across our purposes.

**Figure 2: Percentage achievement of targets for 2020–21 and 2019–20**



We have performed strongly in each of our key activity areas, as summarised in the following table.

**TABLE 3: SUMMARY OF KEY ACTIVITY RESULTS**

Key activity	Performance measure results
1: Provide legal services and policy advice and oversee legal services across government	1.1 - Achieved
	1.2 - Achieved
	1.3 - Achieved
	1.4 - Achieved
	1.5 - Achieved
2: Manage casework	2.1 - Achieved
3: Administer and advise on legal and policy frameworks	3.1 - Partly achieved (1 target achieved, 1 partly achieved)
	3.2 - Achieved
	3.3 - Achieved
	3.4 - Achieved
	3.5 - Achieved
	3.6 - Achieved
4: Administer and implement programs and services	4.1 - Partly achieved (1 target achieved, 2 partly achieved)
	4.2 - Achieved
	4.3 - Partly achieved (1 target partly achieved)
	4.4 - Achieved
	4.5 - Achieved
	4.6 - Achieved
	4.7 - Achieved
5: Establish and support royal commissions and other bodies	5.1 - Achieved
	5.2 - Partly achieved (1 target achieved, 1 partly achieved)
	5.3 - Achieved

## Key Activity 1: Legal services and policy advice

We deliver high-quality legal services, provide high-quality policy advice and oversee the effective and efficient provision of legal services to the Australian Government and its entities, in order to ensure that decisions are based in law, strengthen policy outcomes and manage legal risk. We represent the Australian Government in constitutional and other disputes and assist it in resolving and managing significant and sensitive matters. We manage international dispute resolution on behalf of the Australian Government.

*This key activity is outward-facing and focuses on the legal and policy work we do to support the Attorney-General as the First Law Officer and chief legal adviser to Cabinet, and to advise and assist other Australian Government entities.*

### Performance measure 1.1: Australian Government Solicitor legal services

Legal services and support provided to the Australian Government and its entities by Australian Government Solicitor (AGS), including in relation to High Court and other significant litigation, is effective in helping to ensure that legal risk is managed and the Commonwealth's interests are protected, and to promote the fair and efficient resolution of disputes involving the Australian Government.

This performance measure was **achieved**.

Performance targets	Result
1.1.1 Overall client satisfaction (via AGS Client Survey) greater than 75%	ACHIEVED
1.1.2 Analysis shows the effectiveness of AGS's legal services, via the AGS mid-matter and end-of-matter client survey feedback	ACHIEVED

#### Source

Portfolio Budget Statements 2020–21, Outcome 1, Program 1.3, page 34  
Corporate Plan 2020–24, page 22

**1.1.1** AGS strives for high levels of client satisfaction with the quality of its services. The aim is to remain the provider-of-choice for Australian Government agencies. This positions AGS to assist with the government's most complex, strategic and important issues.

AGS conducts a client satisfaction survey to assess the level of client satisfaction with the legal services it provides. This is done via 2 mechanisms: a biennial online survey and, in alternate years, face-to-face client feedback meetings.

This year, AGS conducted client feedback meetings to assess performance. Clients were asked to rate on a scale of 0 to 10 their level of overall satisfaction with AGS as well as satisfaction with key service attributes. Client feedback meetings also allowed for qualitative discussion about client experiences and perspectives.

Heads of Legal were invited to meet and provide feedback. Forty meetings were conducted and 60 individuals provided feedback. The target of greater than 75% overall client satisfaction was met, with an overall rating of 79% achieved. The comments from participants support the satisfaction rating and indicated good relationships and a high quality of work. AGS received a score of '8 out of 10 or above' for the desired attributes of legal expertise, quality of relationship, timeliness and understanding of a client's business.

**1.1.2** As part of a rolling spot check on yearly satisfaction reviews, AGS undertakes a series of mid-matter and end-of-matter surveys to assess the effectiveness of its service on specific matters and to measure satisfaction with meeting matter objectives.

Reports from the AGS financial system on matters with fees in excess of \$100,000 in the last month or matters with fees greater than \$100,000 that have closed in the last month are reviewed to identify matters that are suitable to be surveyed. Factors considered included whether the client is amenable to being surveyed, if the client has not been surveyed recently and the strategic importance of the matter. AGS is conscious of, and manages, the risk of client survey fatigue. The survey data is stored on an online platform and reports are stored in the AGS document management system.

In 2020–21, the matter surveys were revised to improve the quality and value of the data. As a result, the data across the full year was split into 2 sections for assessment as they are not directly comparable:

- For the period July to November 2020, we issued 17 surveys and received 13 responses.
- For the period December 2020 to June 2021, we issued 30 surveys and received 14 responses.

Results from the matter surveys are consistent with the results of the annual face-to-face client meeting process used for Target 1.1.1. Ratings received included:

- an average overall performance rating of 4 out of 5 or higher, supported by average ratings (4 out of 5 or higher) on desired attributes of usability of advice, strategy and responsiveness
- an average overall rating of 9 out of 10 for helping to achieve client outcomes, supported by average ratings of 8 out of 10 or higher on desired attributes of accuracy of estimates, timely communication, senior lawyer involvement and managing risk.

The surveys are managed by AGS. Feedback is passed onto practice group staff who address and respond to any concerns raised by clients. This may include a ‘lessons learned’ session with the client to review the matter and consider changes that may produce better outcomes in the future. A quarterly report is prepared for the AGS Management Committee.

## Performance measure 1.2: International law and policy advice

International law and policy advice to the government and its entities effectively addresses the needs of clients and stakeholders, and is delivered within required timeframes, and international disputes are managed effectively.

This performance measure was **achieved**.

Performance targets	Result
1.2.1 Stakeholder and client satisfaction greater than 80% in relation to: <ul style="list-style-type: none"> <li>effectiveness (expertise and quality of relationship)</li> <li>efficiency (timeliness and responsiveness)</li> </ul>	ACHIEVED
1.2.2 Qualitative analysis shows the effectiveness of legal and policy advice for strengthening policy outcomes and managing international legal risk	ACHIEVED

### Source

Portfolio Budget Statements 2020–21, Outcome 1, Program 1.1, page 30  
Corporate Plan 2020–24, pages 22–23

**1.2.1** In response to questions related to this target in the department’s stakeholder survey, 98% of respondents rated our effectiveness positively and 90% rated our efficiency positively. A detailed explanation of the stakeholder survey methodology and results is at **Appendix 2: Methodologies**.

Individual comments from respondents indicate that they value the high degree of expertise the department provides in advising on international law and policy matters as well as the professional and collaborative engagement of its staff. Survey results showed that approximately 10% of respondents considered timeliness as an area of concern. This is reflected in the lower positive rating for the efficiency target. However, a number of individual survey comments reflected appreciation for the timeliness of advice they received, especially given the tight timeframes and competing demands.

**1.2.2** We conducted our first qualitative assessment process in June 2021. A panel assessed the effectiveness of the legal advice and briefings selected in strengthening policy outcomes and managing legal risk by assessing them against pre-determined criteria. In applying those criteria, the panel evaluated the accuracy, clarity and timeliness of the advice provided and assessed whether that advice was context-appropriate and solutions-focused. The panel found that each of the products assessed was of a high standard and met all of the assessment criteria. In particular, the work was clear, legally accurate and solutions-focused and provided the relevant facts and information necessary for the client or the Attorney-General to make a decision. Further information on the assessment process is at **Appendix 2: Methodologies**.



## Performance measure 1.3: Constitutional policy and related public law advice

Constitutional policy and related public law advice to the government and its entities assists them to identify and manage constitutional and related legal risks in order to support the constitutional functioning of the Commonwealth.

This performance measure was **achieved**.

Performance targets	Result
1.3.1 Stakeholder and client satisfaction greater than 80% in relation to: <ul style="list-style-type: none"> <li>effectiveness (expertise and quality of relationship)</li> <li>efficiency (timeliness and responsiveness)</li> </ul>	ACHIEVED
1.3.2 Qualitative analysis shows the effectiveness of policy advice in strengthening policy decisions and managing constitutional or related legal risk	ACHIEVED
1.3.3 Qualitative analysis shows that the Office of Constitutional Law is effective in managing litigation to protect the Commonwealth's constitutional policy interests	ACHIEVED

### Source

Portfolio Budget Statements 2020–21, Outcome 1, Program 1.1, page 30  
Corporate Plan 2020–24, page 23

**1.3.1** In response to questions related to this target in the department's stakeholder survey, 100% of respondents rated our effectiveness and efficiency positively. A detailed explanation of the stakeholder survey methodology and results is at **Appendix 2: Methodologies**.

Based on survey responses, an important factor was the department's provision of advice within tight timeframes and our responsiveness to requests for assistance that may have limited instructions. Another strength was the way we collaborated with other areas of the department to better assist government entities to identify and manage constitutional and related legal risks.

**1.3.2** To assess achievement of the effectiveness of policy advice in strengthening policy decisions and managing risk, a panel evaluated 6 work samples against 4 quality standards, namely whether the document:

- explained why the decision-maker was getting the document and the broader context of the issues raised and its purpose
- was clear, logical and based on evidence
- was informative and included the full details
- identified next steps.

Each sample was rated between 1 (very poor) and 5 (excellent). The baseline target for this performance measure was to achieve an average score of 3 out of 5 for the policy work, which would indicate that while there may have been some shortfalls, the advice met each of the quality standards and overall strengthened policy decisions and managed constitutional or related legal risk. To achieve a rating of 'excellent', the work sample needed to meet all 4 quality standards and also add something extra, making it extremely effective in strengthening policy decisions and managing constitutional or related legal risk. The panel assessed 2 work samples as being of very good quality (4 out of 5) and the remaining 4 as being between very good and excellent quality (between 4 and 5 out of 5).

Several factors contributed to this positive result. In preparing COVID-19 briefings, we positioned the document within the broader context of the pandemic. Similarly, in providing submissions to the Attorney-General, we explained the purpose for the submission, including identifying priorities and connections across government. The policy advice articulated the relevant problem, policy objectives and rationale for the recommended course of action.

The panel's comments revealed that in providing advice, we identified constitutional and related legal risks and outlined possible mitigation options. While policy advice is effective in strengthening policy decisions and managing legal risks, there is scope for improvement to ensure advice is communicated as concisely as possible and that constitutional and related legal risks are clearly identified early rather than raised as part of the more general discussion.

Overall, this sound performance contributes to the effective implementation and advancement of Australia's constitutional policy and legal interests.

Further information on the assessment process is at **Appendix 2: Methodologies**.

**1.3.3** The same panel assessed this target by considering a case study of a constitutional litigation matter. An officer involved in managing the matter made a presentation to the panel outlining the nature of the case and work over the course of the litigation. The panel asked questions to determine whether:

- the Commonwealth's constitutional policy interests had been promoted
- the interests of stakeholders were recognised and managed
- deadlines were managed to permit considered analysis of the issues
- costs associated with the litigation were reasonable.

A rating was given between 1 (very poor) and 5 (excellent) for management of the matter. The baseline target for this measure was to achieve a score of 3 out of 5, which would indicate that our performance when assessed against each of these 4 elements had been adequate in effectively managing litigation to protect the Commonwealth's constitutional policy interests. The panel collectively gave a rating of 5 out of 5 for performance achieved based on the case study, which indicates excellent effectiveness in managing the matter to protect the Commonwealth's constitutional policy interests. The panel observed that constitutional policy interests had been successfully identified and a strategic approach taken to work with other agencies. The panel acknowledged that our early and ongoing engagement with stakeholders to prepare decision-makers for short turnaround times helped to balance work required against other demands.

Another strength identified by the panel was our proactive briefing and preparation of material in a timely manner. This ensured compliance with court-imposed deadlines and allowed sufficient time for the Attorney-General to consider significant or sensitive issues. An area of strong performance was the close attention paid to monitoring costs associated with the litigation. We regularly reviewed the cost of non-government legal services and claims for costs made by other parties to the litigation.

Further information on the assessment process is at **Appendix 2: Methodologies**.

## Performance measure 1.4: Operation of Australian Government Solicitor

AGS operates as a self-funded legal services provider competing for work in the Commonwealth legal services market.

This performance measure was **achieved**.

Performance targets	Result
1.4.1 AGS's Net Production (including lawyer utilisation) meets the annual budget target	ACHIEVED
1.4.2 The total cost per full-time equivalent (FTE) is maintained within CPI and pay rise percentage of the prior year	ACHIEVED

### Source

Portfolio Budget Statements 2020–21, Outcome 1, Program 1.3, page 34  
Corporate Plan 2020–24, page 24

**1.4.1** The Net Production result is the sum of all individual fee earners' net production results for the year. The Net Production result for 2020–21 was 108%. This exceeded the budgeted target of 103% and reflects strong client demand throughout the year.

**1.4.2** The total cost per full-time equivalent (equal to one full-time staff member) was \$213,615, being 4.4% lower (better) than the \$223,260 average achieved in 2019–20. This reflects improved leverage (more fee earners) with approximately the same level of overheads. We use this target as a proxy measure for efficiency, with the total cost per FTE showing how we are controlling costs year-to-year and against budget.

## Performance measure 1.5: Manage significant legal issues and arrangements for Australian Government legal services

Oversight, coordination and assistance to Australian Government entities supports the effective management of legal risks and the delivery of high quality, consistent and efficient legal services across government.

This performance measure was **achieved**.

Performance targets	Result
1.5.1 Qualitative analysis shows that visibility of, and the Attorney-General's ability to influence, significant legal matters across the Commonwealth is maintained	ACHIEVED
1.5.2 The work of the Significant Legal Issues Committee is supported by the coordination of 4 meetings each year	ACHIEVED
1.5.3 Commonwealth agencies are supported in their compliance with their obligations under the <i>Legal Services Directions 2017</i>	ACHIEVED
1.5.4 New arrangements to support government lawyers through the Australian Government Legal Service (AGLS) are implemented	ACHIEVED
1.5.5 Satisfaction of government lawyers with initiatives provided by the AGLS greater than 80%	NOT ACHIEVED

### Source

Portfolio Budget Statements 2020–21, Outcome 1, Program 1.1, page 30  
Corporate Plan 2020–24, page 25

**1.5.1** The department maintained visibility of significant legal matters across the Commonwealth this year. Under paragraph 3.1 of the *Legal Services Directions 2017*, non-corporate Commonwealth entities report on significant issues that arise in the provision of legal services. In 2020–21, the department was notified of 532 different significant legal issues and 14 cohorts of significant legal issues that contain multiple individual claims resulting from the same factual and legal circumstances. Eleven of these significant legal issues were identified through means other than agency reports. Following engagement with the agencies involved, we were satisfied that none of these 11 instances amounted to non-compliance and accordingly did not need to be managed under the compliance framework. We also worked with corporate Commonwealth entities, which are not obliged to report significant issues under paragraph 3.1 but are encouraged to do so on a voluntary basis. In 2020–21, corporate Commonwealth entities notified 4 significant issues.

These figures indicate that visibility of a large volume of matters across government, including matters from corporate Commonwealth entities and matters that were initially unreported, has been maintained. Visibility of these matters allows us to analyse themes of legal risk, apply influence to ensure significant matters are managed consistently and effectively and discharge other functions under the *Legal Services Directions*.

We also maintained the Attorney-General's ability to influence significant legal matters. Under paragraph 3.2 of the *Legal Services Directions*, a claim reported by a non-corporate Commonwealth entity as significant is not to be settled without the agreement of the Attorney-General. In 2020–21, we received approval requests in respect of 126 matters, of which 120 were approved.

In 2020–21, we also worked with agencies to materially influence proposed settlement terms (either before or after a request was submitted) in respect of 26 settlement requests. Four settlement requests were withdrawn by an agency based on our advice that the proposal would not be consistent with the government's legal interests. We also supported the development and approval of a settlement framework in respect of 2 cohorts of significant claims and worked with an agency to implement one settlement framework approved in a previous year.

We can also be substantively involved in the management of a small subset of particularly significant matters. We work with the responsible agency on aspects of the day-to-day management of the matter and assist the Attorney-General and other ministers to be aware of progress. In 2020–21, we were involved in 12 particularly significant matters in this way.

Through our role in approving settlements and managing particularly significant matters, we have effectively maintained the ability of the Attorney-General to influence significant legal matters across the Commonwealth, ensuring a consistent, whole-of-government approach to managing legal risk.

**1.5.2** The Significant Legal Issues Committee plays an important role in the department's responsibility for managing Commonwealth legal risk. The committee is comprised of the Solicitor-General, Australian Government Solicitor, First Parliamentary Counsel, Deputy Secretary of the department's Legal Services and Families Group and is chaired by the department's Secretary. In 2020–21, we supported the committee to meet 4 times, during which the committee considered 12 significant issues and was provided with updates for noting on 15 further significant issues.

The meetings are a forum for agencies to consider guidance on legal strategy and risk in respect of their matters and committee members maintain oversight of the most significant matters. This promotes a consistent approach that takes into account whole-of-government legal and policy interests.

We support the committee by identifying the significant issues to be considered, preparing and providing material for the committee's consideration and working with agencies to implement the committee's recommendations.

**1.5.3** The Legal Services Directions provide obligations for agencies when they use legal services and manage legal issues. By supporting the compliance of agencies with their obligations under the Legal Services Directions, the department improves understanding of and compliance with those obligations, which enhances the consistent and coherent management of legal matters and minimises legal risk.

We work with agencies to improve their understanding of and compliance with their obligations through education and capacity-building initiatives. We run training sessions, develop practical guidance material, provide ad hoc guidance and advice and support agencies to assess instances of non-compliance and to take corrective action.

In 2020–21, we delivered 12 training sessions, well above our target of 5. These were attended by 535 government lawyers from 15 entities, exceeding expectations.

There is no statutory requirement to publish compliance information. However, to aid transparency, we compile statistics on instances of alleged and actual non-compliance on an annual basis and aim to publish a report on the department's website by 30 April each year. For 2019–20, the compliance statistics report was published on 28 April 2021.

**1.5.4** The AGLS is the new formal professional network for lawyers who work for the Australian Government. The network supports and develops government lawyers and in-house legal areas to deliver consistency and efficiency across government. Development of the AGLS was a recommendation of the then Secretary's 2017 Review of Commonwealth Legal Services. The department's Secretary is the head of the AGLS.

The inaugural AGLS Board was established in November 2020 and comprised of 11 senior government lawyers from a broad range of agencies appointed by the Secretary. The AGLS commenced on 30 April 2021 with the upload of resources and videos to the AGLS website ([www.governmentlawyers.gov.au](http://www.governmentlawyers.gov.au)). The commencement of the AGLS is the result of a significant amount of work to develop and implement governance and administrative structures and substantive AGLS initiatives.

The AGLS delivered significant initiatives including the Foundational Australian Government Lawyer Training program, which was conducted in May 2021 for 62 government lawyers from 20 agencies. This followed pilot versions of the training delivered in May and November 2019. Work is also well advanced for the inaugural AGLS Conference, which is scheduled to be held later in 2021.

A medium-term initiative for the AGLS is the development of the Australian Government Legal Advice Database. This is intended to be a central repository of legal advices for government lawyers to encourage consistency in legal interpretation and support a whole-of-government approach to common legal issues. A functional beta version of the database, incorporating its essential functions, was completed by 30 June 2021 in accordance with the timeline for this phase of the database. The beta version of the database is a first step towards a sophisticated legal advice database for government lawyers, which will promote information sharing, efficiency and consistency in the provision of legal advice to government. It will be assessed through a closed group of testers, with feedback used to inform the development of future phases of the project.

**1.5.5** The success of the AGLS depends on buy-in from its members. It is important that the AGLS and its initiatives are providing government lawyers with the support they need. We surveyed government lawyers in July 2021 to ascertain their levels of awareness of the AGLS and its initiatives, and satisfaction with the initiatives they participated in. An online, anonymous survey was used and invitations were sent to legal teams in each government agency to forward to their government lawyers. The questions were developed in consultation with the AGLS Board and covered the AGLS governance structure, administrative arrangements, initiatives and overall satisfaction.

A total of 344 government lawyers completed the survey. Overall satisfaction ('somewhat satisfied' or 'very satisfied') with the AGLS was 32%, with 5% of respondents being 'somewhat' or 'very unsatisfied', 48% being 'neutral' and 15% indicating that it was 'too early to tell'. Over 80% of respondents confirm that they were aware of the AGLS. As can be expected, given the AGLS was recently launched, results showed moderate levels of awareness of specific AGLS initiatives (between 40% and 55%) and a low rate of participation. Encouragingly, respondents expressed high levels of interest in participating in future initiatives.

While the overall satisfaction with the AGLS was low, the large number of results in the 'neutral' or 'too early to tell' categories provide room to improve over the coming years. The results will assist us to devise and prioritise initiatives. This year's results provide a baseline for future surveys.

## Key Activity 2: Manage casework

We undertake casework relating to international crime cooperation, federal offenders, international family law, private international law and complaints under the United Nations human rights conventions in order to support Australia's law and justice frameworks.

*This key activity reflects our unique role in facilitating practical cooperation between countries to aid law enforcement, facilitate the return of abducted children to their home country, provide recognition and enforcement of protective mechanisms for children, and assist in the resolution of private international legal disputes. We also operate the Commonwealth Parole Office which manages casework related to the parole, release and transfer of federal offenders. We coordinate Australia's response to individual communications made against Australia under human rights treaties.*

### Performance measure 2.1: International crime cooperation, federal offender, international family law, private international law and United Nations human rights committee communications casework

International cooperation in relation to extradition, mutual assistance, international transfer of prisoners, family law, private international law matters and individual complaints to UN human rights committees is managed effectively to strengthen the rule of law and the safety of the Australian community and give effect to Australia's international obligations.

This performance measure was **achieved**.

Performance targets	Result
2.1.1 At least 900 extradition, mutual assistance, international transfer of prisoners, federal offender and international family law casework matters finalised	ACHIEVED
2.1.2 At least 80% of extradition legal proceedings heard and determined are resolved in favour of the Commonwealth	ACHIEVED
2.1.3 Stakeholder satisfaction greater than 80% in relation to: <ul style="list-style-type: none"> <li>effectiveness (expertise and quality of relationship)</li> <li>efficiency (timeliness and responsiveness)</li> </ul>	ACHIEVED
2.1.4 Qualitative analysis shows that advice to decision-makers on extradition, mutual assistance, international transfer of prisoners, federal offender and international family law casework is timely and legally robust	PARTLY ACHIEVED
2.1.5 80% of submissions to United Nations human rights committees with respect to individual complaints completed within the timeframes set by the relevant committees	ACHIEVED
2.1.6 At least 125 private international law casework matters finalised	ACHIEVED

#### Source

Portfolio Budget Statements 2020–21, Outcome 1, Program 1.1, page 30 and Program 1.2, page 33  
Corporate Plan 2020–24, page 27

**2.1.1** During 2020–21, we finalised 1,396 casework matters (compared to 1,391 in 2019–20), exceeding our target of 900. The casework consisted of:

- 103 extradition requests (compared to 33 in 2019–20)
- 720 mutual assistance requests (compared to 817 in 2019–20)
- 33 international transfer of prisoner applications (compared to 26 in 2019–20)
- 351 decisions about federal offenders, being:
  - 319 parole decisions (compared to 300 in 2019–20)
  - 11 decisions about early release on licence (compared to 14 in 2019–20)
  - 17 decisions about breaches of parole (compared to 16 in 2019–20)
  - 4 decisions about travel (compared to 14 in 2019–20)
- 177 international family law matters, being:
  - 108 applications under the *Hague Convention on the Civil Aspects of International Child Abduction* (the Convention) seeking the return of children who have been abducted to or from Australia (compared to 116 in 2019–20)
  - 25 applications under the Convention seeking access to children overseas (compared to 17 in 2019–20)
  - 17 requests for cooperation under the *Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility* (the Child Protection Convention) dealing with a range of issues including the transnational placement of children between Australia and other countries that are parties to the Child Protection Convention (compared to 19 in 2019–20)
  - 24 requests for registration of parenting orders (compared to 30 in 2019–20)
  - 3 maintenance and paternity matters (compared to 3 in 2019–20).

Further statistics on international crime cooperation cases (extradition, mutual assistance and international transfer of prisoners) are available in **Appendix 5: Extradition and mutual assistance**.

We use this target as a proxy measure for efficiency. We have improved casework efficiency including the implementation of a new database for extradition and mutual assistance matters. This allows us to better track individual case progress and manage the overall case cohort. We have also improved knowledge management materials and guidance for staff and we are reviewing and refreshing mutual assistance templates, policies and processes.

**2.1.2** During 2020–21, of the 19 extradition legal proceedings heard and determined, 95% were resolved in favour of the Commonwealth, exceeding the target of 80%. These proceedings included bail applications made to a magistrate, extradition eligibility proceedings before a magistrate under section 19 of the *Extradition Act 1988*, Federal Court proceedings seeking the review of decisions of a magistrate or the Attorney-General or minister, appeals before the Full Court of the Federal Court and extradition related District and Supreme Court proceedings.

**2.1.3** In response to questions related to this target in the department’s stakeholder survey, 100% of respondents rated our effectiveness positively and 91% rated our efficiency positively. A detailed explanation of the stakeholder survey methodology and results is at **Appendix 2: Methodologies**.



Respondent comments indicated that the department's staff were viewed as conscientious, highly competent and helpful. Twelve per cent of respondents identified concerns about delays in receiving advice, information or responses to issues raised. Comments also related to concerns about staffing levels and turnover. These concerns may be linked to the lower positive rating for efficiency when compared to the positive rating for effectiveness.

**2.1.4** The department conducted a qualitative assessment process in May 2021. A panel considered 4 pieces of advice across different casework types and applied qualitative assessment criteria. Advice was considered to be timely if the decision-maker was given a reasonable period to make the decision (which varied across the different types of casework and decision-makers) and made the decision by the appointed date. Advice was considered to be legally robust if it described the applicable legislation and criteria and provided analysis for the decision-maker about whether the legislated criteria were met.

The panel found that 2 of the casework matters were of excellent quality and met the assessment criteria. The panel determined that the advice was timely and legally robust. One piece of advice met the qualitative criteria as being timely and legally robust, but the advice could have more clearly conveyed how the facts of the matter applied to the legislative criteria.

The final piece of advice did not meet the assessment criteria as being timely and legally robust. The panel's concerns related to the absence of clear, written advice about the legislative basis for the decision, including delegations and analysis of the legislative criteria. The panel found that the advice was not clearly written nor well-structured. The panel's concerns related to the quality of the advice, not to the legal basis for the subsequent decision.

As 3 of the 4 casework matters considered by the panel met the qualitative assessment criteria, this performance measure was deemed to be partly achieved.

Further information on the assessment process is at **Appendix 2: Methodologies**.

**2.1.5** During 2020–21, the department made 38 submissions to United Nations human rights committees. All submissions were completed within relevant timeframes (which includes where the United Nations human rights committees provides extensions) compared to 34 out of 35 submissions in 2019–20. The department increased the proportion of communications it responded to on time through effective prioritisation and caseload management. We use this target as a proxy measure for efficiency, as it measures whether we can respond to the total number of complaints received each year in a timely way using the resources we have available.

**2.1.6** The department uses the Private International Law Casework Register to track and monitor the status of requests received under the *Hague Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters*, the *Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters* and relevant bilateral treaties. The department assesses requests and enters that information into the register to capture identification data and subsequent actions taken.

During 2020–21, the department received 555 service and evidence requests. Of these, 185 requests were finalised (exceeding the target of 125) and 117 were rejected for non-compliance with requirements under the relevant convention or treaty.

Every casework matter is different and the length of time required to process and finalise a case can be affected by a wide range of factors, many beyond our control. Given the varied and variable nature of casework, we use the number of cases finalised each year as a proxy for efficiency.

## Key Activity 3: Administer and advise on legal and policy frameworks

We design, implement, maintain, evaluate and reform legal and policy frameworks to improve outcomes for people in relation to rights, justice, security, integrity and workplaces. We ensure access to fair and affordable institutions and mechanisms that promote accountability and the rule of law.

*This key activity relates specifically to the legal and policy frameworks for which we have administrative responsibility and stewardship. It encompasses a range of sub-activities, including legal and policy advice, legislative reform, policy development and evaluation.*

### Performance measure 3.1: Legal and policy advice on the federal justice system

Legal frameworks underpinning the federal court system are effective and reforms are considered and implemented to the benefit of people in Australia, including through projects to enhance the jurisdiction and improve the capacity, accessibility and efficiency of the federal courts.

This performance measure was **partly achieved**.

Performance targets	Result
3.1.1 Stakeholder and client satisfaction greater than 80% in relation to: <ul style="list-style-type: none"> <li>effectiveness (expertise and quality of relationship)</li> <li>efficiency (timeliness and responsiveness)</li> </ul>	PARTLY ACHIEVED
3.1.2 Qualitative analysis shows that policy advice is effective in improving the operation and accessibility of the federal justice system	ACHIEVED

#### Source

Portfolio Budget Statements 2020–21, Outcome 1, Program 1.1, page 30  
Corporate Plan 2020–24, page 28

**3.1.1** In response to questions related to this target in the department's stakeholder survey, 82% of respondents rated our effectiveness positively and 72% rated our efficiency positively, below the target of 80%. A detailed explanation of the stakeholder survey methodology and results is at

#### Appendix 2: Methodologies.

The effectiveness of our engagement with stakeholders was rated well. In response to detailed questions about our effectiveness, 69% of respondents agreed that staff were respectful, effective in their communication and provided sufficient information. The achievement of the effectiveness target reflects our high level of expertise in providing legal and policy advice on issues relating to the federal court system, as well as the positive relationships maintained with stakeholders.

In relation to our efficiency in the provision of legal and policy advice on the federal justice system, the clear delineation of responsibilities between the department and stakeholder organisations was rated highly by respondents. However, other aspects relating to timeliness of advice and provision of information in a timely manner were rated less favourably.

A number of factors contributed to our result for efficiency. This included a consistently high workload involving high-profile and evolving and competing priorities. Many of these arose in the context of the pandemic.

**3.1.2** Qualitative analysis demonstrated that our legal policy advice was effective in improving the operation and accessibility of the federal justice system. Achievement of this target reflects our ability to provide sound policy advice on issues including legal frameworks underpinning the federal court system, appointment of judicial officers, access to justice issues, resourcing and operations of the federal courts and opportunities for systemic reform.

To evaluate performance, a panel assessed policy outputs against the criteria of context, analysis, advice and action to measure whether each was effective. The panel reviewed each piece of policy work both independently and collectively, and assigned each piece a score out of 5. A score of 1–2 equated to a performance result of ‘not achieved’, a score of 3 equated to ‘partly achieved’ and a score of 4–5 equated to ‘achieved’. Overall, through the individual and collective assessments the assessed policy work averaged a score of 4, indicating that the target had been achieved. Further information on the assessment process is at **Appendix 2: Methodologies**.

A number of factors contributed to our success in meeting this target. We maintained strong stakeholder relationships that allowed us to identify and advise the Attorney-General on reform opportunities and to mitigate risks and challenges faced by the courts. We also established procedures and manuals to ensure tasks were completed consistently and to a high standard.

### Federal justice system policy development

During the year, we progressed initiatives to improve the federal justice system. Examples provided form part of our larger pool of policy work to provide context for the outputs that were assessed:

- We developed legislative amendments to bring together the Family Court and the Federal Circuit Court under a unified administrative structure. This work establishes a single point of entry into the federal family law courts and provides for the making of common rules, practice notes and directions. The reforms end the confusion experienced by families navigating a split family court system and will mean more family law cases are finalised each year.
- We progressed 16 judicial appointments, including 2 to the High Court, 8 to the Federal Circuit Court, 3 to the Family Court and 3 to the Federal Court.
- We conducted a joint consultation process with the Treasury on a parliamentary committee recommendation to legislate a minimum rate of return to members of a class action.
- We secured additional funding for:
  - federal family courts to reform and optimise their case management processes. The streamlined case management model reduces the backlog of family law cases and will shorten the time taken for family law matters to be resolved
  - an additional judge in the Federal Circuit Court and 6 judges in the Federal Circuit Court; 3 to address a backlog of migration matters and 3 in the family law jurisdiction
  - upgrades to Family Court facilities in Rockhampton, Queensland, and Launceston, Tasmania, which will allow the court to maintain its presence in these locations and form part of the continued improvement of legal services for regional Australia
  - the federal family law courts to maintain specialised court lists for urgent matters arising as a result of the pandemic, including travel arrangements in relation to border restrictions.
- We progressed reforms to defamation law as part of an inter-jurisdictional Defamation Working Party that makes recommendations to Attorneys-General on reforms to the Model Defamation Provisions.
- We developed a policy proposal for the government to lead national discussions with state and territory governments to develop a joint program of work that strengthens the justice response to sexual assault, sexual harassment and coercive control.

## Performance measure 3.2: Administration of family law and marriage legislation and policy frameworks

The family and marriage law frameworks are effectively administered and reformed to improve outcomes for families, including in relation to separation, family violence, abuse of older people, surrogacy, parentage and child welfare.

This performance measure was **achieved**.

Performance targets	Result
3.2.1 Qualitative analysis shows that policy is developed and government initiatives are implemented to improve the operation of the family law system, including to enhance the safety of people using the system	ACHIEVED
3.2.2 Progress of department-led initiatives outlined in the Implementation Plan supporting the National Plan to Respond to the Abuse of Older Australians	ACHIEVED
3.2.3 100% of payments to Family Law Service providers under the Family Relationships Services Program are made in accordance with milestones in funding agreements (subject to appropriate availability)	ACHIEVED
3.2.4 Stakeholder and client satisfaction greater than 80% in relation to: <ul style="list-style-type: none"> <li>effectiveness (expertise and quality of relationship)</li> <li>efficiency (timeliness and responsiveness)</li> </ul>	ACHIEVED

### Source

Portfolio Budget Statements 2020–21, Outcome 1, Program 1.1, page 30 and Program 1.5, page 36  
Corporate Plan 2020–24, page 29

**3.2.1** This year, we provided policy advice to government and implemented government decisions to improve the family law system and enhance people's safety through the:

- development and provision of policy advice to government on family law reform initiatives
- implementation of government initiatives to improve the operation of the family law system
- procurement of independent evaluations or reviews of family law reform measures to determine the effect of policies and initiatives on the operation of the family law system.

We have assessed achievement against this target using a 3-step process of:

- a **quantitative assessment** of the number of work products in the policy development and implementation process (such as ministerial submissions and consultation papers) that supported government decisions and implementation of initiatives designed to improve the operation of the family law system
- an evaluation of the **status of implementation** of family law reform initiatives announced by the government
- a review of **findings** of independent evaluations, commissioned by the department, to assess the effectiveness of identified pilot programs or reform projects.

Taken together, these processes demonstrate how we successfully achieved the target.

### Quantitative assessment

In 2020–21, we provided 48 ministerial submissions to portfolio ministers for decision that analysed and proposed reforms to the operation of the family law system. The government made decisions that led to achieving the outcomes listed below.

## Status of family law reforms

The government responded to the Australian Law Reform Commission report, *Family Law for the Future – An Inquiry into the Family Law System*. The response provided the government’s views, supported by analysis and advice from the department, on reforms to family law and the operation of the family law system. The response outlined the next steps being taken by government.

The government approved the making of legislative amendments to the *Family Law Act 1975* that promote an accessible and safe environment for families within the family law system:

- The *Family Law Amendment (Risk Screening Protections) Act 2020* supports implementation of a new approach, The Lighthouse project, to identify and manage safety risks in the family law courts.
- The *Family Law Amendment (Western Australia De Facto Superannuation Splitting and Bankruptcy) Act 2020* allows de facto couples in Western Australia to split their superannuation as part of family law property proceedings, as is the case in other jurisdictions. It also extends federal bankruptcy jurisdiction to the Family Court of Western Australia to allow bankruptcy and family law matters of de facto couples to be heard concurrently in a single court, saving time, money and effort.
- The Family Law Amendment (Federal Family Violence Orders) Bill 2021 was introduced into Parliament on 24 March 2021, to provide stronger protections for victims of family violence in the family law system.
- Exposure draft legislation to improve the visibility of superannuation assets in family law proceedings was released and received supportive submissions from stakeholders.

We published 2 consultation papers: *Establishment of an Accreditation Scheme for Children’s Contact Services* and *A New Decision-Making Framework for Property Matters in Family Law*. We received and are analysing feedback to advise government.

Upon advice from the department, the government approved the funding of family law policy initiatives announced in the 2021–22 Budget, which we are now implementing. These include:

- investment in Children’s Contact Services, which will provide additional funding from 2021–22 to increase the capacity of the 64 existing services and establish 20 new services in 2022–23
- extension of 2 well-received family law property pilots under the Women’s Economic Security Statement until June 2023, which will continue assistance to separating couples with small property pools, helping them achieve affordable, timely property settlements. The extension also provides service continuity until the outcome of the independent evaluations of the pilots due in April 2022
- additional ongoing funding for frontline family violence legal and social support services, including funding for Domestic Violence Units and Health Justice Partnerships to increase the accessibility of legal and mental health support services to women experiencing family violence
- further investment in the Family Advocacy and Support Service with funding provided over 3 years to maintain, expand and enhance the service
- additional funding for the Family Violence and Cross-Examination of Parties Scheme, which ensures that victims of family violence are not directly cross-examined by their perpetrators in family law matters.

We published the *Property and Financial Agreements and Consent Orders – What You Need to Know* guide, which is a practical resource to assist separating couples prepare financial agreements and consent orders, and a useful tool for family law and justice sector professionals.

## Findings of family law evaluations and reviews

In 2020–21, the department commissioned 2 evaluations related to the operation of the family law system that are ongoing:

- Family Violence and Cross-Examination of Parties Scheme review, due to be completed in the second half of 2021.
- Evaluation of the pilot of co-location of child protection and policing officials at family law court locations, due to be completed in early 2022.

We received evaluation reports on 2 family law reform initiatives, which are under review and will be the subject of advice to government in 2021–22:

- The evaluation of the Legally Assisted and Culturally Appropriate Family Dispute Resolution pilot by the Australian National University.
- The evaluation of the Enhanced Exercise of Family Law Jurisdiction in the Northern Territory Local Court pilot by Inside Policy.

**3.2.2** We have progressed the department’s initiatives outlined in the Implementation Plan for the National Plan to Respond to the Abuse of Older Australians 2019–23, which is available on the department’s website ([www.ag.gov.au/rights-and-protections/publications/national-plan-respond-abuse-older-australians-elder-abuse-2019-2023](http://www.ag.gov.au/rights-and-protections/publications/national-plan-respond-abuse-older-australians-elder-abuse-2019-2023)). An independent evaluation of the Elder Abuse Service Trials program is underway and is expected to conclude on 31 August 2021. We have collected qualitative data through the Department of Social Services Data Exchange and quantitative data such as client surveys and case studies directly from each of the Elder Abuse Service Trial providers to assess the effectiveness of the program. Assessment concluded that the deliverables and activities were being undertaken in accordance with grant agreements.

The National Elder Abuse Prevalence Study has been finalised and has progressed to the Attorney-General for review.

On 27 July 2020, the Meeting of Attorneys-General agreed in principle to the broad policy design for the National Register of Enduring Powers of Attorney. On 31 March 2021, it was agreed to consult further to present a progress update by the end of 2021.

**3.2.3** All payments to family law service providers under the Family Relationship Services Program were made in accordance with milestones scheduled in 235 grant agreements, which are administered by the Department of Social Services Community Grants Hub. Timely payments totalling \$179 million enabled continuity of services to improve the wellbeing of families, particularly families with children, at risk of separating or who have separated.

**3.2.4** In response to questions related to this target in the department’s stakeholder survey, 89% of respondents rated our effectiveness positively and 85% rated our efficiency positively. A detailed explanation of the stakeholder survey methodology and results is at **Appendix 2: Methodologies**.

These results indicate that we generally provide high-quality, timely, consistent and effective advice on the administration of Australia’s family law and marriage legislation and policy frameworks. A contributing factor to this success is the maintenance of strong stakeholder relationships. While qualitative feedback suggested some respondents found staff turnover within the department disruptive to relationships, it was also noted that the department provided consistent and constructive advice. The qualitative feedback indicated there were occasions when respondents considered the department did not provide sufficient time for consideration and consultation ahead of a deadline or meeting. The need to consult across and beyond government on an extensive range of complex issues, as well as needing to capitalise on key meetings and forums, can affect the time available for consultation and the perceived timeliness of the department’s engagement on occasions.

## Performance measure 3.3: Administration of the industrial relations system

The industrial relations system is well maintained and improvements are considered and implemented based on high-quality legal and policy advice and effective engagement with key stakeholders

This performance measure was **achieved**.

Performance targets	Result
3.3.1 Stakeholder and client satisfaction greater than 80% in relation to: <ul style="list-style-type: none"> <li>effectiveness (expertise and quality of relationship)</li> <li>efficiency (timeliness and responsiveness)</li> </ul>	ACHIEVED
3.3.2 Companies, unions, industry stakeholders and state and territory governments are engaged in discussions on policy development	ACHIEVED
3.3.3 Qualitative analysis shows that policy advice is effective in supporting the effectiveness of the industrial relations system and economic data and analysis is timely	ACHIEVED
3.3.4 Qualitative analysis shows the effectiveness of legal advice in supporting litigation to ensure the efficient and effective functioning of the industrial relations framework	ACHIEVED

### Source

Portfolio Budget Statements 2020–21, Outcome 2, Program 2.1, page 42  
Corporate Plan 2020–24, page 30

**3.3.1** In response to questions related to this target in the department's stakeholder survey, 90% of respondents rated our effectiveness positively and 80% rated our efficiency positively. A detailed explanation of the stakeholder survey methodology and results is at **Appendix 2: Methodologies**.

In relation to specific markers of our effectiveness:

- 98% of respondents agreed that our engagement with stakeholders is respectful
- 90% of respondents agreed that we have high levels of expertise
- 90% of respondents agreed that we provide high-quality advice.

An area respondents indicated for improvement was in the need for timely communication. However, in relation to specific questions about our responsiveness to requests for assistance, we received strong results with 88% of respondents giving a positive rating.

Stakeholder and client satisfaction can be influenced by a range of factors including some outside of the department's control. Disruptions to the department's operations caused by the COVID-19 pandemic may have affected our ability to provide timely communication.

**3.3.2** We continued to engage with industrial relations stakeholders, states and territories and other Australian Government departments and agencies in the formation of policy and legislation, including on the operation of the national industrial relations system and work health and safety matters.



During 2020–21:

- We worked with industrial relations stakeholders and states and territories to develop the Fair Work Amendment (Supporting Australia's Jobs and Economic Recovery) Bill 2021. Working groups comprising union and employer industry groups were established to develop reforms to the industrial relations system as part of the government's pandemic response.
- We led a co-design process to develop a Roadmap of short-, medium- and long-term options for regulatory technology solutions to help businesses navigate obligations under the awards system. This process involved workshops and individual consultations with small business, representatives from the technology sector, unions, employer industry groups and other government agencies. The co-design process extended our understanding of user experiences and supported the development of a final Roadmap that was published on 12 May 2021. The success of the co-design process has resulted in positive ongoing stakeholder engagement during the implementation phase of the policy.
- We supported the Fair Work Ombudsman's engagement with industrial relations stakeholders to co-design the new Employer Advisory Service. This provides free, tailored advice to small businesses on their workplace obligations.
- We worked across government, including with Safe Work Australia, the Fair Work Ombudsman and the Department of Health as well as peak employer and employee groups to ensure that work health and safety guidance on COVID-19 vaccination is clear, consistent and builds confidence about the vaccine rollout. We did this through regular, ongoing engagement with these groups and roundtable meetings with representatives to identify workplace-related issues of concern with the vaccine rollout and discuss options to address these as a group. These discussions helped inform updates to existing workplace guidance and further policy measures to ensure workplaces are supported in the rollout.

**3.3.3** We provide advice to government on emerging issues, legislation, opportunities for reform as well as routine matters in relation to the operation of the national industrial relations system and national work, health and safety matters. The focus is on briefings that are consistent and high quality and the provision of policy advice that is evidence-based and supported by economic data and analysis.

An assessment panel evaluated the quality of a sample of work produced in 2020–21 against the standards of context, analysis, advice and action. The panel concluded that the sample demonstrated that policy advice supported the effectiveness of the industrial relations system. Further information on the assessment process is at **Appendix 2: Methodologies**.

The department's commitment to the timely provision of economic evidence and analysis supports policy development within the national industrial relations system. Two examples of providing economic data and advice include coordinating the government's submission to the Fair Work Commission's Annual Wage Review and producing the Quarterly Trends in Federal Enterprise Bargaining report. The report is published on the department's website before the end of each quarter. The benchmark is for the report to be published on the department's website before the end of each subsequent quarter and the government's submission to the Annual Wage Review to be submitted by the deadline set by the Fair Work Commission.



To evaluate the timeliness of economic data and analysis against this target, we reviewed deadlines and submission dates for our activities. The government’s submission to the 2020–21 Annual Wage Review was submitted by the required date of 26 March. The publishing dates for the most recent quarterly Trends in Federal Enterprise Bargaining reports were:

- 18 December 2020 for the September quarter 2020 report, before the deadline of 31 December 2020
- 26 March 2021 for the December quarter 2020 report, before the deadline of 31 March 2021
- 25 June 2021 for the March quarter 2021 report, before the deadline of 30 June 2021.

The June quarter 2021 report is expected to be published by 30 September 2021.

The first 3 quarters of Federal Enterprise Bargaining data were released before the deadlines, while the final quarter was not due at 30 June 2021. By meeting the deadlines for the provision of economic data and analysis, we have successfully achieved the timeliness element of the performance target.

The 2 elements of this performance target have equal weighting and both play an important role in ensuring the department’s industrial relations policy advice is backed by evidence. By achieving both elements, we have achieved the performance target as a whole.

**3.3.4** We manage and provide advice to the government in relation to ministerial interventions in appropriate legal matters to ensure that the industrial relations legislative framework is functioning as intended. We also manage litigation before the Administrative Appeals Tribunal in relation to the administration of the Fair Entitlements Guarantee.

Qualitative analysis demonstrated that legal advice effectively supported litigation to ensure the efficient and effective functioning of the industrial relations framework. Nominated officers assessed advices in the work sample as ‘effective’ in supporting the relevant litigation matter by applying equally weighted criteria, measuring whether each legal advice was clear, logical and supported by precedent. The efficiency of legal advices was also assessed by reference to whether any court deadlines were missed for the relevant litigation.

Further information on the assessment process is at **Appendix 2: Methodologies**.

## Performance measure 3.4: Legal and policy advice on Australia's integrity and rights frameworks

Integrity and rights frameworks (administrative law, human rights (including anti-discrimination laws), archives, privacy, anti-corruption, freedom of information, fraud and public interest disclosure) are effective and improvements are considered and implemented to the benefit of all Australians, including through projects that enhance capabilities and effective administration.

This performance measure was **achieved**.

Performance targets	Result
3.4.1 Stakeholder and client satisfaction greater than 80% in relation to: <ul style="list-style-type: none"> <li>effectiveness (expertise and quality of relationship)</li> <li>efficiency (timeliness and responsiveness)</li> </ul>	ACHIEVED
3.4.2 Government and external stakeholders are actively engaged in discussions on policy development and improvements	ACHIEVED
3.4.3 Qualitative analysis shows that policy advice is effective in maintaining and improving the operation of Australia's integrity frameworks	ACHIEVED

### Source

Portfolio Budget Statements 2020–21, Outcome 1, Program 1.1, page 30 and Program 1.2, page 33  
Corporate Plan 2020–24, page 31

**3.4.1** In response to questions related to this target in the department's stakeholder survey, 100% of respondents rated our effectiveness positively and 94% rated our efficiency positively. A detailed explanation of the stakeholder survey methodology and results is at **Appendix 2: Methodologies**.

Respondents to the survey indicated that the department's staff are viewed as experts in their subject areas and that interactions with officers are generally positive. However, some comments related to concerns about changes in staffing and priorities resulting in inconsistent communication and the need to adhere to strict deadlines for consultation affecting the quality or timeliness of information. These concerns may be linked to the lower positive rating for efficiency when compared to the positive rating for effectiveness.

**3.4.2** and **3.4.3** We promote public sector integrity and work to strengthen oversight, accountability and transparency measures in Australia's public institutions. We worked closely with our stakeholders to achieve a range of integrity and rights reforms this year.

We have evaluated both performance targets 3.4.2 and 3.4.3 through qualitative assessment. The 2020–21 Universal Periodic Review (UPR) process was selected for assessment from a sample list using detailed selection criteria. An assessment panel considered how effective the policy advice was in achieving its intended effects. Further information on the assessment processes is at

### **Appendix 2: Methodologies.**

Australia is required to report to and appear before other United Nations Member States as part of a Human Rights Council peer-review process, the UPR. The UPR occurs every 5 years and assesses the extent to which Australia implements the human rights obligations set out in the United Nations Charter, the Universal Declaration of Human Rights, the 7 core human rights treaties to which Australia is party and applicable international humanitarian law. Each UPR cycle includes a national report, an appearance before the UPR Working Group for an interactive dialogue with other member states and a written response to the recommendations made by the UPR Working Group during the appearance.

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In the development and refining of our policy advice, we consulted with civil society, the Australian Human Rights Commission, Australian Government agency counterparts and state and territory agencies to check that the policy advice was effective and fit-for-purpose. A range of departments and state and territory governments were involved in the development of all aspects of the appearance, ensuring that the UPR reflected subject-matter expertise and high-quality advice. Participants were involved in virtual consultations, a public submissions process and the UN Human Rights Council appearance process. We adjusted our approach due to the pandemic by moving consultation online and coordinating a virtual appearance rather than the delegation appearing in person at the UN Human Rights Council in Geneva, Switzerland.

Panel members graded the case study as ‘good’ or above in the areas of context, analysis, advice and action. The policy advice provided ensured that the UPR process accurately reflected the Australian Government’s position on human rights, both domestically and internationally, as well as Australian legislation, policy and practice. We were able to produce this outcome as a result of our detailed project plan and timeline that outlined the specific milestones requiring action throughout the process. The panel recognised this as a key tool in leveraging our policy advice. The panel noted that the policy advice could have been strengthened through considering how to measure the success or failure of the process.

## Performance measure 3.5: Legal and policy advice on criminal justice and national security frameworks

Reforms to legislative and policy frameworks relating to criminal justice and national security frameworks are managed to address emerging threats and challenges while upholding the rights of individuals.

This performance measure was **achieved**.

Performance targets	Result
3.5.1 Stakeholder and client satisfaction greater than 80% in relation to: <ul style="list-style-type: none"> <li>effectiveness (expertise and quality of relationship)</li> <li>efficiency (timeliness and responsiveness)</li> </ul>	ACHIEVED
3.5.2 Government and external stakeholders are actively engaged in discussions on policy development and improvements	ACHIEVED
3.5.3 Qualitative analysis of the effectiveness of policy advice in maintaining and improving the operation of Australia's criminal justice and national security frameworks	ACHIEVED

### Source

Portfolio Budget Statements 2020–21, Outcome 1, Program 1.2, page 33  
Corporate Plan 2020–24, page 32

**3.5.1** In response to questions related to this target in the department's stakeholder survey, 89% of respondents rated our effectiveness positively and 85% rated our efficiency positively. A detailed explanation of the stakeholder survey methodology and results is at **Appendix 2: Methodologies**.

In 2020–21, we progressed reforms to Australia's criminal law and national security framework to ensure the safety and protection of communities and to respond to new and emerging threats. We worked with other agencies, state and territory law enforcement and criminal justice stakeholders in a range of practical ways including through legislative and Cabinet scrutiny work, working groups and forums and informal or ad hoc means. Comments indicated that respondents found our engagement to be constructive and professional. Areas for improvement included better management of time pressures and ensuring better internal coordination of views.

**3.5.2 and 3.5.3** We evaluated both performance targets 3.5.2 and 3.5.3 through qualitative assessment. The legislative development of extended supervision orders for high-risk terrorist offenders was selected for assessment from a sample list using detailed selection criteria. An assessment panel considered how effective the policy advice was in achieving its intended effects. Further information on the assessment processes is at **Appendix 2: Methodologies**.

The proposed extended supervision order scheme would protect communities from the risk terrorist offenders pose after their release from custody for a serious terrorism offence. On 3 September 2020, the then-Attorney-General introduced the Counter-Terrorism Legislation Amendment (High Risk Terrorist Offenders) Bill 2020 that is now being considered by the Parliamentary Joint Committee on Intelligence and Security.

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In leading the development of the bill, we provided policy advice in 3 ways:

- advice to the Attorney-General to support the administration of the legislation
- advice to the Department of Home Affairs to support their policy development role
- engaging with state and territories to learn from their experiences and respond to their comments and concerns.

The bill involved significant consultation across government and with states and territories. State and territory jurisdictions were key partners in these reforms and their views shaped the scheme. In particular, the department drew on the experiences of New South Wales in the development of their parallel post-sentence scheme, the Terrorist High Risk Offender regime. Collaboration occurred through the Legal Issues Working Group of the Australia-New Zealand Counter-Terrorism Committee.

The panel graded the policy advice provided by the team as ‘good’ or above in all 4 evaluation areas of context, analysis, advice and action. In particular, the panel found that the team considered and advised on legal risks and bolstered its advice through constructive collaboration with the Department of Home Affairs and state and territory counterparts. The panel members recommended that the policy project could be strengthened by more reflection and analysis on how to measure success.

## Performance measure 3.6: Administration of other legal frameworks for which the department is responsible

Legal frameworks and regimes which the department is responsible for are effectively administered and improvements are considered and implemented.

This performance measure was **achieved**.

Performance targets	Result
3.6.1 Funding to grant recipients under the Native Title Anthropologists Grant Program is provided in line with agreed timeframes and subject to grant recipients meeting deliverables set out in funding agreements	ACHIEVED
3.6.2 Qualitative analysis shows the effectiveness of administration of the native title system, including managing the Commonwealth's participation in native title claims	ACHIEVED
3.6.3 Qualitative analysis shows the effectiveness of administration of the personal insolvency regime	ACHIEVED
3.6.4 Simplification of the <i>Personal Property Securities Act 2009</i> leads to increased usability of the Personal Property Securities Register, as indicated by the fact that draft legislation is prepared for consideration by the Attorney-General	PARTLY ACHIEVED

### Source

Portfolio Budget Statements 2020–21, Outcome 1, Program 1.1, page 30 and Program 1.6, page 37  
Corporate Plan 2020–24, page 33

**3.6.1** All funds set aside for 2020–21 under the Native Title Anthropologist Grant Program were provided to grant recipients in line with agreed timeframes. Activities funded by the program support native title anthropologists working in the system. The program facilitates native title parties having access to qualified and experienced anthropologists to resolve claims and support an efficient and effective native title system. By measuring the provision of funding in line with the satisfactory completion of recipient obligations, we can assess the effective administration and management of the program.

Grant agreements and associated activity work plans set out recipient reporting deadlines as well as timeframes for half-yearly funding instalments to be paid and other grantee obligations. Under the program, recipients must meet their obligations before the next instalment of funds is released.

During the reporting period, all grant recipients reported against their grant activities within the timeframes. The Community Grants Hub and the department assessed progress reports against the agreed activities, taking into account the effects of the pandemic on activity delivery. All reports demonstrated satisfactory delivery of activities in line with benchmarks and criteria, as well as a responsive and flexible approach to delivering activities. Having satisfied obligations, all funds (\$337,000) were paid to recipients.

**3.6.2** The government's participation in native title litigation, support of legislative reform and engagement with states and territories and other stakeholders in the system demonstrated effective administration of the native title system.

A number of cases studies that covered the different types of work involved in the administration of the native title system were selected for qualitative assessment using detailed selection criteria. These case studies were reviewed by nominated officers who assessed factors such as whether the government's involvement in the matters had been targeted, proportionate and represented an appropriate application of legal and other resources. For the policy case study, the action officer assessed relevant materials and determined that our involvement in native title legislative reforms had facilitated the efficient passage of the amendments and, by regularly consulting with stakeholders, had effectively implemented relevant measures in the reforms.

We were able to assess the effectiveness of our administration of the native title system by conducting a qualitative analysis rather than relying on quantitative metrics such as total number of native title claims or percentage of claims. Case study analyses demonstrated achievement of this performance target. Further information on the assessment process is at **Appendix 2: Methodologies**.

As the native title system has matured, the majority of claims do not raise significant or complex issues for the Australian Government. The assessed case studies demonstrate that our management of the government's participation in matters raising significant and/or novel issues was appropriate, effective and proportionate. This included ensuring the government met court deadlines by targeting the nature of its involvement to efficiently achieve policy outcomes and providing timely advice to decision-makers including the Attorney-General and Assistant Minister to the Attorney-General. The case studies also demonstrated our effective administration of the native title system more broadly through the passage of significant legislative amendments to the *Native Title Act 1993* in February 2021. These amendments have broad stakeholder support and streamline and improve the native title claim process.

**3.6.3** Achievement of this target reflects our ability to provide advice and consult on:

- legal frameworks underpinning the personal insolvency regime
- the appointment of personal insolvency experts to trustee committees
- responses to members of the public navigating the personal insolvency regime.

The Australian Financial Security Authority (AFSA) is responsible for regulating the personal insolvency regime and delivering insolvency and trustee services to the public. Our policy work in 2020–21 supported AFSA to carry out its regulatory and administrative functions. Maintaining our strong stakeholder relationship with AFSA and receiving feedback from personal insolvency stakeholders enabled us to monitor and improve the effectiveness of the personal insolvency regime. Through this relationship, we were able to promptly identify opportunities for reform, provide advice to the Attorney-General and external stakeholders, progress administrative requests and correspond with members of the public.

To evaluate performance, we identified all policy work undertaken over the year. This included ministerial submissions, ministerial appointments, policy advice to external stakeholders, reform of personal insolvency laws and ministerial correspondence. A panel assessed the effectiveness of a selection of policy advice against the criteria of context, analysis, advice and action and allocated each assessed piece of work a score out of 5. A score of 1–2 equated to a performance result of 'not achieved', a score of 3 equated to 'partly achieved' and a score of 4–5 equated to 'achieved'. Overall, the assessed policy work averaged a score of 4, indicating that the target had been achieved. Further information on the assessment process is at **Appendix 2: Methodologies**.

The panel noted that the selected policy work was clear about its purpose, context and policy objectives, and enabled a clear and informed decision. For select pieces of advice that had a reduced score, the panel noted that the advice required more clarity, particularly with respect to technical subject matter. We will consider this feedback as we continue to administer the personal insolvency regime.

A number of other factors contributed to our success in meeting this target including our effective stakeholder relationships. The use of templates and standardised procedures ensured work was consistent and completed to a high standard.

### Personal insolvency regime policy development

Over the last year, we progressed initiatives to improve the administration of the personal insolvency regime. Our ability to progress this work indicates the personal insolvency regime is effectively administered and that options for reforming personal insolvency laws are comprehensively considered. The following examples were priorities for government and therefore formed part of a larger pool of policy work. They provide context for the policy advice that was assessed by the panel:

- Following temporary adjustments to the personal insolvency regime in response to the pandemic, the bankruptcy threshold was permanently increased from \$5,000 to \$10,000 on 1 January 2021. This change was informed by stakeholder consultation including with insolvency practitioner industry and member associations, and consumer advocates.
- We progressed 8 ministerial appointments to trustee registration and trustee disciplinary committees.
- We responded to 26 pieces of correspondence concerning the personal insolvency regime. This included communicating options to members of the public navigating the regime and providing information about personal insolvency laws.
- We published a discussion paper and sought public submissions on possible changes to the personal insolvency regime to inform the ongoing response to the pandemic. We received and considered 40 submissions, which will inform recommendations to the government.
- The Bankruptcy Regulations 2021 were remade and commenced on 1 April 2021 to replace the sunseting Bankruptcy Regulations 1996.

**3.6.4** Simplifying the *Personal Property Securities Act 2009* will make it easier to understand and assist the operation of the Personal Property Securities Register. The target is partly achieved because the department prepared tranches of draft legislation for the consideration of the Assistant Minister. The target was not fully achieved as the criteria set out in the methodology required exposure draft legislation to be completed and submitted to the Assistant Minister. The methodology assumed receipt of all policy approvals and availability of drafting resources in time to enable an exposure draft to be finalised and provided to the Assistant Minister by 30 June 2021. Although an exposure draft was not submitted by that date, 3 submissions were made to the Assistant Minister for the consideration of policy as a necessary prerequisite to finalising the exposure draft. Given the progress made on tranches of the draft legislation that will ultimately form the exposure draft, this target is considered partly achieved.



## Key Activity 4: Administer and implement programs and services

We administer and implement programs and services to improve access to justice for vulnerable people, provide financial assistance to workers whose entitlements have not been paid as a result of liquidation or bankruptcy, and promote the safety, wellbeing and productivity of people at work. We also deliver programs to support regional partners to develop stronger law and justice sectors and more effective policy and legal frameworks.

*This key activity relates to programs and services that the department administers, which are linked to but distinct from the legal and policy frameworks we develop and oversee.*

### Performance measure 4.1: Legal Assistance

The department's roles and responsibilities under the legal assistance grant programs, the National Legal Assistance Partnership, COVID-19 and bushfires programs are delivered, in order to enable the provision of legal assistance to people facing disadvantage in accordance with program requirements.

This performance measure was **partly achieved**.

Performance targets	Result
4.1.1 Provision of funding to states and territories, legal assistance providers and individuals in line with agreed timeframes and subject to third parties meeting relevant obligations and requirements	PARTLY ACHIEVED
4.1.2 Facilitation of information sharing, national collaborative service planning and provision of guidance under the National Legal Assistance Partnership	ACHIEVED
4.1.3 Stakeholder and client satisfaction greater than 80% in relation to: <ul style="list-style-type: none"> <li>effectiveness (expertise and quality of relationship)</li> <li>efficiency (timeliness and responsiveness)</li> </ul>	PARTLY ACHIEVED

#### Source

Portfolio Budget Statements 2020–21, Outcome 1, Program 1.1, page 30 and Program 1.6, page 37  
Corporate Plan 2020–24, page 33

**4.1.1** The department provides funding and assessments of grant applications and progress reports for the National Legal Assistance Partnership 2020–25, legal assistance bushfire support and COVID-19 legal assistance support and activities. This year, there were delays associated with 2 of the nominated programs. As such, our target of providing funding within agreed timeframes was only partly achieved.

**Commonwealth Redress Scheme** - the provision of this funding required 2 payments within the financial year. One payment was not made within the expected timeframe. Following an adjustment to the total appropriation amount, due to an indexation change, the grant amount was reduced for the 2020–21 financial year. This required a variation to the grant agreement prior to the payment being made. Thus, only one of the 2 payment dates was met.

**Community Legal Services Program** - we achieved 90% of this target. However, payments to 2 providers were delayed as a result of their requests to negotiate the activities to be provided under the funding agreements.

To measure performance, we monitor progress in making payments against the national partnership agreement payment schedules and grant agreement milestones. We track relevant correspondence, payment approval documentation and payment records. For payments made for grant agreements managed by the Community Grants Hub operated by the Department of Social Services, the date of payment is captured through the dates recipients created invoices with a 7-day allowance for processing through their finance systems. All data in respect of the Legal Financial Assistance Scheme is captured through the grants management system (myHub). The following tables summarise results.

**TABLE 4: ACTIVITIES UNDER NATIONAL PARTNERSHIP AGREEMENTS AND OTHER GRANT AGREEMENTS**

Activities under national partnership agreements and other grant agreements made within specified timeframes	Target	Result	Achieved
National Legal Assistance Partnership 2020–25	100%	100%	Yes
COVID-19 Legal Assistance Funding	100%	100%	Yes
Legal Assistance Bushfire Support	100%	100%	Yes
Community Legal Services Program	100%	90%	No
Expensive Commonwealth Criminal Case Fund	100%	100%	Yes
Commonwealth Redress Scheme for Survivors of Institutional Child Sexual Abuse (knowmore)	100%	50%	No

**TABLE 5: ACTIVITIES UNDER LEGAL FINANCIAL ASSISTANCE SCHEMES**

Activities under legal financial assistance schemes undertaken within specified timeframes	Target	Result	Achieved
Applications (except royal commissions) processed within 28 days*	≥ 80%	80.57%	Yes
Applications (royal commissions) processed within 21 days*	≥ 80%	85.29%	Yes
Claims / Payments (all) processed within 21 days*	≥ 80%	83.07%	Yes

\*The time taken to process is determined by calculating the number of days from when the application or claim is complete to when it is approved. If the result is within the target then the measure is deemed as achieved. The dates used to calculate the time taken to process are stored in the grants management system (myHub).

We use this target as a proxy measure for efficiency. It is important that support and funding to legal assistance providers and individuals is timely to maintain the accessibility of the justice system and provide services for people facing disadvantage. The legal financial assistance schemes we administer are demand driven, cover a broad range of legal matters and have varying levels of expenditure. Accordingly, we use the time taken to process applications and grant payments across these schemes as an indication of our efficiency.

**4.1.2** The National Legal Assistance Partnership (NLAP) commenced on 1 July 2020 and provides funding to states and territories for legal assistance services delivered by Legal Aid Commissions, Community Legal Centres and Aboriginal and Torres Strait Islander Legal Services. The aim of these services is to help people facing disadvantage address their legal problems and use the justice system.

The NLAP sets out requirements for the development of relevant guidance material and an Independent Review.

The department implements the NLAP in collaboration with state and territory jurisdictions through the Legal Assistance Services Inter Governmental Committee. The committee consists of officials from departments of justice or equivalent in each jurisdiction and the legal assistance sector through the National Legal Assistance Advisory Group. The Australian Government relies on committee insights and localised expertise to ensure that services improve access to justice for vulnerable people. We work with these groups to produce guidance and templates on reporting requirements under the NLAP.

We used planning meetings to share information and updates, seek feedback and endorsement of documents and policy directions, resolve NLAP implementation issues and hear from guest speakers about best-practice initiatives related to this work. All work was documented and is reviewed on a bi-annual or annual basis to ensure we meet desired targets.

We hosted as the secretariat and attended 59 meetings with NLAP stakeholders during the financial year. These included meetings with the Legal Assistance Services Inter-Governmental Committee and the National Legal Assistance Advisory Group, which consists of representatives from peak organisations and relevant stakeholders, as well as delegates from frontline service providers within each jurisdiction (including the requisite Legal Aid Commission, a Community Legal Centre and the Aboriginal and Torres Strait Islander Legal Service). These meetings were used to share information and updates about policy developments within the legal assistance sector and seek feedback from the states, territories and the sector to develop guidance documents or policy directions. We also obtained their endorsement before finalisation, discussed and resolved NLAP implementation issues relating to data reform activities and heard from guest speakers about best-practice initiatives related to this work.

The Legal Assistance Services Inter Governmental Committee and the National Legal Assistance Advisory Group provide regular, independent feedback on our implementation performance, including on the guidance material we provide and the extent of our consultations. This provides qualitative information from independent stakeholders that forms an unbiased basis to measure and assess performance. As we move into the second year of NLAP, feedback has enabled us to refine the implementation process to ensure that we are sharing information and undertaking collaborative service planning and guidance activities with a clear purpose and as efficiently as possible.

**4.1.3** In response to questions related to this target in the department's stakeholder survey, 85% of respondents rated our effectiveness positively and 63% rated our efficiency positively, which is below the target of 80%. A detailed explanation of the stakeholder survey methodology and results is at

**Appendix 2: Methodologies.**

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We received positive responses related to how we engage with stakeholders, consider stakeholder views, find solutions to problems, demonstrate high levels of expertise and support the objectives of government. These results likely reflect the time invested in fostering strong working relationships with the Legal Assistance Services Inter Governmental Committee and the National Legal Assistance Advisory Group. The provision of high-quality advice and decisions based on evidence rated lower. This may reflect that a full financial year of data under the NLAP is not yet available. This limited our capacity to draw evidence-based insights for the purposes of providing advice and making decisions.

While we did not meet our target for efficiency, respondents rated all aspects of our efficiency in administering relevant legal assistance programs and schemes favourably overall. This included requests for assistance, timely advice and responding to issues or concerns. The lower rated aspects of efficiency related to providing a clear delineation of responsibilities between the department and stakeholder organisations and the timely provision of information. In implementing the first year of the NLAP, we encountered challenges associated with NLAP data requirements. These issues were prioritised and resulted in reduced timeframes for other NLAP activities.

## Performance measure 4.2: Administration of the Fair Entitlements Guarantee program

Administer the Fair Entitlements Guarantee (FEG) program, including by responding to any increase in claims resulting from the COVID-19 pandemic, to provide financial assistance for workers who have not been fully paid for work done for insolvents or bankrupts.

This performance measure was **achieved**.

Performance targets	Result
4.2.1 In respect of our administration and services: <ul style="list-style-type: none"> <li>80% of claimants are satisfied with the department's administration of FEG</li> <li>80% of insolvency practitioners are satisfied with the department's administration of FEG</li> </ul>	ACHIEVED
4.2.2 95% of claim payments are correct <sup>1</sup>	ACHIEVED
4.2.3 Timely processing of applications and claims: <ul style="list-style-type: none"> <li>80% of claims processed within 16 weeks of receipt of an effective claim</li> <li>average processing time for all initial claims is 14 weeks</li> </ul>	ACHIEVED

<sup>1</sup> 95% confidence interval means there is a 95% probability that the true accuracy rate lies between 96.7% and 99.1%.

### Source

Portfolio Budget Statements 2020–21, Outcome 2, Program 2.1, page 42 and Program 2.2, page 43  
Corporate Plan 2020–24, page 36

**4.2.1** We use surveys to measure satisfaction with the department's administration of FEG. These surveys are conducted through an online survey platform. Satisfaction results are calculated as the percentage of respondents who indicate they are 'satisfied' or 'very satisfied' with the program. 'Nil' responses to the satisfaction question are excluded from the calculation.

To determine the level of claimant satisfaction, we send an electronic survey to each claimant approximately 5 weeks after their final claim decision. This timing is based on the premise that claimants are more likely to respond to a survey if they are asked closer to the time when their application is finalised.

In 2020–21, 962 of 5,639 claimants responded to the survey, representing a 16% response rate. Of these, 86% of claimants were satisfied with the department's administration of FEG. Compared to 2019–20, the response rate decreased by one percentage point, while the level of satisfaction increased slightly (85% satisfied in 2019–20).

To determine the proportion of insolvency practitioners satisfied with the department's administration of FEG, we send a survey to insolvency practitioners who were involved in cases in the previous 12 months. The survey is sent in mid-May and is open for 6 weeks until the end of June.

In 2020–21, 171 of 968 insolvency practitioners responded to the practitioner survey, representing an 18% response rate. Of these, 89% of insolvency practitioners were satisfied with the department's administration of FEG, compared to 96% in 2019–20. The response rate remained consistent with the 2019–20 response rate. The 7% drop in satisfaction rate can be partly attributed to the options given to insolvency practitioners to answer the headline satisfaction question. The FEG changed these options in 2020–21 based on the advice given by internal behavioural insights psychologists.

In previous surveys, the options were 'Very Satisfied', 'Satisfied', 'Not Sure', 'Dissatisfied' and 'Very Dissatisfied'. However, in the 2020–21 survey, 'Not Sure' was changed to 'Average'. This prompted a larger number of respondents to select 'Average' in 2020–21 (9%) compared to the number of respondents selecting 'Not Sure' in 2019–20 (3%).

**4.2.2** To determine whether FEG payments are correct, we randomly sample 40 claim decisions each month and test them against 23 criteria to evaluate the accuracy of the decision. During 2020–21, we tested 480 out of 7,635 claim decisions. The claim decision accuracy target was 95% of payments to be correct. In 2020–21:

- 98.1% (95% CI, +/-1.2 percentage points) of claim decisions tested were accurate (compared to 95% in 2019–20)
- 1.9% of claim decisions tested were inaccurate.

During the testing we also identify claim decisions that are accurate but show non-compliance with one or more procedural requirements. In 2020–21, 3.8% of claim decisions tested were identified as having a compliance issue, down from 8.2% in 2019–20.

We use this target as a proxy measure for effectiveness as it is essentially a measure of quality. It is important that payments are correct in order to:

- ensure claimants receive payments to which they are entitled under the program and avoid the need to seek to recover money that was overpaid
- manage internal business operations (including the need for further training or process improvement)
- detect potential instances of fraud.

**4.2.3** We evaluate the timeliness of claims management processes and our internal benchmarks of 14 and 16 weeks are an indicator of efficiency in claims processing and effective workflow management. For a claim to be effective, it must meet the requirements for lodgement. Data is derived from our internal claims processing system.

The FEG program exceeded both its timeliness measures for 2020–21 with 96% of claims processed within 16 weeks of receipt of an effective claim (compared to 89% in 2019–20) and the average processing time was 13.4 weeks (compared to 8.1 weeks in 2019–20). Taken together with effectiveness measures, the performance results show we are processing FEG claims in a timely manner while maintaining high levels of accuracy and stakeholder satisfaction. The increase in average processing time from 8.1 weeks in 2019–20 to 13.4 weeks in 2020–21 is directly attributable to finalisation of one large case that was initially received in late 2019. This case involved 439 claims that were not finalised until May 2021, after relevant legal processes and complexities were resolved. Excluding this one case, the average processing time for initial claims was 8 weeks.

We use this target as a proxy measure for efficiency. Assessing claims for FEG entitlements involves working with insolvency practitioners and reconstructing employment records. The time it takes to finalise an individual claim depends on a number of issues, including factors outside the department's control. The *Fair Entitlements Guarantee Act 2012* makes FEG not payable where a dividend will be declared within 16 weeks. The 14-week average processing target timeframe reflects an internal priority to reduce the overall processing time for claims.

## Performance measure 4.3: Recovery of Fair Entitlements Guarantee payments

The recovery of amounts advanced under the Fair Entitlements Guarantee (FEG) scheme is increased by bringing and funding investigations and claims.

This performance measure was **partly achieved**.

Performance targets	Result
4.3.1 Amounts recovered by the FEG Recovery Program achieve the estimated recoveries forecast to the Department of Finance	PARTLY ACHIEVED

### Source

Portfolio Budget Statements 2020–21, Outcome 2, Program 2.1, page 42 and Program 2.2, page 43  
Corporate Plan 2020–24, page 37

**4.3.1** For 2020–21, the department estimated that the FEG Recovery Program would recover \$37.94 million. Recovered amounts are returned to consolidated revenue. The program partly achieved this forecast, recovering \$20.15 million. In addition, the program recovered \$6.12 million of employee entitlements that were not covered by the FEG scheme (due to eligibility requirements) and \$6.64 million in superannuation entitlements.

In 2020–21, the department expended \$1.52 million administered funding in finalised matters and a further \$15.8 million in open (ongoing) matters pursuing recovery of FEG advances, totalling more than \$230 million.

These results were affected by a slowdown in the progress of matters before the courts due to the pandemic. Government stimulus measures also resulted in fewer insolvencies and a corresponding decrease in FEG advances.

Since the program's inception on 1 July 2015, the FEG Recovery Program has recovered \$213.06 million with a corresponding expenditure of \$52.04 million.

## Performance measure 4.4: The Office of the Federal Safety Commissioner

The legislative functions of the Office of the Federal Safety Commissioner (OFSC) are delivered efficiently and effectively, including by promoting work health and safety in relation to building work and implementing the Work Health and Safety Accreditation Scheme.

This performance measure was **achieved**.

Performance targets	Result
4.4.1 Satisfaction greater than 90% with the provision of client-focused service in the delivery of OFSC functions	ACHIEVED
4.4.2 Agreement greater than 80% that guidance, educational and promotional material is clear, easy to understand and fit-for-purpose	ACHIEVED
4.4.3 More than 75% accredited companies agree that OFSC accreditation has improved their workplace safety performance	ACHIEVED
4.4.4 100% of accreditation applications are assessed and applicants contacted within 10 working days	ACHIEVED
4.4.5 Continued implementation of the risk-based onsite audit program to ensure compliance through at least 450 onsite audits conducted	ACHIEVED

### Source

Portfolio Budget Statements 2020–21, Outcome 2, Program 2.2, page 43  
Corporate Plan 2020–24, page 38

**4.4.1, 4.4.2 and 4.4.3** The OFSC conducts an annual census to gauge its effectiveness and efficiency in delivering legislative functions. All current accredited companies under the Work Health and Safety Accreditation Scheme nominate one primary reporting contact. All primary reporting contacts are sent the census by email. Companies have one month to submit their census response. All responses are anonymous. The 2019 and 2020 censuses were conducted using an online survey platform.

The results of the 2020 census found that:

- 96% of respondents were happy with the service provided (compared with 97% in 2019–20)
- 97% of respondents reported guidance material was readily available and 88% reported the material was clear and easy to understand
- 93% of respondents reported they had achieved better safety performance as a result of accreditation (the same result as in 2019–20)
- 95% of respondents indicated that the department had improved overall industry safety.

**4.4.4** The workflow systems of the OFSC show that all applications for accreditation during 2020–21 were assessed and applicants were contacted within 10 working days of application receipt, the same result we achieved in 2019–20. We use this target as a proxy measure for efficiency. Assessment of applications is based on satisfactory completion of the accreditation application form, which is submitted by companies seeking accreditation through the OFSC website.

**4.4.5** The pandemic affected the delivery of our audit program. However, changes to our delivery approach enabled us to achieve and exceed the target. Changes included prioritising the use of locally based safety officers, using virtual technology and desktop reviews in appropriate circumstances and improved consultation with accredited companies to identify viable audit sites. A total of 489 audits were completed against the target of 450. This is the largest number of audits completed under the Work Health Safety Accreditation Scheme in a 12-month period.



## Performance measure 4.5: Building counter-fraud and protective security capability across government

Leadership, guidance and capability building is provided across Australian Government departments and agencies to improve their capacity to counter fraud (through the Commonwealth Fraud Prevention Centre) and improve their protective security practices, and the Protective Security Policy Framework and the Commonwealth Fraud Control Framework are administered effectively.

This performance measure was **achieved**.

Performance targets	Result
4.5.1 Stakeholder and client satisfaction greater than 80% in relation to: <ul style="list-style-type: none"> <li>effectiveness (expertise and quality of relationship)</li> <li>efficiency (timeliness and responsiveness)</li> </ul>	ACHIEVED
4.5.2 Qualitative analysis of the effectiveness of products and services in maintaining and improving the effectiveness of counter-fraud and protective security responses	ACHIEVED

### Source

Portfolio Budget Statements 2020–21, Outcome 1, Program 1.2, page 33  
Corporate Plan 2020–24, page 39

**4.5.1** In response to questions related to this target in the department's stakeholder survey, 94% of respondents rated our effectiveness positively and 92% rated our efficiency positively. A detailed explanation of the stakeholder survey methodology and results is at **Appendix 2: Methodologies**.

These results exceeded effectiveness and efficiency targets. Respondents indicated that we are generally engaged, professional and informed and support entities to deliver on their protective security and fraud control responsibilities. There is room for improvement in the timeliness of responses and this will be a focus for the coming year.

**4.5.2** Qualitative analysis was undertaken using targeted surveys to test our products and services in maintaining and improving the effectiveness of counter fraud and protective security responses.

The Commonwealth Fraud Prevention Centre received survey responses from 47 respondents who had worked with the centre over the course of the year. Results showed that 83% of respondents agreed or strongly agreed that the centre had assisted to improve their capability to counter fraud. Our goal of greater than 80% for this target was therefore met.

This year, we also surveyed entities about their views on the protective security policy support we provided and received 60 responses. Overall, 85% of respondents agreed or strongly agreed that the support provided by the department during the reporting period was timely and helpful. Our goal of greater than 80% for this target was therefore met.

We committed to and achieved a comprehensive list of deliverables under this performance target including the release of guidance products, the delivery of 3 Government Security Committee meetings and the conduct of 3 stakeholder engagement forums. In 2020–21, we completed 8 counter fraud guidance pieces and held 17 workshops. We completed guidance material including the Disaster Relief and Recovery Counter Fraud Toolkit, the Fraud Risk Assessment leading practice guide and the Data Sharing Pilots leading practice guide. We conducted 9 Fraud Narrative workshops, 4 Fraud Risk Assessment workshops and 3 Pressure Testing workshops. We amended PSPF policies 8 and 11 to reflect updated technical advice and published a guide for Chief Security Officers.

Despite restrictions on face-to-face meetings due to the pandemic, the department held 3 forums to connect Australian Government entities with people and organisations with technical and policy expertise. To supplement the fewer face-to-face meetings, we produced regular newsletters, conducted virtual meetings and provided guidance and advice via email and a dedicated hotline.

## Performance measure 4.6: Administration of the Foreign Influence Transparency Scheme and Lobbying Code of Conduct

The Foreign Influence Transparency Scheme and Lobbying Code of Conduct provide timely and accurate information to decision-makers and the public.

This performance measure was **achieved**.

Performance targets	Result
4.6.1 Stakeholder and client satisfaction greater than 80% in relation to: <ul style="list-style-type: none"> <li>effectiveness (expertise and quality of relationship)</li> <li>efficiency (timeliness and responsiveness)</li> </ul>	ACHIEVED
4.6.2 The Foreign Influence Transparency Scheme Public Register is accessible and up to date, indicated by the fact that greater than 85% of registrations and updates are published within 3 weeks	ACHIEVED
4.6.3 The Australian Government Register of Lobbyists is accessible and up to date, indicated by the fact that: <ul style="list-style-type: none"> <li>greater than 85% of new registrations are published within 3 weeks</li> <li>greater than 85% of updates are published within 5 working days</li> </ul>	ACHIEVED

### Source

Portfolio Budget Statements 2020–21, Outcome 1, Program 1.2, page 33  
Corporate Plan 2020–24, page 40

**4.6.1** In response to questions related to this target in the department's stakeholder survey, 100% of respondents rated our effectiveness and efficiency positively. A detailed explanation of the stakeholder survey methodology and results is at **Appendix 2: Methodologies**.

In administering the Foreign Influence Transparency Scheme and the Lobbying Code of Conduct, we provide relevant and practical assistance to stakeholders and potential registrants. This includes providing tailored information about the operation of both schemes, identifying complexities that may warrant people seeking independent legal advice and assisting registrants during the preparation and lodgement of registrations. Respondent comments indicated high levels of satisfaction with our ability to provide credible, frank and proactive advice in short timeframes.

**4.6.2** Prompt publication of registrations maximises the visibility of activities in Australia by foreign principals to influence government and political processes. Foreign principals can include foreign governments, foreign political organisations and foreign government-related entities and individuals. In 2020–21, 97% of registrations and updates under the *Foreign Influence Transparency Scheme Act 2018* were published within 3 weeks (compared to 87% in 2019–20) and 100% were published within 4 weeks (compared to 99% in 2019–20). The 3% of registrations and updates that took longer than 3 weeks to publish were ones that required extended communication with registrants.

Our performance was assessed using data from the department's internal Foreign Influence Transparency Scheme register database. We use this target as a proxy measure for efficiency. Measuring the currency of the information published to the Foreign Influence Transparency Scheme public register is consistent with the scheme's purpose of promoting transparency.

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**4.6.3** The early publication of registrations and updates on the Lobbyist Register provides timely information about lobbying activity under the Lobbying Code of Conduct. In 2020–21, 100% of new registrations on the Lobbyist Register were published within 3 weeks and 99% of updates were published within 5 working days. Eleven updates (representing 0.5% of all updates) were not published within 5 working days due to additional communication with the registrants, for example, to resolve issues with statutory declarations of lobbyists and to provide information on potential additional obligations of registrants under the Foreign Influence Transparency Scheme.

Our performance against this target was assessed using data from the department’s internal Lobbyist Register database. We use this target as a proxy measure for efficiency. Measuring the currency of the information published to the Lobbyist Register is consistent with the Code’s intent of ensuring lobbying is conducted in accordance with public expectations of transparency, honesty and integrity.

## Performance measure 4.7: Pacific law and justice programs

Departmental Pacific engagement contributes to improved Pacific law and justice capacity to address law and justice issues, and collaboration on shared law and justice issues.

This performance measure was **achieved**.

Performance targets	Result
4.7.1 Stakeholder and client satisfaction greater than 80% in relation to: <ul style="list-style-type: none"> <li>effectiveness (expertise and quality of relationship)</li> <li>efficiency (timeliness and responsiveness)</li> </ul>	ACHIEVED
4.7.2 Qualitative analysis shows that the department's engagement in the Pacific has contributed to improved Pacific capacity to address and collaborate on law and justice issues	ACHIEVED

### Source

Portfolio Budget Statements 2020–21, Outcome 1, Program 1.2, page 33  
Corporate Plan 2020–24, page 41

**4.7.1** In response to questions related to this target in the department's stakeholder survey, 100% of respondents rated our effectiveness and efficiency positively. A detailed explanation of the stakeholder survey methodology and results is at **Appendix 2: Methodologies**.

Survey results indicated high levels of satisfaction with our provision of high-quality advice, adopting a respectful manner, communicating effectively and being responsive to requests for assistance. Respondent feedback indicated that our staff are friendly, professional, flexible, innovative and helpful in providing assistance. Such collaboration helps to develop policy and law reform in the Pacific and builds the capacity of Pacific nations to address their law and justice issues.

**4.7.2** Our collaborative partnership with the Papua New Guinea Department of Justice and Attorney General (DJAG) on shared law and justice issues remained very productive. This is notwithstanding the effects of the pandemic, which led to the cancellation of workshops and in-country visits for much of the year. We provided remote and in-country support to DJAG to review Papua New Guinea's family protection legislation to improve responses to domestic violence through our Pacific Legal Twinning Program. We worked closely with our colleagues in Papua New Guinea to facilitate evidence and information sharing on a major drugs seizure and arrests in the country and continued our collaborative work on proposed reforms to their drug laws. We also worked with Papua New Guinean stakeholders, including the State Solicitor, to support the negotiation of agreements on vaccine supply and police cooperation.

We progressed projects under our regional Pacific law and justice program, which contributed to improved Pacific capacity to address law and justice issues. This involved collaboration to address shared law and justice issues. These projects included our support to the Pacific Islands Law Officers' Network (PILON) through its working groups on sexual and gender-based violence, corruption and cybercrime. We delivered 10 webinars on whistleblower protections, various aspects of cybercrime and the effect of the pandemic on sexual and gender-based violence, corruption and cybercrime. This work builds capacity for countries to develop policy and law on these issues and address them from an operational perspective. We also redeveloped the PILON website to improve Pacific law and justice resources and collaboration. We collaborated with Kiribati to develop cybercrime law reforms. We developed the PILON Mutual Legal Assistance Handbook for undertaking mutual legal assistance to combat transnational crime and cybercrime. We supported a PILON cybercrime scholarship pilot program for Pacific lawyers, which is an interactive, online course on digital forensics and electronic evidence. We published a practical guide tailored for Pacific Island countries on how to develop policy and undertake law reform, titled Pacific Toolkit: From Policy to Legislation on the PILON website.

## Key Activity 5: Establish and support royal commissions and other bodies

We establish and provide support to royal commissions and other bodies in order to assist them to commence their enquiries in a timely manner consistent with their terms of reference, uphold the rule of law and ensure strong oversight, transparency and accountability in matters of public importance. We proactively engage with royal commissions and other bodies to ensure they receive the information and evidence they need from the Commonwealth to conduct their inquiry in an informed and timely manner.

*This key activity focuses on our unique role in relation to royal commissions and other bodies.*

### Performance measure 5.1: Establishment of royal commissions and other bodies

Royal commissions and other bodies are established in accordance with government requirements, including by making appointments, establishing governance and financial arrangements, setting up corporate systems, tabling reports and decommissioning.

This performance measure was **achieved**.

Performance targets	Result
5.1.1 Establishment of the Office of the National Commissioner for Defence and Veteran Suicide Prevention	ACHIEVED
5.1.2 Tabling of final reports for: <ul style="list-style-type: none"> <li>the Royal Commission into Aged Care, Quality and Safety</li> <li>the Royal Commission into National Natural Disaster Arrangements</li> </ul>	ACHIEVED

#### Source

Portfolio Budget Statements 2020–21, Outcome 1, Program 1.7, page 38  
Corporate Plan 2020–24, page 43

**5.1.1** In February 2020, the Prime Minister announced a National Commissioner for Defence and Veteran Suicide Prevention would be established. The Office of the National Commissioner for Defence and Veteran Suicide Prevention was established and commenced operations in November 2020 with the appointment of the interim National Commissioner, Dr Bernadette Boss CSC. The Official Secretary was appointed and 20 staff employed. A website and phone line was established for the public to contact the office.

**5.1.2** In 2020–21, the final reports of 2 royal commissions were completed:

- The Final Report of the Royal Commission into Aged Care Quality and Safety was tabled in both chambers of Parliament on 15 March 2021.
- The Final Report of the Royal Commission into National Natural Disaster Arrangements was tabled in both chambers of Parliament on 9 November 2020.

We use this target as a proxy measure for efficiency. Tabling the final reports of these royal commissions by the deadlines represents the completion of the work of the royal commissions and gives an indication of the efficiency of the department's assistance to these inquiries.

## Performance measure 5.2: Support for the overarching and ongoing purpose of royal commissions

Activities that support the overarching and ongoing purpose of royal commissions are managed effectively, including by coordinating Commonwealth engagement with royal commissions and maintaining and protecting official records.

This performance measure was **partly achieved**.

Performance targets	Result
5.2.1 Stakeholder and client satisfaction greater than 80% in relation to: <ul style="list-style-type: none"> <li>effectiveness of coordination of Commonwealth engagement with royal commissions (expertise and quality of relationship)</li> <li>efficiency (timeliness and responsiveness)</li> </ul>	ACHIEVED
5.2.2 Timeliness and appropriateness of responses to requests for official records	PARTLY ACHIEVED

### Source

Portfolio Budget Statements 2020–21, Outcome 1, Program 1.1, page 30  
Corporate Plan 2020–24, page 44

**5.2.1** In response to questions related to this target in the department’s stakeholder survey, 85% of respondents rated our effectiveness positively and 83% rated our efficiency positively. A detailed explanation of the stakeholder survey methodology and results is at **Appendix 2: Methodologies**.

We facilitated requests for information and coordinated appearances of witnesses from government agencies required by the royal commissions. While royal commissioners are independent of government in their decision-making, this support provides royal commissions with the necessary information to effectively and efficiently fulfil terms of reference while ensuring that the government’s interests are effectively represented from agency-specific and whole-of-government perspectives.

**5.2.2** Requests for access to royal commission records consist of administrative requests made under the *Royal Commissions Regulations 2019*, applications made under the *Freedom of Information Act 1982* (FOI Act) and documents subject to a court subpoena or other compulsory process. To measure timeliness and appropriateness of responses to these requests, applications are considered by category, recorded in a database and monitored against the relevant timeframes. Monitoring involved tracking correspondence and recording additional information requested and the final outcome of each application, including the nature of the response. Responses were then provided to applicants through the appropriate mechanism, depending on the nature of the request, for example, pursuant to the FOI Act for applications made under that Act.

We use the timeliness of responses to requests as a proxy measure for efficiency. Responses to applications made under the FOI Act were made in accordance with statutory timeframes and responses to court subpoenas were made in accordance with the production date as specified in the subpoena or as otherwise agreed between the parties.

Timeframes with respect to administrative requests were established at the start of the performance cycle, with all requests to be acknowledged by email within 2 weeks of receipt and decisions on requests to be provided to the applicant within 6 weeks of receipt, or if further time was required, the applicant was advised within this initial 6-week period. These timeframes were not met in some cases, for example, if applications were incomplete and information was required from the applicant or from a third party. As a result, this target was partly achieved.

## Performance measure 5.3: Support the National Commissioner for Defence and Veteran Suicide Prevention

Support the National Commissioner for Defence and Veteran Suicide Prevention to examine defence and veteran deaths by suicide.

This performance measure was **achieved**.

Performance targets	Result
5.3.1 Support the Commissioner to commence the review of past cases in accordance with internal project plan	ACHIEVED

### Source

Portfolio Budget Statements 2020–21, Outcome 1, Program 1.1, page 30  
Corporate Plan 2020–24, page 44

**5.3.1** In November 2020, we established and staffed the Office of the National Commissioner for Defence and Veteran Suicide Prevention to support the interim National Commissioner to conduct an independent review of veteran suicides in accordance with terms of reference issued by the government.

We used 3 measures to evaluate and assess this progress:

- An assessment of the achievement of **commencement milestones**.
- A **case study** of any challenges encountered in the engagement with the defence and veterans community.
- **Discussions with the interim Commissioner** to evaluate effectiveness in supporting the review.

### Commencement milestones

We met 5 of the 6 milestones:

- The Office was established and operational by November 2020.
- The interim Commissioner's communication channels (website, email, phone lines) were active on 1 October 2020 (in advance of the November 2020 target).
- Information-gathering activities and policy analysis commenced in advance of the December 2020 target with the first requests for information sent on 16 November 2021. To 30 June 2021, 206 requests for information were made resulting in the production of over 19,000 pages for material from a range of sources including the Department of Defence and Department of Veterans' Affairs.
- Discussions with stakeholders commenced by December 2020 with 26 sessions held by 30 June 2021 involving 149 community organisations, mental health bodies and representatives from all levels of government.
- Meeting with individuals and families affected by suicide commenced in March 2021. Since February 2021, we have supported the interim Commissioner to meet privately with 23 families and other current or former serving members of the Australian Defence Force with a lived experience of suicide. We did so in a sensitive and safe way, including specialist counselling staff to minimise trauma and harm. We developed a COVIDSafe policy to mitigate the risk of travel and face-to-face meetings during the pandemic.

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The milestone to commence public engagement processes by May 2021 was partially met. This was due to the limitations placed on public hearings as a result of the absence of legislative protections and powers. We arranged a research symposium in March 2021 where academics and experts convened to consider aspects of defence and veteran suicide prevention and mental health. A total of 306 delegates attended, either virtually or in person and videos of the conference sessions were published on the interim Commissioner's website.

### **Case study**

We supported the interim Commissioner to produce a report to government which set out the work undertaken in relation to engagement with the defence and veteran community, including key engagements and how they contributed to progress of the review, and challenges to the commencement of the independent review and how they were overcome. Inclusion of this information in the report replaces the proposed case study, as the role of the interim Commissioner evolved throughout the reporting period. The interim Commissioner's report details the methodology used to conduct the review and will be publicly released following presentation to Parliament.

### **Discussions with the interim Commissioner**

We also conducted internal review discussions with the interim Commissioner to evaluate our effectiveness in supporting the review. The interim Commissioner's feedback was generally positive, noting the flexibility, adaptability and professionalism of our staff.



## Appendix 2: Methodologies

### Attorney-General's Department stakeholder survey 2021

The department conducts an annual stakeholder survey to evaluate performance against targets that apply across our key activity areas. We engaged ORIMA Research to independently conduct the 2021 stakeholder survey using a list of stakeholders provided by the department.

#### Who we survey

For results to be comprehensive and reliable, the survey seeks feedback from representatives of organisations and individuals. The survey was an attempted census of key stakeholders.<sup>1</sup> A total of 2,931 stakeholders were sent a survey, a larger number than in previous years.

As this survey was conducted as a census, the results are not subject to sampling error. They are, however, subject to non-sampling measurement error.

The survey questionnaire was designed to differentiate between the following types of stakeholders:

- 'knowledgeable observers' who are in a position to provide an informed view about the department's effectiveness, timeliness and responsiveness (the latter 2 performance aspects are the department's proxy measures for efficiency)
- other stakeholders.

Stakeholders who self-identified through the survey that they had dealt with the department at least once every 3 months in the past 12 months were assessed to be knowledgeable observers. Knowledgeable observers are likely to be more familiar with what the department does than other stakeholders and are therefore better placed to assess our performance.

A relative weighting of 4:1 has been applied to knowledgeable observers and other stakeholders, respectively. This has been deemed an appropriate weight to provide balanced measures that take account of the views of all respondents while minimising the distortion caused by including feedback from those not well placed to judge performance.

Knowledgeable observers were also asked to comment in more detail on their experience of dealing with the department. This approach targets stakeholders with the most relevant set of questions that they are informed to answer.

#### How the survey was conducted

Survey fieldwork began on 7 May and closed on 21 May 2021. ORIMA emailed stakeholders a secure unique web link to access the survey online. To encourage the provision of open feedback, respondents were provided with the option of providing their responses on an anonymous basis (i.e. without their individual survey response being provided to the department).

#### Measuring success over time

The results of this year's survey are not directly comparable to those reported last year due to methodological changes, including different sample selection criteria, weighting of responses and changes to the survey questions. All of these changes do, however, represent methodological improvement and have improved the survey's reliability.

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<sup>1</sup> Key stakeholders were defined as those who have had 2 or more business-related interactions with the department in 2020–21.

The structure of the survey was changed from previous years to focus on individual performance targets, as set out in the Corporate Plan 2020–24. The approach to survey questions also changed significantly with a shift from a satisfaction scale to an agreement rating scale, focusing on what stakeholders are best able to assess and rate based on their direct experience in dealing with the department. Respondents were streamed to question sets based on their qualification to respond.

The survey questionnaire contained groups of questions addressing stakeholder perceptions of the department's performance on key activities specified in the corporate plan. The corporate plan includes 13 performance targets that rely on the annual stakeholder survey. For each performance target we have measured both effectiveness and efficiency.

Composite index measures were constructed for each performance target addressed. Each reported index for a performance target is formulated based on the average of individual question responses for questions that address the target. The index approach provides more meaningful and complete measures of stakeholder ratings of effectiveness and efficiency.

The index for a question is the mean (average) response for the question across respondents (using the numerical score from the 5-point response scale) transformed into a 0 to 100-point scale.

The aggregate indices have the following properties:

- index scores of 0–49 indicate that, on average, respondents have provided an unfavourable assessment of the department's performance
- an index score of 50 indicates that, on average, respondents have provided a neutral assessment
- index scores of 51–100 indicate that, on average, respondents have provided a favourable assessment
- the higher the index score, the more positive the average respondent's perception of the department's performance
- if all respondents provided the most positive rating possible to all of the questions covering a performance target, the index score would be 100
- if all respondents provided the least positive rating possible to all of the questions covering a performance target, the index score would be 0.

The percentage of respondents providing a positive rating consists of the proportion of those that reported an index score higher than 50 index points, that is, 51–100 index points. This percentage can then be compared to the target for stakeholder and client satisfaction of greater than 80%.

The Corporate Plan 2020–24 reset the department's performance framework, moving away from the concept of strategic priorities to focus on the work of the department across 5 key activities. While results for the 2020 and 2021 surveys are therefore not directly comparable, they do provide trend information over time. High-level results from this year demonstrate continuing high rates of stakeholder satisfaction over time and suggest increased stakeholder satisfaction with the department overall since 2019–20.

Each year, the survey has included questions to measure our effectiveness in conducting the business of the department. In 2020, respondents could indicate their level of satisfaction from 'very dissatisfied' to 'very satisfied'<sup>2</sup>, with 87.4% being 'satisfied' or 'very satisfied' with the department's overall effectiveness. An average of 93% of respondents to this year's survey provided positive ratings of 'agree' or 'strongly agree' in response to questions about our effectiveness.

In 2020, survey questions to measure efficiency in specific strategic priority areas related to the timeliness with which the department delivered its work, with 84.7% of respondents being 'satisfied' or 'very

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<sup>2</sup> From page 205 of the Attorney-General's Department Annual Report 2019–20.

satisfied' with our efficiency.<sup>3</sup> This year's survey included questions to measure our efficiency in conducting our business largely focused on timeliness and responsiveness. An average of 87% of respondents provided overall positive ratings of 'agree' or 'strongly agree' for the department's overall efficiency.

## Survey results and analysis

We received 830 responses to the survey, a response rate of 28%. This response rate is similar to the 2020 response rate of 29% and is within the usual range of response rates for comparable government agency stakeholder surveys (20–40%). While a higher response rate would have reduced the degree of potential non-response measurement error (stemming from the possibility that stakeholders who did not respond held systematically different views to those who did), the achieved response rate is sufficient to provide reliable results. In addition, it should be noted that many non-respondents are likely to have not responded on the basis that they did not feel that they were in a position to provide informed feedback. Given this, a higher response rate may not have necessarily resulted in more reliable data. The following table sets out the number of and percentage response rates by organisation type.

**TABLE 18: NUMBER AND PERCENTAGE RESPONSE RATES BY ORGANISATION TYPE**

Organisation type	Invitation sent	Number of responses	Response rate
Department portfolio agency	300	136	45%
Other Australian Government department or agency	1,505	361	24%
Australian state/territory department or agency	460	100	22%
Government organisation from a country other than Australia	97	32	33%
International organisation	11	9	82%
Peak body or representative organisation or association	174	46	26%
Individual business, company or firm	260	53	20%
Not-for-profit organisation, non-government organisation	54	42	78%
University/research institute	36	8	22%
Other	34	20	59%
Did not provide response to organisation type question		23	
<b>Total</b>	<b>2,931</b>	<b>830</b>	<b>28%</b>

The overall performance ratings of those surveyed were high (similar to the 2020 survey) with average (across all performance targets) positive ratings for effectiveness of 93% and efficiency of 87%. The proportion of respondents who provided positive ratings for overall effectiveness ranged from 82–100%. The proportion who provided positive ratings for overall efficiency ranged from 63–100%, with 2 performance targets obtaining positive ratings of less than 80%.

Overall, respondents rated the effectiveness of the department at least equal if not greater than its efficiency against the majority of performance targets. Knowledgeable observers overall provided higher positive ratings compared to others in relation to the majority of performance targets for both effectiveness and efficiency. Stakeholders dealing with the department for 3 years or less reported higher

<sup>3</sup> From page 208 of the Attorney-General's Department Annual Report 2019–20.

effectiveness and efficiency ratings compared to those who had been dealing with the department for 4 years or more across 4 performance targets.

### *Measuring effectiveness*

The survey included questions to measure our effectiveness in conducting our business against each performance target largely focused on the department's expertise and the quality of our relationship with stakeholders, shown in the following table. On average, 93% of respondents provided overall positive ratings of 'agree' or 'strongly agree' with the department's overall effectiveness.

#### **Statements used to measure effectiveness**

Effectiveness statements asked of knowledgeable observers:

- The department demonstrated a high level of expertise.
- The department provided high-quality advice.
- The department provided consistent advice.
- The department added value in informing decision-making.
- The department's advice considered the views of all relevant stakeholders.
- The department was committed to finding solutions to problems.
- The department based its decisions on sound evidence.
- The department was effective, overall, in working to support the achievement of the Australian Government's objectives.
- The department was effective in its contribution to the management of international disputes.
- The department was effective in its contribution to the management of constitutional and related legal risks.

Effectiveness statements asked of knowledgeable observers and other stakeholders:

- The department communicated with me effectively.
- The department's staff engaged with me in a respectful manner.
- The department provided sufficient information to me.

We achieved particularly high levels of positive ratings among stakeholders who responded to the survey for Key Activity 1 and 2 as shown in the following table.

**TABLE 19: PERFORMANCE MEASURES AND EFFECTIVENESS SURVEY RESULTS IN 2020–21**

Key activity	Performance measure	2021 target	2021 result	Number of responses	Number of qualifying stakeholders	Response rate
1: Provide legal services and policy advice and oversee legal services across government	Performance Measure 1.2: International law and policy advice	>80%	98%	43	58	74%
	Performance Measure 1.3: Constitutional policy and related public law advice	>80%	100%	10	38	26%
2: Manage casework	Performance Measure 2.1: International crime cooperation, federal offender, international family law, private international law and United Nations human rights committee communications casework	>80%	100%	48	166	29%
3: Administer and advise on legal and policy frameworks	Performance Measure 3.1: Legal and policy advice on the federal justice system	>80%	82%	38	112	34%
	Performance Measure 3.2: Administration of family law and marriage legislation and policy frameworks	>80%	89%	35	97	36%
	Performance Measure 3.3: Administration of the industrial relations system	>80%	90%	61	139	44%
	Performance Measure 3.4: Legal and policy advice on Australia's integrity and rights frameworks	>80%	100%	20	68	29%
	Performance Measure 3.5: Legal and policy advice on criminal justice and national security frameworks	>80%	89%	51	99	52%
4: Administer and implement programs and services	Performance Measure 4.1: Legal assistance	>80%	85%	17	31	55%

Key activity	Performance measure	2021 target	2021 result	Number of responses	Number of qualifying stakeholders	Response rate
	Performance Measure 4.5: Building counter-fraud and protective security capability across government	>80%	94%	60	148	41%
	Performance Measure 4.6: Administration of the Foreign Influence Transparency Scheme and Lobbying Code of Conduct	>80%	100%	6	13	46%
	Performance Measure 4.7: Pacific law and justice programs	>80%	100%	21	77	27%
5: Establish and support Royal Commissions and other bodies	Performance Measure 5.2: Support for the overarching and ongoing purpose of Royal Commissions	>80%	85%	14	60	23%

### *Measuring efficiency*

The department primarily provides policy and legal advice to government. There are challenges to measuring efficiency, defined as the unit cost of an output generated by an activity<sup>6</sup>, of the provision of legal and policy advice. Accordingly, we use client and stakeholder satisfaction with the timeliness of our policy and legal advice and our responsiveness to resolving complex legal and policy issues as a proxy measure for efficiency.

The survey included questions to measure our efficiency in conducting our business against each performance measure largely focused on timeliness and responsiveness as shown in the following table. On average, 87% of respondents provided overall positive ratings of ‘agree’ or ‘strongly agree’ with the department’s overall efficiency.

#### **Statements used to measure efficiency**

Efficiency statements asked of knowledgeable observers:

- The department provided timely advice.
- The department was responsive to requests for assistance.

Efficiency statements asked of knowledgeable observers from Australian Government agencies:

- There was a clear delineation of responsibilities between the department and my organisation.

Efficiency statements asked of knowledgeable observers and other stakeholders:

- The department provided information to me in a timely manner.
- The department’s staff responded in an appropriate time frame to issues or concerns raised by me.

We achieved particularly high levels of positive ratings among stakeholders who responded to the survey for Key Activity 1 and 2 as shown in the following table.

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<sup>6</sup> Department of Finance (2020), RMG 131 Developing good performance information.

**TABLE 20: PERFORMANCE MEASURES AND EFFICIENCY SURVEY RESULTS IN 2020–21**

Key activity	Performance measure	2021 target	2021 result	Number of responses	Number of qualifying stakeholders	Response rate
1: Provide legal services and policy advice and oversee legal services across government	Performance Measure 1.2: International law and policy advice	>80%	90%	43	58	74%
	Performance Measure 1.3: Constitutional policy and related public law advice	>80%	100%	10	38	26%
2: Manage casework	Performance Measure 2.1: International crime cooperation, federal offender, international family law, private international law and United Nations human rights committee communications casework	>80%	91%	48	166	29%
3: Administer and advise on legal and policy frameworks	Performance Measure 3.1: Legal and policy advice on the federal justice system	>80%	72%	38	112	34%
	Performance Measure 3.2: Administration of family law and marriage legislation and policy frameworks	>80%	85%	35	97	36%
	Performance Measure 3.3: Administration of the industrial relations system	>80%	80%	61	139	44%
	Performance Measure 3.4: Legal and policy advice on Australia's integrity and rights frameworks	>80%	94%	20	68	29%
	Performance Measure 3.5: Legal and policy advice on criminal justice and national security frameworks	>80%	85%	51	99	52%



Key activity	Performance measure	2021 target	2021 result	Number of responses	Number of qualifying stakeholders	Response rate
4: Administer and implement programs and services	Performance Measure 4.1: Legal assistance	>80%	63%	17	31	55%
	Performance Measure 4.5: Building counter-fraud and protective security capability across government	>80%	92%	60	148	41%
	Performance Measure 4.6: Administration of the Foreign Influence Transparency Scheme and Lobbying Code of Conduct	>80%	100%	6	13	46%
	Performance Measure 4.7: Pacific law and justice programs	>80%	100%	21	77	27%
5: Establish and support Royal Commissions and other bodies	Performance Measure 5.2: Support for the overarching and ongoing purpose of Royal Commissions	>80%	83%	14	60	23%

## Qualitative assessment

This year we used similar qualitative analysis processes to assess our performance against a number of targets. Each assessment was conducted by a specially-convened panel or officers that reviewed a representative sample of relevant work, either chosen randomly or based on criteria specified in internal methodology documents and approved at the beginning of the performance cycle. A number of panels applied assessment criteria based on the New Zealand Government’s Policy Quality Framework<sup>7</sup> and used the associated assessment scoring template and scoring scale. At the conclusion of these assessments, the panels documented their findings.

Detail on each process is provided.

### Performance measure 1.2: International law and policy advice

**1.2.2** The assessment panel consisted of 3 Senior Executive Service officers (SES) from the Office of International Law and one SES from another part of the department. It examined 5 work products that covered different types of legal advice and briefings. To mitigate the risk of bias, the work products were selected at random from our document management systems by an officer outside the Office of International Law.

### Performance measure 1.3: Constitutional policy and related public law advice

**1.3.2 and 1.3.3** An assessment panel consisting of 3 Executive Level 2 (EL2) officers and SES from other business areas within the department assessed work for both targets.

For 1.3.2, samples for assessment were chosen in 2 ways:

- Four were randomly selected from submissions to the Attorney-General on matters of constitutional law, policy and litigation, and briefings for the Attorney-General and the Secretary on pandemic-related matters.
- Two samples of advice we provided to other agencies relating to new policy proposals using the following criteria: that we had provided substantive comments and the advice involved a particularly complex proposal involving various heads of constitutional power.

For 1.3.3 the panel considered a case study of a constitutional litigation matter, selected based on the following criteria:

- the matter was significant for the department in that it both:
  - involved a substantial amount of work, and
  - required the department to play a leading role in managing the matter (noting that our work is often collaborative)
- the work occurred predominately during 2020–21
- the matter was resolved or expected to be resolved during 2020–21, meaning the matter has at least proceeded to hearing and judgment was or will shortly be delivered.

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<sup>7</sup> New Zealand Government’s Policy Quality Framework, at: <https://dpmc.govt.nz/our-programmes/policy-project/policy-improvement-frameworks/quality-policy-advice>.

### **Performance measure 2.1: International crime cooperation, federal offender, international family law, private international law and United Nations human rights committee communications casework**

**2.1.4** A panel comprised of 2 SES and one EL2 from the business unit and one EL2 from another area of the department considered 4 pieces of advice across different casework types and applied qualitative assessment criteria. The 4 pieces of advice were selected by EL2 officers as work that represented the complexity of the matters dealt with in the business unit. The panel reviewed all pieces of advice and met to discuss its views of whether the criteria were met. A numerical scoring system was not used for the qualitative assessment process, but will be used in future processes.

### **Performance measure 3.1: Legal and policy advice on the federal justice system**

**3.1.2** A panel of 3 EL2 officers, 2 external to the branch and one external to the immediate sections, evaluated 10 pieces of work undertaken during 2020–21. A sample of 125 pieces of policy work, covering ministerial submissions, legislative scrutinies, Cabinet documents, meeting briefs and new policy proposals, was initially identified. Responses to submissions that returned ‘nil comment’ and speeches and accompanying logistics captured as ‘meeting briefs’ were excluded from the sample as not being representative of substantive work undertaken by the branch. Items from the sample were selected for review using a random number generator.

### **Performance measure 3.3: Administration of the industrial relations system**

**3.3.3** A panel of 6 officers, including 1 external to the Industrial Relations Group, reviewed 3 pieces of work from each relevant work area. The panel applied the New Zealand Policy Quality Framework and used the associated Policy Quality paper-scoring template.

**3.3.4** Six pieces of advice pertaining to 3 (out of a total of 41) litigation matters finalised in 2020–21 were reviewed by nominated officers. Each nominated officer was an experienced Principal Government Lawyer (EL2) selected from a legal branch other than the branch that developed the legal advices being assessed. The work sample was selected through a stratified random sampling process and tested against equally weighted criteria, adapted from the New Zealand Policy Quality Framework paper-scoring template.

### **Performance measure 3.4: Legal and policy advice on Australia’s integrity and rights frameworks**

**3.4.2 and 3.4.3** A panel consisting of 3 senior officials, including one external panel member from the Department of the Prime Minister and Cabinet and one from a separate business unit assessed a case study for both of these targets. The case study was selected using criteria set at the beginning of the performance cycle. The responsible business unit presented to the panel and provided written materials to aid the evaluation. For 3.4.3, the panel assessed the effectiveness of the policy advice using the New Zealand Policy Quality Framework, assessment template and scoring scale.

### **Performance measure 3.5: Legal and policy advice on criminal justice and national security frameworks**

**3.5.2 and 3.5.3** A panel consisting of 3 senior officials, including one external panel member from the Department of the Prime Minister and Cabinet and one from a separate business unit assessed a case study for both of these targets. The case study was selected using criteria set at the beginning of the performance cycle. The responsible business unit presented to the panel and provided written materials to aid the evaluation. For 3.5.3, the panel assessed the effectiveness of the policy advice using the New Zealand Policy Quality Framework, assessment template and scoring scale.

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## **Performance measure 3.6: Administration of other legal frameworks for which the department is responsible**

### **3.6.2 Case studies that met the following criteria were nominated for assessment:**

- The case study raises or raised significant, complex or sensitive issues (whether legal advice has been obtained may be a good indicator).
- The case study in some way involves or involved the Attorney-General, Assistant Minister to the Attorney-General or the Commonwealth generally.
- The case study relates or related to the administration of the native title system in a broad sense, including native title and native title compensation claims and related policy work.

Case studies were separated into 3 categories of native title compensation litigation, other native title litigation and policy matters to ensure analysis included an overview of the different types of work involved in the administration of the native title system. One case study from each category was selected using a random number generator (3 in total).

The 3 selected case studies were evaluated by action officers from the Native Title Unit to determine whether the administration of the system had been 'effective'. They considered whether the Commonwealth's involvement in the matters had been targeted, proportionate and represented an appropriate application of legal and other resources.

**3.6.3** An assessment panel consisting of one SES Band 1 and 2 EL2s, 2 of which were external to the branch and one external to the business unit whose work was being assessed a sample of policy work undertaken over the year. Items were selected for review using a random number generator. The panel applied the New Zealand Policy Quality Framework, template and scoring scale.