



READERS' GUIDE



This is the Secretary's report to the Attorney-General and the Minister for Justice and Customs for the financial year 2003–04.

The report meets the Department's formal reporting obligations under the Department of the Prime Minister and Cabinet's *Requirements for annual reports for departments, executive agencies and FMA Act bodies* of June 2004, as approved by the Joint Committee of Public Accounts and Audit.

The report sets out progress the Department made towards fulfilling its mission of *achieving a just and secure society*.

Structure of the report

The report is in six parts.

Part 1: Overviews

- The Secretary's Review: achievements and challenges for the Department during the reporting period, and prospects for the future.
- Portfolio overview: structure and responsibilities.
- Departmental overview: role, functions, mission, outcomes and outputs framework, organisation structure, financial and staffing snapshots.

Part 2: Performance reports

- Reports on performance against the framework of planned outcomes and related outputs published in the 2003-04 Portfolio Budget Statements.

Part 3: Management and accountability

- Reports on corporate governance and management of finances, human resources, information and knowledge, and on social equity and environment obligations.

Part 4: Financial statements

Part 5: Appendixes (shaded)

- Useful additional information and reports under specific legislation.

Part 6: Glossaries and indexes

- Glossaries of terms, abbreviations and acronyms; compliance and alphabetical indexes.

Further information

- About the Department: <http://www.ag.gov.au>
- About the annual report:

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As soon as possible after its tabling in Parliament, the annual report will be accessible on the Department's web site <<http://www.ag.gov.au>>.



▲ *Mr Robert Cornall, Secretary*

SECRETARY'S REVIEW



The Attorney-General's Department is a central agency providing advice and assistance to the Attorney-General, the Minister for Justice and Customs, portfolio agencies and, more broadly, the Australian Government as a whole. We do so under 153 Acts of Parliament and many international conventions and treaties.

Details of our activities are set out in the body of this report. They range from national security to criminal law; from family law to native title. Despite the diversity of these responsibilities, when taken together you can see we continued to make major contributions to the development of the Australian Government's broad strategic directions in national security, economic growth and social stability during 2003–04. Those contributions were achieved both by the Department directly and through the assistance we provided to other agencies.

Connecting government

Over recent years, there has been a strong move to get government agencies to work together. It doesn't matter whether you call it joined up government, connected government or breaking down silos, the principle is the same. Government can only work at its best when it operates as one coordinated entity.

The importance of this trend was emphasised by the publication this year of the Management Advisory Committee's report, *Connecting Government: Whole of Government Responses to Australia's Priority Challenges*. The report's Summary of Findings noted that 'whole of government denotes public service agencies working across portfolio boundaries to achieve a shared goal and an integrated government response to particular issues'.

As Professor Elaine C Kamarck from the John F Kennedy School of Government has said, for the student of 21st century government, the question is not 'Where do the boxes fit on the chart?' but 'How do they operate and how do they communicate with each other?'

In keeping with this approach, we have worked hard during the year to participate in a broad range of issues across government.

National security—a case in point

National security is an excellent example of these principles being applied in practice.

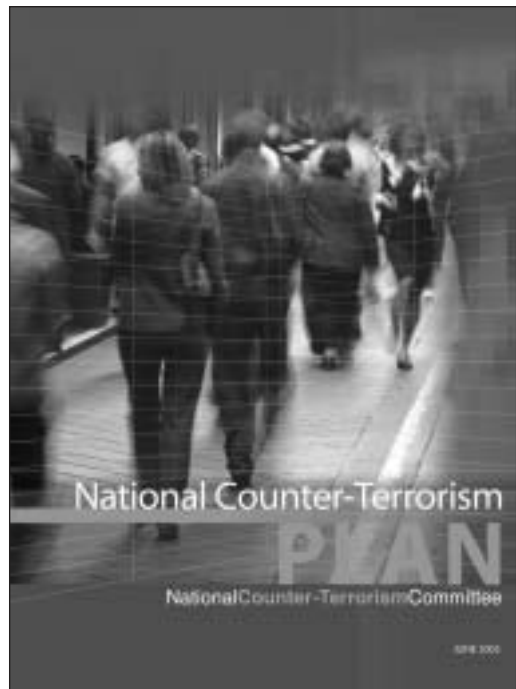
National security sounds like a contained and manageable policy problem, but it's not. Australia's counter-terrorism measures involve many different agencies, depending on what aspect of counter-terrorism is under consideration. It involves effective laws, secret intelligence, national defence, law enforcement, human rights, aviation and marine security, border control, protective security, preventive health measures, emergency response and consequence management, protection of public and private critical infrastructure, planning and testing responses, enhanced national and international cooperation and so the list goes on.

This is clearly an area where it is essential to connect or join up government activities to provide a comprehensive response to a complicated problem. It may be useful to explain where we fit into the overall picture.

The National Security Committee of Cabinet decides overall national security policy. The development and implementation of that policy across government is overseen by the Department of the Prime Minister and Cabinet which also chairs the National Counter-Terrorism Committee. The Attorney-General's Department develops policy within its areas of direct responsibility and, at advising, operational and legislative levels, does a lot of the day-to-day work, as this Report shows.

The Information and Security Law Division and the Criminal Justice Division collaborated on important counter-terrorism legislation over the last year, including legislation to proscribe terrorist organisations and legislation to improve ASIO's powers to obtain intelligence about terrorist activity.

The Protective Security Coordination Centre (a division of the Department) coordinated protective security for diplomats and holders of high office. It led the development of the *National Counter-Terrorism Handbook* and



▲ The National Counter-Terrorism Plan sets out Australia's national security arrangements.

coordinated the multi-jurisdictional counter-terrorism exercise *Mercury 04* in March.

The PSCC managed the 24-hour, seven day a week National Security Hotline and the national Watch Office, which is the Australian Government's central point for communication with Commonwealth agencies which have a counter-terrorism role and with State and Territory police forces.

Emergency Management Australia (which is also a division of the Department) had a similar role with State and Territory emergency services in national emergency response and consequence management. EMA's functions include supporting a new ministerial council with responsibility for emergency and consequence management under a decision of the Council of Australian Governments taken in December 2003.

The Department's Public Affairs Unit manages public campaigns about national security. The Information and Knowledge Services Group is upgrading the secure ASNET network for communication between Australian Government agencies and also between them and their State and Territory counterparts.

In addition to these departmental activities, we also provided assistance as required to portfolio agencies involved in Australia's counter-terrorism effort. Those agencies included ASIO, the Australian Federal Police, the Australian Customs Service, the Australian Crime Commission, AUSTRAC and CrimTrac.

Connecting in other areas as well

But counter-terrorism was just one example of our contribution to whole-of-government activities across portfolio boundaries.

The Office of International Law gave advice to portfolio agencies and other departments about Australia's international law obligations (dealing with, for example, the transition of power in Iraq to the Iraqis; establishing Australia's maritime boundaries; sharing arrangements in relation to

Timor Sea oil production; and, in conjunction with the Information and Security Law Division, negotiating the Australia-US Free Trade Agreement).

The Criminal Justice Division led the development of a whole-of-government response to the emerging problem of trafficking people to Australia, particularly women for the purpose of sexual servitude. This work involved policy input and implementation across 11 departments and agencies. The package of measures resulting from this collaboration was a major plank in the Government's response to public concern about people trafficking.

Departmental officers participated in the Regional Assistance Mission to Solomon Islands; the Ministerial Council on Counter-Terrorism held in Bali in February and its follow up actions; improving relationships in our region, particularly with Indonesia; national preparations for the Commonwealth Games in Melbourne in 2006; and the Enhanced Cooperation Program for Papua New Guinea.

In doing so, we worked closely with other agencies including the Departments of Foreign Affairs and Trade, Defence and the Prime Minister and Cabinet.

At the end of the year, we assumed responsibility for the law and justice program conducted by the Aboriginal and Torres Strait Islander Service from 1 July 2004 as part of the Government's decision to transfer Indigenous programs to mainstream departments.

A growing department

This brief overview of some of the Department's activities during the year will indicate, not surprisingly, that the Department grew during the year to meet these increasing responsibilities. Over the 12 months, our staff numbers rose from 712.6 full time equivalent staff to 841.9 FTE staff on 1 July 2004 (including the 53 employees who transferred from ATSIIS on that date).

This growth placed pressure on money, resources and people.

The financial pressure was recognised in the Budget process when the Department was allocated an additional \$7.3 million for the 2004–05 year. An ongoing funding increase is to be considered next financial year after a review of our financial position by the Department of Finance and Administration.

Our main accommodation is in Robert Garran Offices in Barton but we now have extra space in three other offices in the Barton area.

In addition to establishing extra offices in Barton and new accommodation for EMA in Bruce, the Department's Corporate Services Group made considerable progress during the year in negotiating a long term solution to the Department's accommodation needs with the Industry Superannuation Property Trust (ISPT). ISPT is the owner of both Robert Garran Offices and the property at 3–5 National Circuit, Barton. The intention is for ISPT to demolish the offices at 3–5 National Circuit when the site becomes vacant in 2006 and then build new offices specifically for the Department which are scheduled for occupation in November 2008.

Certified Agreement

The nominal two year period covered by the Department's Certified Agreement 2002 ended on 30 June 2004.

During the negotiations with staff for a new agreement under section 170 LK of the Workplace Relations Act, the major issue raised by staff was increased workload. Although a number of measures were proposed to address that concern, the agreement was narrowly defeated.

We immediately consulted with staff and with our Workplace Relations Committee in an effort to determine and resolve the issues which were thought to have led to the 'No' vote. While management and staff representatives could not reach a finally agreed position, a vote for a revised

section 170 LK agreement was held in July. In that second vote, staff approved the agreement for the next three years.

Looking ahead

Looking ahead to the coming financial year, there is a lot of important work to be done.

One major task is the smooth transition of the indigenous law and justice program into the Department, the tendering of indigenous legal aid services in Western Australia, Victoria and Queensland and the establishment of 13 new indigenous domestic violence centres.

Other tasks include the proposed introduction of improved dispute resolution services for separating couples; the implementation of the copyright provisions of the Australia–US FTA; the implementation of Australia's national strategy for critical infrastructure protection in both the public and private sectors; achieving an improved civil justice system including implementation of strategies to more efficiently manage increasing migration litigation; reaching new legal aid agreements with the States and Territories for the next four years; achieving a fair outcome for David Hicks and Mamdouh Habib who are presently held at Guantanamo Bay; security preparations for APEC in 2007 which will over the course of that year comprise the largest number of high level meetings ever to be held in Australia; the successful commencement of the Federal Register of Legislative Instruments on 1 January 2005; and ensuring positive outcomes for Australia from the Phase II review of the implementation of the OECD Bribery Convention to be conducted in March 2005 and the mutual evaluation of Australia's progress in implementing the Financial Action Task Force's revised 40 recommendations to combat money laundering and the financing of terrorism.

And they are the only tasks we already know about. No doubt many others will arise during the course of the year.

Thanks

I thank all of our officers for their commitment and contribution to our achievements in 2003–04.

I also wish to record my appreciation for the assistance and advice I have received over the last five years from Ian Carnell, Deputy Secretary, Criminal Justice and Security, who took up the position of Inspector-General of Intelligence and Security in March 2004, and Peter Ford, First Assistant Secretary, Information and Security Law Division, who has retired.

A handwritten signature in black ink, appearing to read 'R. Cornall', with a long horizontal flourish extending to the right.

Robert Cornall
Secretary



PORTFOLIO OVERVIEW



Portfolio ministers

Attorney-General

The Honourable Daryl Williams AM QC MP
(to 6 October 2003)

The Honourable Philip Ruddock MP
(from 7 October 2003)

Responsibilities

- Overall portfolio management.
- National security and counter-terrorism, critical infrastructure protection, emergency management, constitutional matters, royal commissions, courts and tribunals, law reform, alternative dispute resolution, international law, administrative law, family law, human rights, legal aid, legal services, legislative drafting, censorship, intellectual property and information law, privacy, bankruptcy, e-commerce, native title, and prosecution policy.

Minister for Justice and Customs

Senator the Honourable Chris Ellison

Responsibilities

- Criminal law and crime prevention, criminal intelligence and criminology research, evidence, extradition and mutual assistance,

policing, drug strategy, firearms, proceeds of crime, prisoners, protective security, airport physical security including air security, and customs.

Portfolio structure

The Attorney-General's Department is the central policy and coordinating element of the portfolio. The portfolio also includes the statutory office of the Solicitor-General, Second Law Officer of the Commonwealth (the Attorney-General is the First Law Officer).

The bodies within the Attorney-General's portfolio are grouped below by subject matter or function for ease of reference. Annual reporting requirements and arrangements for portfolio elements not covered by this report are set out at Appendix 1.

Administrative law

Administrative Review Council

Bankruptcy

Insolvency and Trustee Service Australia

Censorship and classification

Office of Film and Literature Classification

Classification Board

Classification Review Board

Courts and tribunals

High Court of Australia

Federal Court of Australia

Family Court of Australia

Federal Magistrates Court

Administrative Appeals Tribunal

National Native Title Tribunal

Copyright Tribunal

Defence Force Discipline Appeal Tribunal

Federal Police Disciplinary Tribunal

Common Police Services

Australasian Centre for Policing Research

Australian Institute of Police Management

CrimTrac

National Crime Statistics Unit

National Institute of Forensic Science

Criminal law and law enforcement

Australian Crime Commission

Australian Federal Police

Australian Transaction Reports and Analysis Centre

Australian Institute of Criminology

Criminology Research Council

Office of the Director of Public Prosecutions

Customs

Australian Customs Service

Drafting and other legislative services

Office of Parliamentary Counsel

Human rights

Human Rights and Equal Opportunity Commission

Law reform

Australian Law Reform Commission

Legal services

Australian Government Solicitor

Marriage and family law

Family Law Council

National security

Australian Security Intelligence Organisation

Privacy

Office of the Federal Privacy Commissioner



DEPARTMENTAL OVERVIEW



Role and functions

The Attorney-General's Department serves the people of Australia by providing essential expert support to the Government in the maintenance and improvement of Australia's system of law and justice, as well as national security.

The Department is the central policy and coordinating element of the Attorney-General's portfolio, for which the Attorney-General and Minister for Justice and Customs are responsible.

Mission

The mission of the Attorney-General's Department is *achieving a just and secure society*.

Outcomes and outputs framework

In pursuing its mission, the Department works towards achieving two outcomes:

Outcome 1: An equitable and accessible system of federal civil justice.

Outcome 2: Coordinated federal criminal justice, security and emergency management activity, for a safer Australia.

The Department's outcomes and outputs structure and performance targets are set out each year in the Portfolio Budget Statements (PBS) and the Portfolio Additional Estimated Statements (PAES). This annual report responds directly to the performance measures established in those accountability documents, giving a clear read of the Department's intended and actual performance for the year.

Organisational structure

The Department's organisational structure is aligned as closely as possible to the outcomes and outputs structure, as shown in Figure 1 on pages 14-15.

The Deputy Secretary, Civil Justice and Legal Services Group has responsibility for outputs within Outcome 1 with the exception of Output 1.6.

The Deputy Secretary, Criminal Justice and Security Group is responsible for outputs falling under Outcome 2 as well as Output 1.6.

The General Manager, Information and Knowledge Services Group, and the General Manager, Corporate Services Group, support the two Deputy Secretaries in producing all the Department's outputs.

Division and office functional responsibilities

The functions of the divisions and offices, within broad structural groupings, are described below. The statements reflect the Department's structure at 30 June 2004.

Civil Justice and Legal Services Group

The **Civil Justice Division (CJD)** administers Output 1.1. The Division is responsible for legal and policy advice relating to human rights, administrative law, evidence, service and execution of process, legal practice and procedure, and courts and tribunals. It is

also responsible for promoting international cooperation on civil legal procedures. Staff of the Division also constitute the secretariats for the Administrative Review Council and the National Alternative Dispute Resolution Advisory Council.

The **Legal Services and Native Title Division (LSNTD)** administers Output 1.2 and Output 1.7. The Division supports the Attorney-General in the performance of his role as First Law Officer, providing advice on litigation policy and guidance on the performance of the Commonwealth's legal work. The Division is also responsible for advising the Attorney-General on constitutional policy issues, and, with the relevant portfolio agency, on censorship and bankruptcy. The Division coordinates departmental support for the Standing Committee of Attorneys-General and provides the International Legal Services Advisory Council with a secretariat and with advice on international trade in legal services.

The Division is also responsible for the formulation and provision of policy advice on native title, and for assisting the Attorney-General in the administration of the *Native Title Act 1993*. This includes advising on the operation of the Native Title Act and the native title system, assisting Commonwealth agencies to carry out future acts under the Native Title Act, and managing Commonwealth involvement in native title mediation and litigation.

The **Family Law and Legal Assistance Division (FLLAD)** administers Output 1.3. FLLAD is responsible for the development, coordination and implementation of Commonwealth policy on family law and legal aid, for primary dispute resolution and other support services for separating families, and for the coordination of the provision of legal assistance services nationally. The Division also provides research and support services to the Family Law Council.

The **Office of International Law (OIL)** administers Output 1.4. The Office provides legal advice and advocacy services on issues involving international law, and assists with the development and implementation of international law projects. OIL also undertakes international human rights report writing and complaints work.

The **Office of Legislative Drafting (OLD)** administers Output 1.5. The Office is responsible for drafting regulations and other legislative instruments and for giving advice about drafting and interpreting legislative instruments to the Attorney-General, Ministers, and to departments and agencies. OLD also manages the publication of the Australian Government Notices Gazette. The Office is responsible for the consolidation of Commonwealth legislation and its publication on the Internet through the SCALEplus and Legislative Instruments databases. The Office is also responsible for the printing and distribution of Acts and Statutory Rules. It is expected that from 1 January 2005 the Office will be responsible for the operation of the Federal Register of Legislative Instruments established under the *Legislative Instruments Act 2003*.

Criminal Justice and Security Group

The **Criminal Justice Division (CrJD)** administers Output 2.1. The Division is responsible for policy advice, and for the administration and improvement of legislation and international arrangements (bilateral and multilateral) relating to criminal law and the criminal justice process, including issues that address the challenges that terrorism has brought to the criminal justice system. CrJD is also responsible for policy matters relating to operational law enforcement agencies, illicit drugs, firearms and administration of the National Crime Prevention Program, the National Community Crime Prevention Programs and the Agreement between the Commonwealth and Northern

Territory Government establishing a juvenile pre-charge diversion program and Aboriginal Interpreter Services. It is responsible for managing casework requests for extradition, mutual assistance and the international transfer of prisoners. It also provides secretariat support to the Ministerial Council on the Administration of Justice and provides law and justice assistance in the South Pacific.

The **Information and Security Law Division (ISLD)** administers Output 1.6 and Output 2.2. The Division is responsible for the administration and development of legislation and the provision of legal and policy advice with respect to counter terrorism, national security, telecommunications interception, privacy, freedom of information, parliamentary privilege, defamation, intellectual property rights and electronic commerce. The Division coordinates the national critical infrastructure program and within that program develops policy and provides legal and policy advice. Each area of the Division, in administering relevant outputs, does so in the context of promoting international cooperation on bilateral, regional and multilateral bases.

Emergency Management Australia (EMA) administers Output 2.3. In conjunction with a wide range of Commonwealth authorities, State and Territory agencies, local government and industry bodies, EMA develops strategic emergency management initiatives, sponsors partnerships between emergency management and other sector stakeholders, develops State and Territory capability in the emergency management sector in order to protect life and property, and facilitates the process of developing resilient and sustainable communities. EMA coordinates Australian Government physical assistance to States and Territories, upon request, during major disasters and delivers senior level emergency management education and training programs. As an agent of AusAID, EMA has a significant relationship with the countries of the South Pacific region.

The **Protective Security Coordination Centre (PSCC)** administers Output 2.4 and Output 2.5. PSCC is responsible for coordinating and managing, in cooperation with federal, state and territory agencies, Australia's protective security and counter-terrorism and crisis management arrangements. It coordinates protection arrangements for high-risk persons, premises and facilities, including Ministers and their staff, visiting foreign dignitaries and foreign diplomats. The PSCC Watch Office channels communications between the Australian Government and states and territories on national security and counter-terrorism matters, including time-critical information reported by the public through the National Security Hotline. Both the Watch Office and National Security Hotline operate 24 hours a day.

The PSCC also supports the Attorney-General and Minister for Justice and Customs by providing policy advice and implementing Government decisions in the field of protective security. This includes the provision of security awareness training and security vetting services.

Information and Knowledge Services Group

The **Information and Knowledge Services Group (IKS)** provides services and support in the areas of information technology, information systems development and information management (such as knowledge management, records management and archival services). The Group is also responsible for library services, voice and data communications, the Australian Secure Network (ASNET), IT security matters, IT contract management, intranet services and Internet services. Some examples of Internet services are Australian Law Online at <<http://www.law.gov.au/>>, the Attorney-General's Department web site <<http://www.ag.gov.au/>>, and a searchable list of Commonwealth legislation called SCALEplus at <<http://scaleplus.law.gov.au/>>

Corporate Services Group

Corporate Services Group (CSG) provides administrative advice and services to the Attorney-General and the Minister for Justice and Customs. It also provides general support to the Department including advice and services relating to human, financial, and physical resources, ministerial and parliamentary matters, public affairs, freedom of information, and corporate governance and performance.

The Trade Measures Review Secretariat (TMRS) is located within the CSG. The TMRS provides administrative support to the Trade Measures Review Officer (TMRO), a statutory function that is performed by the General Manager, Corporate Services. The TMRO undertakes administrative reviews of decisions relating to anti-dumping and countervailing matters and provides strategic policy advice on issues relating to anti-dumping and countervailing matters.

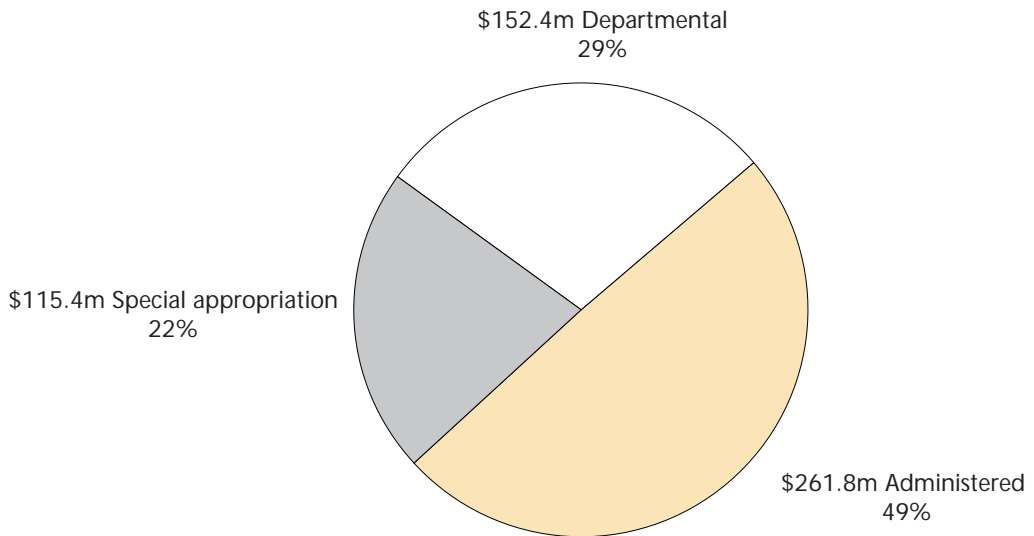
Snapshots: finance and staffing

Financial performance

The total annual appropriations for the Department for 2003-04 were \$414.2 million. This was made up of \$152.4 million for departmental outputs and \$261.8 million for administered expenses, capital and previous years' outputs (see Figure 2).

In addition, the Department budgeted for expenditures totalling \$115.4 million against special appropriations relating to the handgun buyback program, judges' pensions and High Court Justices' salaries and allowances. See page 121 for more information on the Department's financial performance.

Figure 2: Appropriations 2003–04



Staffing

The Department's staffing complement reflects the nature of its responsibilities—primarily to provide expert advice to Government on a wide range of legal and policy issues. While only one-quarter of the employees are in formally identified legal positions, many more have legal or related qualifications. Nearly half work at a Senior Executive or Executive level.

- The Department is located in Canberra, where about 95 per cent of employees work. Five per cent work at Mt Macedon, near Melbourne, Victoria.
- Most staff work full-time. Six per cent work part-time hours and about one-tenth are employed on a casual basis. A very small number of contractors work in specialist roles.
- The workforce age profile is younger than the broader Australian Public Service (APS).
- Two-thirds of staff are female.
- Employees from a non-English speaking background and Indigenous employees each make up 4 per cent of the workforce. Another 2 per cent identify as disabled.
- A Workplace Diversity Program launched on 12 March 2004 recognises and supports diverse strengths and needs. It is creating an inclusive work environment that encourages employees to realise their full potential.
- The majority of employees have three years or less tenure.
- Around one-third of staff who leave the Department move to other APS agencies on promotion or transfer.

Recently, half of the staff undertook a voluntary health assessment. The program showed that most have good health, although 9 per cent of men and 15 per cent of women are smokers and many reported feeling some level of stress. About half the staff took up the offer of influenza immunisation. Usually about 100 employees participate weekly in work-supported health and wellbeing activities.

See page 124 for more information on human resource management in the Department.
