

The Auditor-General
Audit Report No.20 2002-03
Performance Audit

Employee Entitlements Support Schemes

**Department of Employment and
Workplace Relations**

Australian National Audit Office

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of Australia 2002

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Canberra ACT
10 December 2002

Dear Mr President
Dear Mr Speaker

The Australian National Audit Office has undertaken a performance audit in the Department of Employment and Workplace Relations in accordance with the authority contained in the *Auditor-General Act 1997*. I present this report of this audit, and the accompanying brochure, to the Parliament. The report is titled *Employee Entitlements Support Schemes*.

Following its tabling in Parliament, the report will be placed on the Australian National Audit Office's Homepage—<http://www.anao.gov.au>.

Yours sincerely

A handwritten signature in black ink, which appears to read 'P. J. Barrett', is positioned above the printed name.

P. J. Barrett
Auditor-General

The Honourable the President of the Senate
The Honourable the Speaker of the House of Representatives
Parliament House
Canberra ACT

AUDITING FOR AUSTRALIA

The Auditor-General is head of the Australian National Audit Office. The ANAO assists the Auditor-General to carry out his duties under the *Auditor-General Act 1997* to undertake performance audits and financial statement audits of Commonwealth public sector bodies and to provide independent reports and advice for the Parliament, the Government and the community. The aim is to improve Commonwealth public sector administration and accountability.

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Abbreviations/Glossary

ANAO	Australian National Audit Office
AGS	Australian Government Solicitor
ASIC	Australian Securities and Investments Commission. ASIC enforces company and financial services laws to protect consumers, investors and creditors.
BIS	DEWR's financial management system
Case	A case is an insolvent business where assistance under EESS or GEERS is sought. A case may comprise one or many claims.
Claim	A claim is a written request for assistance from an individual in an EESS or GEERS case.
DEWR	Department of Employment and Workplace Relations
DEWRSB	Department of Employment, Workplace Relations and Small Business
EEB	Employee Entitlements Branch of DEWR
EESS	Employee Entitlements Support Scheme
EEBase	Employee Entitlements database. Formerly called 'EESSbase'. The computer system used by DEWR to administer EESS and GEERS.
GEERS	General Employee Entitlements and Redundancy Scheme
IP	Insolvency Practitioner. A person appointed to wind up the affairs of an insolvent company.
IPAA	Insolvency Practitioners' Association of Australia
IT	Information Technology
ITSA	Insolvency and Trustee Service Australia, an executive agency in the Attorney-General's portfolio, responsible for the administration and regulation of the personal insolvency system in Australia.
PBS	Portfolio Budget Statement
SEESA	Special Employee Entitlements Scheme for Ansett group employees

Summary and Recommendations

Summary

Background

1. The original Employee Entitlements Support Scheme (EESS) was established to provide a safety net for employees who lost their jobs on or after 1 January 2000 as a result of their employer's insolvency or bankruptcy, and were left without some or all of their employee entitlements. EESS, which provides part-payment of certain unpaid entitlements, is a government-funded safety net for affected employees, administered by the Department of Employment and Workplace Relations (DEWR). The Commonwealth Government has funded half the amounts assessed as payable to employees under EESS and invited State and Territory governments to fund the other half—though, in practice, few have.
2. Following the collapse of the Ansett group of companies in September 2001, the Government announced a special scheme to assist employees of those companies whose employment was terminated as a consequence of the collapse. That scheme is known as the Special Employee Entitlement Scheme for Ansett group employees (SEESA). At the same time the Government announced the replacement of EESS with a new scheme, the General Employee Entitlements and Redundancy Scheme (GEERS). GEERS is similar in structure and intent to EESS, but is fully Commonwealth-funded and provides a higher proportion of the unpaid entitlements than EESS. This is achieved through having fewer caps on the amounts payable for each component of the employee's unpaid entitlement.
3. EESS applies to terminations resulting from employer insolvencies that occurred in the period from 1 January 2000 to 11 September 2001. GEERS applies to terminations resulting from employer insolvencies that have occurred on or after 12 September 2001. DEWR's administration of EESS and GEERS is the subject of this audit. SEESA operates rather differently to EESS and GEERS and is the subject of a separate performance audit, which is expected to be tabled in 2003.
4. To 30 June 2002, DEWR had made 8358 EESS and 4582 GEERS payments to employees. At that point the department was receiving approximately 1000 new claims each month in total across the two schemes. In 2001–02, total expenditure on EESS and GEERS was \$62.36 million. In 2002–03 (which will be the first full year of operation of GEERS), the budget estimate is \$85.183 million, which also includes any residual expenditure on EESS.

Operation

5. EESS and GEERS are not legislatively based but are established by ministerial authority and form an element within DEWR's Outcome 2, 'Higher productivity, higher pay workplaces'. They are described as 'safety net' schemes only, meaning that, although they assist employees who have been affected by employer insolvency, they do not necessarily compensate them for all their unpaid employee entitlements.

6. Individual employees who have been terminated due to employer insolvency without having been paid their employee entitlements complete claim forms to obtain assistance from the schemes. These claims are lodged with DEWR usually through the insolvency practitioner (IP) appointed to manage the affairs of the insolvent business. When it has assessed the amounts payable, DEWR generally makes an advance to the IP. The IP then makes any necessary deductions (for example, income tax) and distributes the net payments to the former employees.

7. DEWR makes these advances under s. 560 of the *Corporations Act 2001* which gives the Commonwealth the same priority in recovering funds as the employees would have had, if any are available when the assets of the business are realised.

8. The operation of EESS and GEERS has been characterised by rapid change and development since the inception of the first scheme. A further administrative challenge has been the inherently unpredictable workload.

Audit objective

9. The objective of the audit was to determine whether DEWR is efficiently and effectively managing the provision of funds to eligible employees under EESS and GEERS. This includes consideration of whether: the eligibility and entitlements of claimants were accurately and cost-effectively assessed; performance information was timely and relevant; there was a strategy to provide correct, clear and timely information to those involved in the scheme; and DEWR recovered the amounts due from insolvent employers on behalf of the Commonwealth.

Audit conclusion

10. In implementing EESS from March 2000, DEWR put in place the first ever publicly funded scheme in Australia as a safety net for employee entitlements upon business insolvency. The department has since implemented GEERS, which replaces EESS.

11. The Australian National Audit Office (ANAO) identified a range of opportunities for improvement in the administration of the schemes. The main area in which DEWR's performance has not been meeting expectations is the timeliness of making payments under these schemes. Better management information systems would help DEWR to manage the processing and improve the promptness of payment.

12. In addition, DEWR could improve the management and operation of the schemes by:

- better management of the administrative framework under which the schemes operate, including the business rules and procedures, the introduction of a quality assurance mechanism and improvements to the supporting IT system;
- enhancing the range of performance indicators and means of measuring performance to improve both transparency and accountability;
- developing its capacity to track and control the processing of cases and claims as they flow through the system; and
- taking a more active role in pursuing recovery of funds from the assets of the insolvent businesses.

13. DEWR was responsive to the issues the ANAO raised during the course of the audit, and sought to make numerous changes to its administration as a consequence. The report makes nine recommendations relating to the opportunities, set out above, to enhance the management of the schemes. DEWR accepted all nine recommendations.

Departmental response

DEWR provided the following general comment on the audit. Departmental comments on the specific recommendations are set out under the respective recommendations.

The audit confirms that the Employee Entitlements Support Scheme (EESS) and the General Employee Entitlements and Redundancy Scheme (GEERS) are evolving schemes and have recently stabilised. The audit notes improvements achieved over the life of the schemes in areas such as process and timeliness; where deficiencies were identified they are principally historical.

DEWR acknowledges that the audit provides sound guidance as to where processes can be improved further. DEWR appreciates the assistance and professionalism of ANAO staff during the conduct of the audit and believe that the audit provides a sound basis on which our ongoing review of the employee entitlement schemes can be further progressed.

Indeed, the department has initiated a further review of the business model used to administer GEERS ('the business model review'). A report from the business advisor undertaking this review will be considered by the department's Management Board in early December 2002.

Key findings

Administrative Framework (Chapter 2)

14. The ANAO found that, although high-level policy guidance was in place for EESS and GEERS, business rules and procedures remained incomplete. In addition, there was not an adequate system for managing rules and procedures. Further, existing rules and procedures were not being consistently followed and there was no systematic quality checking mechanism. DEWR has been addressing gaps in the rules and procedures and their consistent application since the audit began, and has commenced a review of the business rules and procedures. A quality assurance system would help to improve the quality of administration.

Information Technology Support (Chapter 3)

15. DEWR has made good use of Intranet facilities to provide easy access by staff to the guidance available on the day-to-day operation of EESS and GEERS. An IT system, such as the EEBase system DEWR has developed, is essential to the efficient operation of the schemes. This is required to collect and record essential data; perform the calculations necessary for assessment; and provide management information.

16. However, DEWR developed EEBase for EESS, which was replaced by GEERS after less than two years' operation. This change is likely to have contributed to deficiencies, such as the data integrity and security profile issues identified by the audit. DEWR has responded to the ANAO concerns about the integrity and management of EEBase, seeking to 'cleanse' existing records, improving access control and instituting a business-focused change program to address the more pressing requirements for system modifications.

Performance Measurement (Chapter 4)

17. There is a risk that the funding arrangement for EESS and GEERS, in which all funds, including those used to meet departmental expenses, are derived from an administered appropriation, could obscure departmental activity that would otherwise constitute a departmental output. Transparency of the administration of EESS and GEERS would be improved if the outputs produced for EESS and GEERS were made explicit.

18. DEWR has put in place a set of performance indicators for EESS and GEERS and reported against them. However, there are opportunities for DEWR to improve the range of indicators and the means of measuring performance (including timeliness, accuracy and client satisfaction) for EESS and GEERS.

Timeliness and the Management of Processing (Chapter 5)

19. There are substantial challenges in making prompt payments under the EESS and GEERS schemes. Overall, DEWR has taken 26 weeks to clear 80 per cent of claims, well short of either its original published standard, 80 per cent in 12 weeks, or its revised standard, 80 per cent in 16 weeks. This may be attributable in part to the difficulty DEWR has in obtaining, promptly, verified information from IPs on unpaid employee entitlements. However, it will only be possible to clarify this if DEWR keeps more detailed records of the key steps in processing.

20. There may be practical limits to the capacity of IPs to collect and provide the necessary information to allow DEWR to process claims. Nevertheless, working within the existing framework for EESS and GEERS, there are opportunities for DEWR to improve its management of the processing. The primary challenge is to develop enhanced management information systems that will allow DEWR to report on and keep track of cases and claims as they flow through the processing system, and to take corrective action as necessary. A substantial improvement in management information is a key to both better understanding the existing process and enhancing it.

Relationship Management (Chapter 6)

21. DEWR has undertaken a range of targeted communications measures to ensure that potential claimants have the opportunity to lodge claims under EESS or GEERS. However, it is difficult for the department to be confident about the effectiveness of these without some further research. Given that EESS and GEERS processing is frequently delayed, there are also opportunities for DEWR to improve client service by ensuring that claimants are aware of what they can expect from the system and of the reason for any delays that occur.

22. The numbers of appeals against EESS and GEERS decisions rose during the first six months of 2002. DEWR is taking longer than its target time to resolve most cases. Monitoring processing and integration of the appeals register into EEBase would help DEWR to maintain the timeliness of resolving appeals.

23. IPs have a substantial and essential role in the successful operation of EESS and GEERS. DEWR has continued to provide informative advice to IPs about the schemes. The relationship between DEWR and IPs can be strengthened by formalising contact, possibly through a regular consultative mechanism.

Recovery from Assets (Chapter 7)

24. The Commonwealth has begun to receive significant amounts of recovered funds only during 2002. This is reasonable as it is consistent with industry advice on the time it takes to realise business assets after insolvency. However, effective recovery will require DEWR to become a more active creditor, including following up IPs with more vigour to ensure that they are taking all appropriate action.

Funding Arrangements (Chapter 8)

25. The funding arrangements for the EESS and GEERS schemes are unusual in that all funds for the schemes are provided through a special account. This arrangement derives from the original conception of how EESS would operate, with contributions from States and Territories.

26. Although it had originally received legal advice that the special account could not be used for GEERS, DEWR continued to do so. DEWR is now seeking to address the legal basis of GEERS funding. However, given that States and Territories are not expected to contribute to GEERS funding, it is not clear that a special account remains the most appropriate mechanism for funding arrangements.

Recommendations

Set out below are the ANAO's recommendations aimed at improving the administration of EESS and GEERS in DEWR and DEWR's response to each.

**Recommendation
No. 1
Para. 2.22**

The ANAO recommends that DEWR, as a priority, complete its review of business rules and procedures for administering the EESS and GEERS schemes.

DEWR response: Agree. The review of the rules and procedures initiated by DEWR is complete and implementation of a revised process including enhanced IT systems and controls is to be implemented progressively over the remainder of the financial year. This process will be further informed by the current business model review.

**Recommendation
No. 2
Para. 2.38**

The ANAO recommends that DEWR institute a system of quality assurance for the operation of EESS and GEERS (including risk-based checking of compliance with procedures) to highlight the strengths and weaknesses of current practices and improve the quality of its administration of the schemes.

DEWR response: Agree. Prior to the audit the administration of EESS and GEERS had a number of quality assurance controls. During the period of the audit, quality assurance controls were continuously updated and now include the following:

- each applicant must complete a claim for assistance that provides legal recourse against fraudulent claims;
- data on claimants' outstanding entitlements are provided by the insolvency practitioner managing the winding up of the company. The practitioner provides written verification that he or she has sighted a prescribed set of payroll records which validate applicants' claims;
- independent accountants are contracted by the department to assist with the review of employee entitlements claims on a case-by-case basis;

- claims are reviewed by DEWR for accuracy and completeness and ambiguities are followed up with the insolvency practitioner or claimant;
- recommendations for claimant eligibility are subject to a peer review within DEWR prior to consideration by a delegate;
- the basis for recommendations and delegate decisions are documented using standardised pro forma;
- appeals against a delegate's decision are considered by an independent senior officer of the department; and
- policy and procedural issues raised by individual cases are referred to the process review team for consideration and, where necessary, issuing of revised procedures to all staff.

These quality assurance controls are defined in the department's procedural documentation.

**Recommendation
No. 3
Para. 3.26**

The ANAO recommends that DEWR conduct a comprehensive, risk-based review of in-built processing checks and controls to ensure the integrity of EEBase.

DEWR response: Agree. Systems changes implemented during the audit have included enhanced data capture controls and automated alerts for users when incorrect or abnormal data is entered. EEBase releases are currently supported by comprehensive documentation and training. IT system developments will be further informed by the current business model review.

**Recommendation
No. 4
Para. 4.11**

The ANAO recommends that DEWR clearly define the outputs it produces for EESS and GEERS.

DEWR response: Agree. DEWR has implemented EESS and GEERS in accordance with Cabinet and Ministerially approved requirements. DEWR will propose that the Government consider the separation of departmental funding from administered funding appropriations in the context of next year's budget.

**Recommendation
No. 5
Para. 4.47**

The ANAO recommends that DEWR revise its measures of its existing set of indicators, timeliness, accuracy and client satisfaction, to ensure completeness and reliability in its reporting.

DEWR response: Agree. Annual review is consistent with DEWR's established practices.

**Recommendation
No. 6
Para. 5.36**

The ANAO recommends that DEWR seek to improve its processing performance by enhancing its strategy for planning and managing its resource allocation.

DEWR response: Agree. DEWR has successfully managed the varied workload and delivered a consistent level of output, irrespective of the size and number of cases. The average GEERS case managed by DEWR comprises nine claimants. In 2002, DEWR effectively dealt with a small number of very large cases. Building on the successful management of the workload thus far, DEWR aspires to achieve a higher level of output and meet its performance target.

**Recommendation
No. 7
Para. 5.40**

The ANAO recommends that DEWR develop a mechanism to manage, track and report on all cases and claims through its processing, with facilities that allow it to detect and report on the development of any backlogs, inaction or 'bottlenecks' in the processing.

DEWR response: Agree. Monitoring and reporting on case and claim processing has been progressively improved over the life of the schemes including during the period of the audit. The department has implemented standardised weekly reports available to all staff via the department's case manager portal to track the progress of key processes including cases, acquittals and recoveries. Claim and case management arrangements will be further informed by the current business model review.

**Recommendation
No. 8
Para. 6.22**

The ANAO recommends that DEWR ensure that claimants are informed about any known or likely delay in processing their claim, including the reason for the delay.

DEWR response: Agree. DEWR currently provides information to claimants with advice on the status of their claim via letters at key processing points including the receipt of a claim and on assessment. Additional updates are provided to claimants in response to enquiries to the schemes' telephone hotline and email account. Insolvency practitioners also provide all creditors, including employees, with regular updates on the status of an insolvency process; in many cases this would include the status of EESS or GEERS assistance processes. DEWR will implement a system of more regular advice direct to claimants.

**Recommendation
No. 9
Para. 7.20**

The ANAO recommends that DEWR enhance its recovery strategy to more actively manage the Commonwealth's interests as a creditor in EESS and GEERS cases. The strategy would involve tailoring working relationships with IPs according to the potential return in the case.

DEWR response: Agree. The department's existing recovery strategy provides a cost-effective means of managing the Commonwealth's interests. EESS and GEERS advances are made on the basis that they will be repaid from the assets of the insolvent business on terms that are consistent with the *Corporations Act 2001*. DEWR, as a creditor, must be informed of any intended distributions by the IP. The Commonwealth is dependent on the insolvency practitioner to that extent, noting that an insolvency practitioner must meet obligations imposed by the Corporations Act or put at risk his or her capacity to continue to operate in the role.

DEWR procedures also require that three months after EESS or GEERS funds have been advanced, DEWR writes to the IP to determine whether a dividend will be paid or whether the company/business has been wound up and there will be no distribution of assets to creditors of the company/business. This process is repeated each quarter until the advance is repaid in full or the insolvency practitioner advises that no further distributions will be made. The recovery strategy will be further informed by the current business model review.

Audit Findings and Conclusions

1. Introduction

This chapter provides a brief history of the employee entitlements support schemes, explaining where they fit into DEWR's outcome and output structure. It explains how the schemes work and what has been achieved to date. It then sets out how the performance audit was undertaken and outlines the structure of the rest of the report.

History of the schemes

1.1 The employee entitlements support schemes provide assistance for employees who are terminated as a result of their employer's business insolvency or bankruptcy, and do not receive all of their employee entitlements. The schemes are a government-funded safety net for affected employees.

1.2 The initial scheme, the Employee Entitlements Support Scheme (EESS), was introduced following public discussion over several years in Australia about what should be done when employees lose their accrued employee entitlements and their jobs as a result of business insolvency.¹ An estimated 7.5 per cent of Australian businesses cease operating each year.² However, only one in every 15 of these cases is a business insolvency—a liquidation or bankruptcy. Further, not all of these businesses will fail to pay employees their entitlements upon termination (see Appendix 2).

1.3 There are now two additional schemes under the employee entitlements support scheme umbrella: the General Employee Entitlements and Redundancy Scheme (GEERS) and the Special Employee Entitlements Scheme for Ansett group employees (SEESA). EESS applies to terminations of employment as a result of insolvency from 1 January 2000 to 11 September 2001; GEERS to terminations as a result of insolvency on or after 12 September 2001; and SEESA only to terminations of employees of the Ansett group of companies.

1.4 DEWR is responsible for administering these schemes, which are described in its Portfolio Budget Statements (PBS) as a key priority in 2002–03 under Outcome 2. DEWR has two outcomes in 2002–03: Outcome 1 is 'An effectively functioning labour market', and Outcome 2 is 'Higher productivity, higher pay workplaces'.

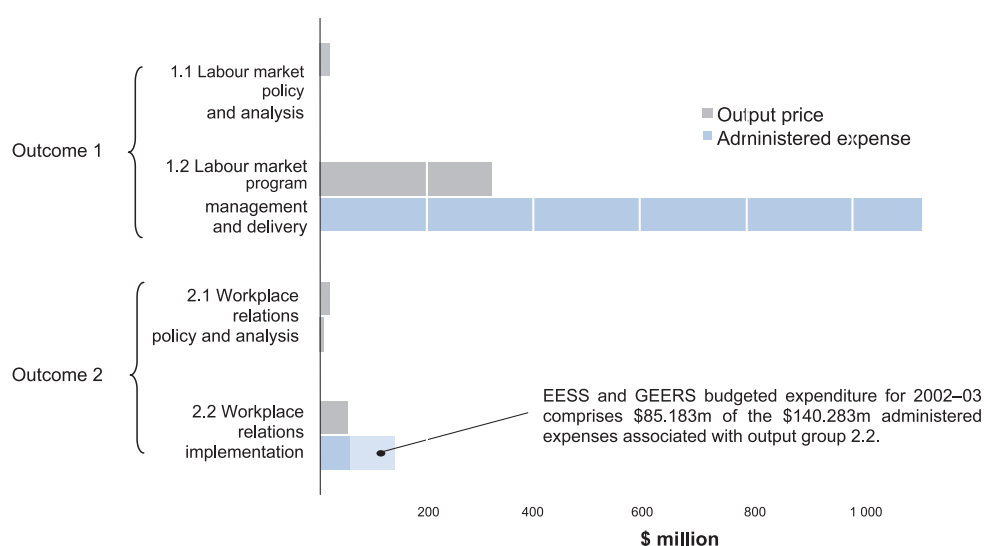
¹ Accounts of this discussion are provided in the Parliamentary Library current issues brief 'Corporate insolvencies and workers' entitlements', Information and Research Service, Parliament of Australia, last reviewed 23 July 2002, <www.aph.gov.au> (viewed 4 September 2002) and Newman, D., 'The history of employee priority and protection in Australian corporate insolvency', paper presented to the conference *Insolvency and Employee Entitlements—finding the path forward*, Sydney, August 2002, <www.maddocks.com.au> (viewed 4 September 2002).

² Bickerdyke, I., Lattimore, R. and Madge, A., *Business failure and change: an Australian perspective*, Productivity Commission Staff Research Paper, Ausinfo, Canberra, December 2000.

1.5 There are two output groups contributing to each outcome. The price of outputs and total value of administered expenses by output group is set out in Figure 1.1. The employee entitlements support schemes are encompassed by Output Group 2.2. However, under the special funding arrangements for these schemes, all expenses, including departmental administration, are funded from within the administered funds relating to this output group and, thus, are not considered to constitute a departmental output.

Figure 1.1

DEWR budgeted output prices and related administered expenses, by outcome and by output group, 2002–03



Source: DEWR PBS 2002–03, pp. 22 and 39.

Notes: (1) Administered items are expenses, revenues, assets or liabilities managed by DEWR on behalf of the Commonwealth.

(2) Output prices relate to departmental items. These are assets, liabilities, revenues and expenses that are controlled by DEWR in providing its outputs.

1.6 EESS was announced on 8 February 2000. In announcing its main features, the then Minister for Employment, Workplace Relations and Small Business, the Hon. Peter Reith MP, described EESS as ‘the most comprehensive extension of the social security safety net since the introduction of superannuation’.³ The Commonwealth expected States and Territories to contribute a half share to EESS payments; however, DEWR advised that only South Australia and the Northern Territory have made contributions. The Commonwealth nevertheless proceeded to pay its half of the amounts assessed as payable under the EESS rules (see Table 1.1) and to meet the costs of administering the scheme.

³ The Hon. Peter Reith MP, Media release, 9 April 2000, DEWR Portfolio Media Centre <www.dewr.gov.au/ministers/mediacentre/>.

1.7 GEERS was announced by the Minister for Employment, Workplace Relations and Small Business, the Hon. Tony Abbott MP, on 20 September 2001. GEERS replaces EESS, and applies to terminations of employment as a result of insolvency occurring on or after 12 September 2001. GEERS and EESS are similar in intention, eligibility and administration. However, GEERS has fewer limits on the assistance available and therefore generally provides higher payments for affected employees. GEERS is also wholly Commonwealth-funded, and does not require contributions from the States and Territories.

1.8 SEESA is a separate scheme to fund the entitlements of former employees of the Ansett group of companies, which went into administration on 12 September 2001. DEWR has outsourced most of the administration of SEESA and its role is largely that of contract manager. SEESA is the subject of a separate performance audit report expected to be tabled in Autumn 2003 and is mentioned in this report only for contextual purposes. GEERS and SEESA were announced together and the payments available under both schemes are closely aligned.

Table 1.1

Employee entitlements available under each of the schemes^a

EESS (to 11 Sept. 2001)	GEERS (from 12 Sept. 2001)	SEESA (Ansett employees only)
Up to 4 weeks unpaid wages	All unpaid wages	All unpaid wages
Up to 4 weeks annual leave	All accrued annual leave	All accrued annual leave
Up to 12 weeks long service leave	All accrued long service leave	All accrued long service leave
Up to 5 weeks pay in lieu of notice	All accrued pay in lieu of notice	All accrued pay in lieu of notice
Up to 4 weeks redundancy entitlements	Up to 8 weeks redundancy entitlements	Up to 8 weeks redundancy entitlements
Calculated on a maximum salary of \$40 000 a year	Calculated on a maximum salary (indexed annually): ^b \$75 200 a year (2001–02) \$81 500 a year (2002–03)	No maximum salary
Maximum payment of \$20 000	No maximum payment	No maximum payment
Commonwealth contributes half of scheme benefits (relevant State or Territory expected to contribute other half)	Commonwealth pays all of scheme benefits	Commonwealth pays all of scheme benefits

Source: DEWR

a: The schemes do not cover unpaid superannuation contributions.

b: For any given claim the relevant income cap is that applying in the financial year in which the termination of employment took place.

1.9 The three schemes are exclusive for claims: that is, for any particular employee termination, assistance is available under only one of these schemes. However, there have been instances where terminations from a single business have straddled the commencement date of GEERS, allowing some employees from those companies access to EESS and others to GEERS.

Authority

1.10 The original announcement of EESS (8 February 2000) stated that the scheme was being established on an interim administrative basis so that the Government could continue to actively consider a compulsory insurance scheme. Minister Reith also noted that EESS was being run administratively ‘to get it under way’.⁴

1.11 Payments made under these schemes are unlike payments made under social security law, where a person may have a legal entitlement to a payment from the Commonwealth. Neither EESS nor GEERS has any statutory basis: both are administrative. This means that a relatively high degree of discretion resides with the minister and the department. The word ‘entitlement’ in this case does *not* mean a Commonwealth entitlement (like a pension payment), but refers to an entitlement an employee has accrued in an employment relationship and is legally entitled to receive from their insolvent former employer.

1.12 Although the schemes themselves are not legislated, their administration involves industrial, corporations and bankruptcy law. For example, payments under the schemes are intended to be recoverable from the proceeds of winding up the insolvent employer, should any become available. DEWR uses s. 560 of the Corporations Act to achieve this. When the Commonwealth has advanced funds under s. 560 to pay employee entitlements, this section of the Act then confers the same priority on repaying the Commonwealth as otherwise would have been accorded to the unpaid entitlements of terminated employees. DEWR provides access to an advance under the schemes conditional upon the ability of the Commonwealth to obtain the priority for recovery of the advance under s. 560 and/or an assignment to the rights of the employee for any advances made.

⁴ Transcript of the Hon. Peter Reith MP, 9 February 2000, DEWR Portfolio Media Centre <www.dewr.gov.au/ministers/mediacentre/>.

1.13 In an initiative related to the schemes, the Commonwealth introduced the *Corporations Law Amendment (Employee Entitlements) Act 2000* to discourage companies from avoiding their liability to pay employee entitlements. The changes prohibit directors entering into arrangements intended to prevent them from having to pay employee entitlements (for example, by restructuring the company), and enhance the protection against insolvent trading. In the latter instance, the law prohibits directors from undertaking uncommercial transactions that lead to the insolvency of the firm.

Resources

1.14 EESS and GEERS are funded using a special account created for EESS under section 20 of the *Financial Management and Accountability Act 1997* (FMA Act). This account was created on 13 March 2000. These arrangements are described in detail in Chapter 8 of this report.

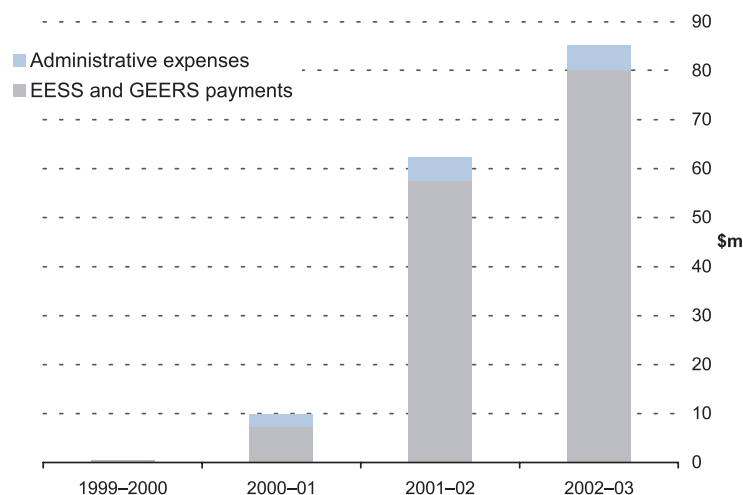
1.15 All funds are formally derived from an administered appropriation. The annual costs of EESS and GEERS are shown in Figure 1.2. Those costs are split between the administrative costs of the schemes and the total amounts of payments made to employees. This approximates the conventional distinction between 'departmental' and 'administered' expenses.

1.16 The DEWRSB 1999–2000 *Annual Report* (p. 202) shows that the department spent \$607 617 on EESS in the initial six months of the scheme from the funds specifically allocated to EESS. This included \$46 907 on administration excluding staff salaries and other administrative costs, which were 'absorbed' by the department for that six-month period (those additional administrative costs are not separately identified).

1.17 The subsequent annual report (p. 46), shows that EESS payments of \$7.3 million were distributed in 2000–01 with a further \$2.55 million spent on administration. DEWR paid \$57.6 million in EESS and GEERS payments in 2001–02, at a cost of \$4.76 million in administration. A break-up between the estimated costs of payments and administration for 2002–03 is not provided in the PBS. However, under an agreement with Finance, DEWR has a budget of \$5 million for administering EESS and GEERS.

Figure 1.2

Annual actual and estimated total costs of EESS and GEERS, 1999–2000 to 2002–03



Source: DEWR. Note that the amounts for the first three years are actual and, for 2002–03, are the budgeted estimates.

1.18 Figure 1.2 shows the rapid growth in costs in the initial years of the schemes. One reason for expenditure growth is that GEERS has replaced EESS and GEERS payments are, on average, for greater amounts. However, as will be seen in data presented later, the rate of receipt of cases and claims appears to have stabilised.

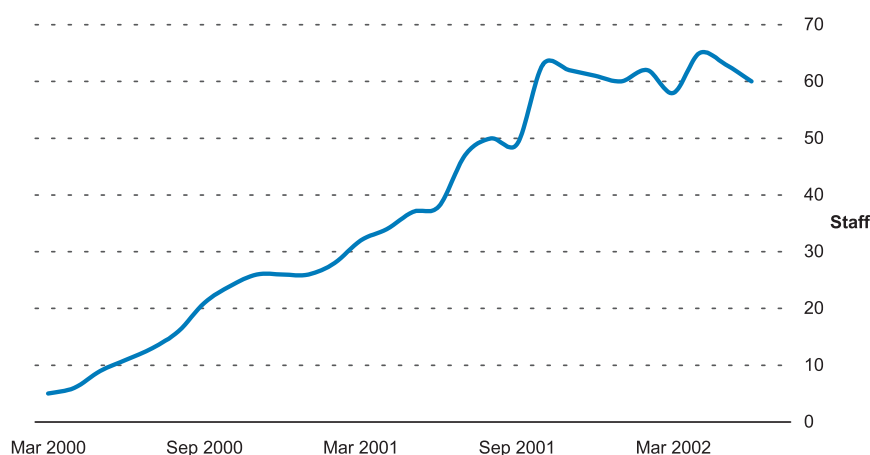
1.19 DEWR has established an Employee Entitlements Branch (EEB) within its Workplace Relations Implementation Group to administer EESS and GEERS. The branch, located in Canberra, has approximately 60 staff. The changing number of full-time equivalent staff in the branch is set out in Figure 1.3.

1.20 Growth in staff numbers reflects the growth in workload and activity, and is most marked at the time of inception of GEERS and SEESA. However, the branch has stabilised at around 60 staff members since then.

1.21 As mentioned above, in administering the schemes, DEWR pays IPs and accountants for certain services. The cost of these payments is a significant element in the schemes' administrative expenditure. Details of the monthly number of payments and total amounts paid to each of these groups are set out in Appendix 1.

Figure 1.3

Number of staff (full-time equivalent), Employee Entitlements Branch, DEWR March 2000 – June 2002



Source: Data supplied by Employee Entitlements Branch, DEWR

Operation

1.22 An eligible claimant under EESS or GEERS is a person:

- who was lawfully employed in Australia;
- whose employment has been terminated because their employer has become insolvent;
- who is owed certain employee entitlements by the former employer; and
- who is not eligible for assistance under SEESA for the given period of employment.

Contractors (as opposed to employees) are not included. Shareholding executive directors of the former employer and their relatives are excluded from assistance. An employee who has resigned is also not generally eligible.

1.23 DEWR describes the basic arrangements for the EESS and GEERS schemes as follows:

- Payment of employee entitlements is the responsibility of employers. EESS and GEERS are safety net schemes only, designed to assist employees affected by employer insolvency that has resulted in loss of employment and entitlements.

- Advances made under the schemes are available only when there are no other funds available to the business or the insolvency practitioner (IP) to meet outstanding employee entitlements. The schemes are not 'top up' schemes and do not guarantee employee entitlements. The onus remains on the employer to ensure that employee entitlements are secured.
- The Commonwealth advances funds directly to IPs and seeks to recover any monies paid if funds become available from the sale of assets or from any other source, including deeds of company arrangement or funds from third parties (and related entities).

Roles

1.24 The schemes involve participation by DEWR, IPs and, in some cases, accountants. The formal roles and responsibilities are described in the ministerially approved Operational Arrangements and set out in Table 1.2.

Table 1.2

Formal roles in the administration of EESS and GEERS

Entity	Role
DEWR	<ul style="list-style-type: none"> • provides policy advice to the Commonwealth Government on the schemes' operation • liaises with IPs • administers EESS and GEERS • monitors insolvency processes in particular cases where payments have been made under EESS or GEERS to ensure that all proper avenues of recovery are pursued.
IPs will be asked to:	<ul style="list-style-type: none"> • assist with administration, for example, by handing out forms and providing information to employees • provide information to DEWR on employee entitlements owing • provide information to DEWR on employee entitlements payable from the distribution of assets • pay eligible claimants under EESS or GEERS on receipt of advances from EESS or GEERS • distribute to creditors any assets realised through the insolvency process
Accountants contracted by DEWR (if required) will be asked to:	<ul style="list-style-type: none"> • check a sample of (or all) information provided to DEWR by IPs in order to verify accuracy of claims and/or reconstruct records of employee entitlements

Source: GEERS and EESS Operational Arrangements.

Process

1.25 A simplified and abbreviated account of the process followed in the operation of EESS and GEERS is set out in Table 1.3. Each insolvency that comes to attention comprises a case. Each case may involve one or many claims, each claim being a request for assistance from a single former employee in a case.

Table 1.3

Simplified account of the EESS and GEERS processes

Stage	Process
<i>(1) How cases first come to attention</i>	DEWR has most often become aware of the insolvency of a business when an employee calls on its hotline. DEWR will provide the employee with general information about the relevant scheme and, unless the employee is clearly not eligible for assistance, will send the employee a claim form. If a case is new, DEWR will try to confirm that insolvency has in fact commenced by checking the Australian Securities and Investments Commission (ASIC) on-line database. It will also try to identify the IP responsible for the case and contact them. Increasingly, IPs are the first to advise DEWR of insolvencies, following their appointment. Each new case is allocated to a case manager in the Employee Entitlements Branch, who then takes responsibility for processing it through to completion.
<i>(2) How DEWR obtains details of employees' claims</i>	Because the IP is best placed to identify all potentially eligible employees, DEWR invites them to distribute claim forms to such employees. The department asks the IP to collect and enter details of employee entitlement data onto a spreadsheet and forward it to DEWR, where those details are automatically transferred into DEWR's IT system, EEBase. DEWR advises that data is not always provided in a complete and correct form initially and the department often spends considerable time clarifying points with IPs or seeking additional detail.
<i>(3) Why DEWR sometimes needs to pay IPs and accountants to help</i>	In some cases there are insufficient assets left in the insolvent business to meet the IP's administrative costs. In such cases DEWR may pay the IP for the work undertaken in establishing employees' unpaid entitlements. In cases where the IP is unable or unwilling to undertake the work, or where DEWR considers there to be any risk to the proper payment of Commonwealth funds, DEWR may elect to engage an accountant to verify employee data.
<i>(4) What DEWR does when records are poor or absent</i>	In many cases the records held by insolvent businesses turn out to be poor, or missing. In such cases, more time may need to be allowed to collect data or claimants may be invited to provide records (such as payslips). If no records are available, DEWR may seek a statutory declaration from a claimant.

continued next page

Stage	Process
<i>(5) What DEWR does with the data and how it ensures it can make recoveries</i>	Once the verified data has been received and entered into EEBase, the system calculates the amounts payable under the scheme relevant to the claim. Before proceeding to make payment, however, DEWR writes again to the IP to obtain assurance that the insolvent business has no funds available to pay employees. It also seeks agreement that the IP is willing to distribute funds provided by the Commonwealth, acquit them, and return any they cannot distribute. DEWR also seeks the IP's acknowledgement that the funds will be an advance in terms of s. 560 of the Corporations Act, and hence, that the Commonwealth has a right of recovery.
<i>(6) How DEWR decides on payments</i>	When these assurances have been obtained, the case manager prepares a detailed written report in a structured format to one of the five or so delegates within the Employee Entitlements Branch who have the delegation to authorise payment.
<i>(7) How DEWR makes payments</i>	When payment is authorised, DEWR makes the payment for all the eligible claimants in the case to the insolvent business (which is under the control of the IP) through its financial system, BIS. The department advises the IP and the claimants, and notifies Centrelink. This allows Centrelink to ensure that it can properly calculate the entitlements of any of its clients who may also have received an EESS or GEERS payment.
<i>(8) How payments are distributed</i>	The IP is expected to distribute payments to the employees within a fortnight of receiving them and to return an acquittal (and any unpaid funds) to DEWR within a further fortnight.
<i>(9) What happens after payment</i>	Thereafter, DEWR seeks to recover funds for the Commonwealth to offset EESS and GEERS payments. The department monitors the progress of the insolvency while there is a prospect of recovery. When funds have been recovered or when DEWR is assured by the IP that there is no prospect of further recovery, the case is closed.

Basic statistics on the operation of the schemes

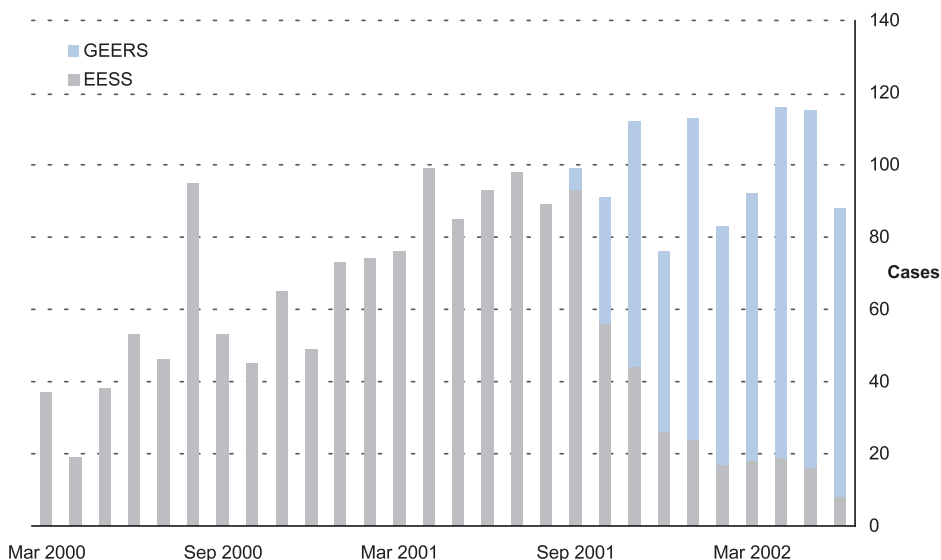
1.26 To 30 June 2002 there had been 2172 cases, comprising 1508 EESS and 664 GEERS. The great majority of cases are insolvent small businesses. The number of EESS and GEERS cases commencing rose steadily from the inception of EESS to mid-2001, after which the rate steadied at around an average 90 new cases a month (Figure 1.4).

1.27 Figure 1.5 shows the numbers of claims received from individual employees for EESS and GEERS respectively, by month. It shows that, like the numbers of cases, the number of claims also rose steadily from the commencement of EESS. However, the arrival rate of claims has varied more substantially from one month to the next. This is attributable mainly to a few large corporate insolvencies that generated many simultaneous claims.

1.28 Since the commencement of GEERS, the number of EESS claims received each month has declined, and the number of GEERS claims has risen, as might be expected.

Figure 1.4

**Numbers of EESS and GEERS cases commencing, by month
March 2000 – June 2002**

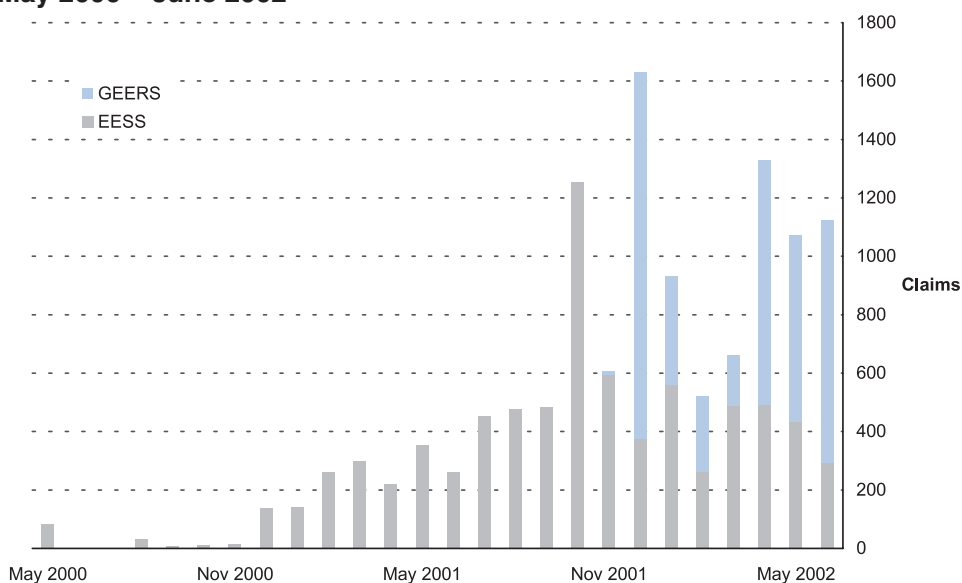


Source: Data derived from DEWR's EEBase system.

1.29 DEWR's management of the workload is discussed in Chapter 5.

Figure 1.5

**Numbers of EESS and GEERS claims received, by month
May 2000 – June 2002**



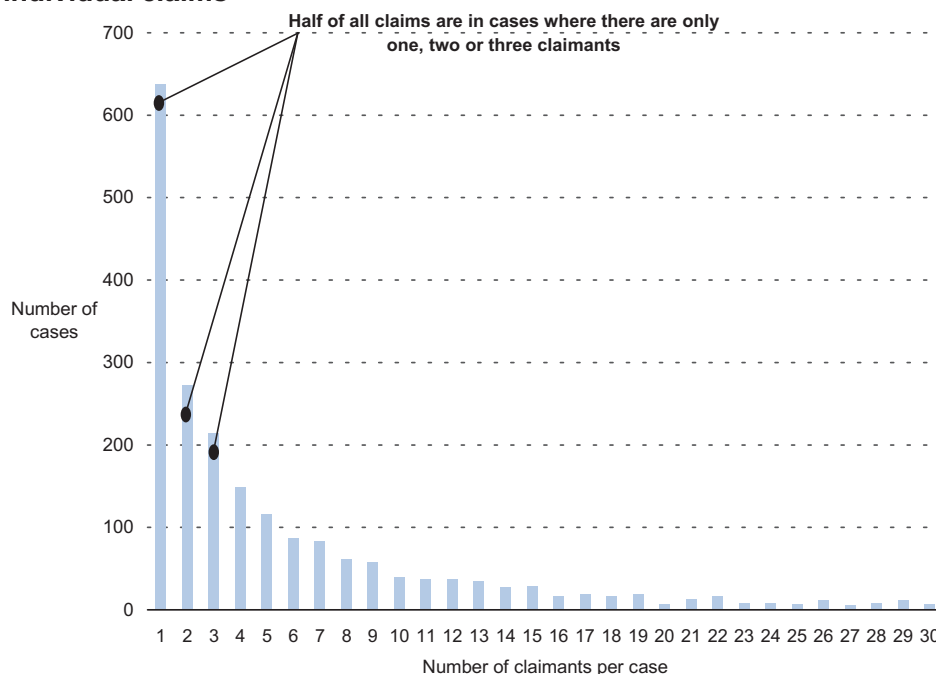
Source: Data derived from DEWR's EEBase system.

1.30 From inception to 30 June 2002, DEWR determined that about 15.2 per cent of claims received (3203 of the 21 076) were ineligible.

1.31 Cases can involve one or many employees, not all of whom are necessarily claimants. Most of the insolvent businesses that give rise to EESS or GEERS cases are small. The mean number of claimants per insolvent business to 30 June 2002 was 9.7 employees. However, the mean is skewed by a small number of large cases; the median was only three. Some 80 per cent of cases have 10 claimants or less and the mode (that is, the most frequent occurrence) was one claimant in a case. Figure 1.6 shows the distribution of claimant numbers in EESS and GEERS cases with up to 30 claimants. Only 15 cases have involved more than 100 claims each and only 3 have exceeded 500 claims each.

Figure 1.6

Distribution among EESS and GEERS cases (combined) of numbers of individual claims



Note: Figure excludes the 5 per cent of cases with more than 30 claimants.

Source: ANAO analysis of data supplied by DEWR from EEBase.

1.32 To 30 June 2002, the total cost of claims paid under EESS and GEERS was almost \$63 million. The mean payments under GEERS are substantially greater than those under EESS (Table 1.4) because of the more generous assessment rules (Table 1.1). Payments under GEERS have been as high as \$86 611. However, DEWR had made many low-value payments, including 546 under \$250 in value and 170 under \$100. (The administrative cost of making payments is discussed in Chapter 4.)

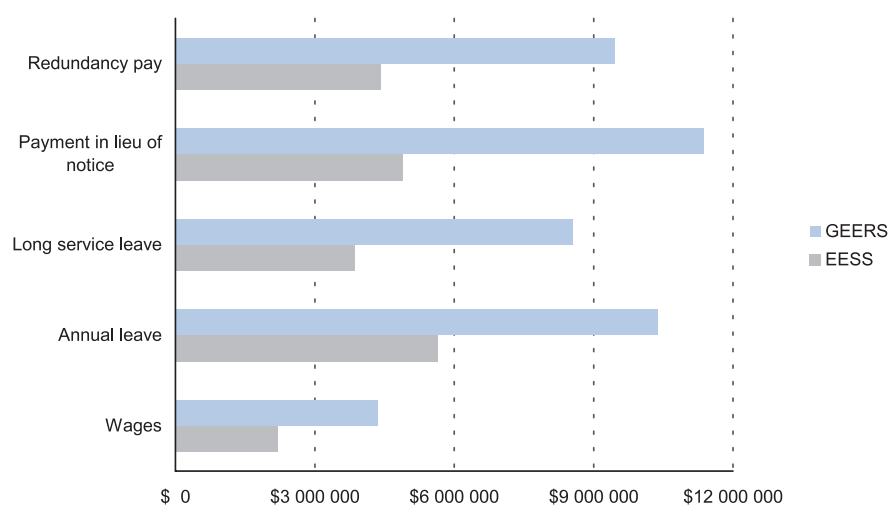
Table 1.4
EESS and GEERS payment statistics (to 30 June 2002)

	EESS	GEERS	TOTAL
Number of payments made	8 358	4 582	12 940
Total amount paid	\$17 703 375	\$44 950 071	\$62 653 446
Mean payment amount	\$2 118	\$9 810	\$4 842
Median payment amount	\$1 692	\$6 605	\$2 480
Highest payment	\$10 000	\$86 611	\$86 611
Lowest payment	\$3.30	\$14.54	\$3.30
Payments ≤ \$100	142	28	170
Payments ≤ \$250	470	78	546
Payments ≤ \$450	1 025	152	1 177

Source: Data derived from DEWR's financial system, BIS.

1.33 Unpaid employee entitlements may be any of five types: unpaid wages, annual leave, long service leave, pay in lieu of notice and redundancy entitlements. Of all funds paid to former employees under EESS and GEERS to 30 June 2002, about 25 per cent were in respect of payment in lieu of notice and another 25 per cent in respect of annual leave. About 20 per cent each were for redundancy pay and long service leave. Around 10 per cent of the funds paid were for unpaid wages. There is little difference between EESS and GEERS in these proportions (Figure 1.7; the detail is set out in Appendix 1).

Figure 1.7
Total amounts paid to employees under EESS and GEERS split among types of entitlement, to 30 June 2002

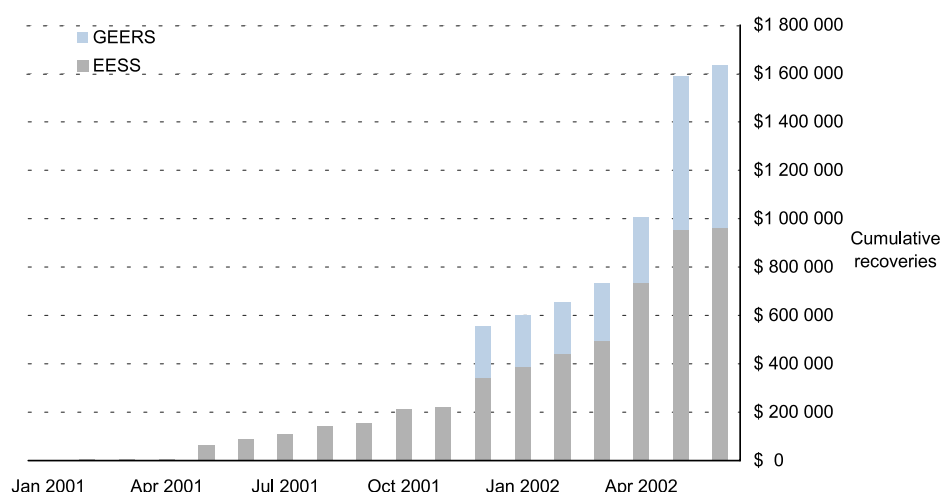


Source: Data derived from DEWR's financial system, BIS.

1.34 There is an inherent lag in the recovery of funds by creditors from the assets of insolvent businesses, while the IP winds up the affairs and disposes of any assets. Recovery by the Commonwealth, after it has made EESS or GEERS payments, began slowly and continues to rise. As of August 2002, recoveries had reached a cumulative total of over \$2 million. (Recovery is discussed in Chapter 7.)

Figure 1.8

**Cumulative amounts recovered from the insolvent businesses
January 2001 – June 2002**



Source: Data derived from DEWR's financial system, BIS.

Factors affecting administration of the schemes

1.35 There are several important factors that must be taken into account when assessing DEWR's performance in administering EESS and GEERS. First, the schemes remain relatively new and, with the introduction of GEERS in particular, have continued to undergo policy change. The supporting mechanisms DEWR has put in place for administering the schemes (in particular, EEBase) have also undergone very rapid change and development. All of this has been at some cost: for example, during the audit DEWR was still 'cleaning up' certain data difficulties that arose with the earlier transition from one version of EEBase to the next one in 2001.

1.36 Second, the workload generated by these schemes is unpredictable. Insolvencies can occur at any time and vary greatly in size. This is reflected in the variation in the rate of new cases and claims in Figures 1.4 and 1.5.

1.37 Finally, since the audit fieldwork commenced in early March 2002, DEWR has been responsive to the issues the ANAO has drawn to its attention. DEWR has advised that it has commenced a review of its entire EESS and GEERS processing framework.

Previous and proposed reviews

1.38 The policy guidelines for EESS (the Operational Arrangements) released by Minister Reith on 9 April 2000 specified that the administration of the scheme would be evaluated after one year of operation. An independent evaluation would be conducted after two years and would consider options for the future administration of the scheme including by the private sector. On 27 April 2000, the Minister announced that EESS would continue for three years and be subject to normal administrative review after that period. In the event, GEERS replaced EESS before two years of operation had elapsed. There is no corresponding evaluation requirement in the GEERS Operational Arrangements.

1.39 Minister Abbott released a *Year One Activity Report* for EESS in January 2001. The department subsequently prepared a *Year One Evaluation Report*, which was intended to satisfy the first of the requirements for evaluation set out in the Operational Arrangements. The report described that evaluation as internally run, relatively straightforward and completed at low cost. The evaluation focused on the administration of the scheme, and its recommendations were considered and approved in early July 2001. Despite the restricted focus of that work, the ANAO took the analysis and findings into account where relevant, and these are referred to in the body of this report. The ANAO found that some of those recommendations had not been acted on.

Audit objective

1.40 The objective of the audit was to determine whether DEWR is efficiently and effectively managing the provision of entitlements to eligible former employees under EESS and GEERS.

1.41 To form an opinion on the audit objective, the following four questions were addressed:

- (1) Do DEWR's procedures ensure that the eligibility and entitlement of claimants are accurately and cost-effectively assessed, taking into account prevailing risks?
- (2) Is EESS and GEERS performance information timely and relevant for measuring outcomes against scheme objectives?

- (3) Has DEWR a strategy for relationship management, including how it provides correct, clear and timely information to scheme claimants, potential recipients and IPs?
- (4) Are the amounts due recovered cost-effectively by DEWR, on behalf of the Commonwealth, from insolvent employers, where applicable?

Audit methodology

1.42 EESS and GEERS provide assistance for both the former employees of insolvent companies and also the former employees of bankrupt individuals. Therefore, during the course of the audit, the audit team:

- interviewed a representative nominated by the Insolvency Practitioners' Association of Australia (IPAA). IPs have a central role in the operation of the great majority of cases under EESS and GEERS; and
- obtained the views of the Insolvency and Trustee Service Australia (ITSA). However, the proportion of cases and clients flowing from personal (as compared with corporate) insolvencies is very small.⁵

1.43 DEWR's IT systems were a primary source of data for performance analysis. In particular, DEWR extracted extensive data tables from EEBase and from its financial system, BIS, on request from the ANAO. This data forms the basis of most of the analyses in this report. It would be of value to DEWR's ongoing management of the schemes to continue to update some of the time series and other analyses set out here. Some reservations about the quality of EEBase data are noted in Chapter 3.

1.44 The audit team also sought to examine a random sample of claims primarily to test where time was consumed during the course of EESS and GEERS processing, and sought Australian Bureau of Statistics assistance on drawing the sample. However, the audit team found it was unable to determine sufficient of the key dates in the processing stream of many of the claims in the sample. The ANAO could draw only qualitative information from this sample and this is noted in the body of the report (see Chapter 5).

1.45 Audit fieldwork was conducted in DEWR between March and September 2002 in DEWR's central office in Canberra, where EESS and GEERS are administered. The fieldwork involved reviewing documents, interviewing DEWR staff and examining the IT facilities used to support the administration of EESS and GEERS. Seven issues papers were provided to DEWR for comment in July 2002, with two

⁵ This is unsurprising given that less than one per cent of unincorporated business insolvencies in Australia occur in employing businesses (Inspector-General in Bankruptcy, ITSA, cited in Bickerdyke, I., Lattimore, R. and Madge, A. 2000, *op. cit.*).

supplementary issues papers provided in August 2002. The audit was conducted in accordance with ANAO Auditing Standards at a cost to the ANAO of \$275 000.

Report structure

1.46 Chapter 2, 'Administrative Framework', and Chapter 3, 'Information Technology Support', address the first audit question set out above. Chapter 2 examines the system of rules and procedures under which EESS and GEERS operate. This is the basis of correct, consistent and equitable decision-making. Chapter 3 is concerned with the use of computing facilities to support the delivery of EESS and GEERS. The use of IT is indispensable to efficient and effective administration of such schemes.

1.47 Chapter 4, 'Performance Measurement', and Chapter 5, 'Timeliness and the Management of Processing', address the second audit question. Chapter 4 examines how the schemes fit into DEWR's outcomes and outputs framework. It also discusses the selection of performance indicators and how these are measured. Chapter 5 looks more closely at the question of timeliness of claims processing under EESS and GEERS. This is a key performance criterion for both schemes and the chapter also discusses approaches to improving performance.

1.48 Chapter 6, 'Relationship Management', addresses the third audit question. It considers how DEWR manages its relationships with two key parties involved in these schemes: the former employees who receive payments and IPs.

1.49 Chapter 7, 'Recovery from Assets', examines the fourth audit question. It looks at how DEWR recovers some of the money spent on the schemes from the realisation of assets of the insolvent businesses.

1.50 Finally, Chapter 8, 'Funding Arrangements', is directed at clarifying how the schemes are funded. The arrangements are unusual and the purpose of the chapter is to set these out in straightforward terms in the interests of making them transparent.

1.51 Appendix 1 provides some further statistical information compiled during the course of the audit. Appendix 2 provides some contextual data on business insolvency. Appendix 3 provides a copy of the pro forma payment advice DEWR sends to its GEERS clients.

2. Administrative Framework

This chapter examines the system of rules under which the EESS and GEERS schemes operate.

Introduction

2.1 For successful operation, schemes such as EESS and GEERS, which involve assessing individuals' claims to a taxpayer-funded benefit, require the support of a comprehensive administrative framework that includes:

- a policy framework;
- business rules and procedural guidelines; and
- quality assurance mechanisms.

2.2 Such a framework helps to ensure correct, consistent and equitable decision-making that accords with the policy endorsed by ministers. This chapter examines that framework and Chapter 3 examines DEWR's use of IT to support its implementation.

Policy framework

2.3 EESS and GEERS are supported by high-level policy documents, known as the 'Operational Arrangements' for each scheme. Minister Reith, the then Minister for Employment, Workplace Relations and Small Business, first released the EESS Operational Arrangements on 9 April 2000. Minister Abbott first released the GEERS Operational Arrangements on 4 October 2001. He issued revised Operational Arrangements for both schemes on 4 July 2002 to take account of a small number of policy changes. These documents, which are similar in structure and much of the detail, set out the ministerially endorsed policy framework under which each scheme operates. Each document includes:

- a statement of the aim of the scheme;
- eligibility and assessment rules;
- a statement of roles and responsibilities;
- risk-based verification within the procedural framework; and
- key performance indicators for the scheme.

2.4 The Operational Arrangements are publicly accessible on the DEWR website and, more recently, on the Australian Workplace website. DEWR makes paper copies available to those without Internet access. The Operational

Arrangements are also incorporated in the ‘kit’ of materials DEWR provides to IPs at the commencement of each case. DEWR staff administering the schemes have had access to the documents in printed form and, from January 2002, from the Employee Entitlements Branch Case Manager intranet portal provided for DEWR staff.

Business rules and procedures

2.5 Business rules and procedures encompass a range of elements from the more detailed interpretation of policy (‘micropolicy’) through to guidance on the procedures and processes to be adopted in a particular program. The ANAO reviewed:

- completeness of the EESS and GEERS procedural guidelines, including the exercise of discretion in decision-making;
- management of the procedural guidelines; and
- adherence to the procedural guidelines.

Completeness of rules and procedures

2.6 A framework of rules and procedures for a public program is reasonably complete insofar as it anticipates the variety of circumstances that arise frequently in implementation and/or which have a material impact on program integrity. Thus, the comprehensiveness of the framework will depend on the maturity of the scheme and the rate of policy change. Any scheme dealing with a large number of claimants can be expected continually to strike new circumstances. This is especially the case with a new scheme. Some flexibility in decision-making is desirable to deal with these new circumstances.

2.7 There is a clear intention in the EESS and GEERS Operational Arrangements that administrative discretion be used in decision-making under these schemes. The procedural guidelines for each scheme explicitly state that staff are expected to exercise discretion and judgment, in consultation with their team leader or director. This has advantages for relatively new schemes like EESS and GEERS, where the variety of claimant circumstances requiring a decision cannot be foreseen. Such discretion would be applied where there is a need to interpret and elaborate upon the approved rules to deal with new circumstances. Inherently, the exercise of this discretion will tend to extend the ‘micropolicy’ or business rules applying to the schemes.

2.8 When the policy environment is stable, however, the frequency with which this occurs should decline. After an initial settling-in period, gaps in the framework—particularly at the procedural level—should become less frequent.

2.9 Because it is impracticable to anticipate every contingency, rules and procedures should be set according to the perceived likelihood of the event and impact of the consequences. For example:

- IPs report fairly regularly that they discover an insolvent business's records to be incomplete. Guidelines are needed on how employee entitlements might be determined in these circumstances and, indeed, the ANAO found that such guidelines were in place.
- Guidelines to help identify and deal with potential instances of attempted fraud. Such attempts may not be frequent but the consequences are potentially severe. The ANAO found that, at the start of the audit, such guidelines, specific to EESS and GEERS were yet to be developed (although more general, corporate guidance was available).

2.10 The ANAO considered the relative completeness of the procedural guidelines based on a review of cases, discussions with staff and reference to broader DEWR guidelines.

2.11 The ANAO identified a range of omissions and deficiencies in the procedural guidelines, as follows:

- *There were no procedures for identifying, raising and, where appropriate, waiving overpayments and other debts.* In the case of overpayments, the risks are potential loss of Commonwealth funds.
- *There were no procedures for recording a probable recovery in DEWR's accounts.* Recovery of EESS or GEERS funds from the assets of an insolvent business has been infrequent. However, when an IP advises DEWR of a reliable estimate of a probable recovery, there is neither a departmental process nor a practice of formally recognising that position. The risk is that a probable recovery will not be properly pursued and there will be, as a consequence, a loss to the Commonwealth.
- *There was no procedure for reconciling payments initiated through EEBase and those actually made through the central DEWR financial system (BIS).* This represents insufficient management control over the payment process and creates a risk that incorrect payments (including fraud) will be undetected.
- *There was no guidance on checking the identity of claimants.* DEWR is almost wholly dependent on the information supplied by IPs for employee data. However, this information is sometimes very limited. A risk-based approach would require some independent

proof of identity verification in an appropriate selection of cases. The potential consequences of the current arrangements are that payments could be made for fraudulent claims.

- *There was no guidance to staff on when to suspend action on a case where payment is thought likely from an insolvent business's assets. At certain points in the processing, uncertainty about when and whether to take action can lead to delays in payments. The most prominent instance of this uncertainty is explained in more detail in the panel headed 'The risks of uncertainty about when to act' below.*

2.12 Some of the above omissions identified by the ANAO were addressed by DEWR during the course of the audit by issuing a series of 'procedural guidelines process alerts' to staff. DEWR has not yet incorporated the content of the 'alerts' into its procedural guidelines to provide a single, consolidated point of reference for staff.

The risks of uncertainty about when to act

DEWR relies on advice from the IP about the probability of prompt payment of unpaid employee entitlements from the realisation of business assets. The IP is responsible for making this assessment and is best placed to advise DEWR on the probability of payment being made this way. Nevertheless, the best of professional advice can only be based on the information available, which is sometimes contingent.

If DEWR suspends a case because of a mistakenly positive assessment of the likelihood of prompt payment from business assets, there is a risk of delayed assistance to the intended beneficiaries of the schemes while DEWR awaits resolution of the business's affairs. In effect, this risks undermining the intended outcome of the scheme.

On the other hand, DEWR's own internal evaluation of EESS in mid-2001 noted that 'the unpredictable nature of insolvency processes can result in employees receiving their outstanding entitlements from IPs at the same [time] that an EESS payment is going to be made.'

After the ANAO drew this issue to DEWR's attention, the department issued a procedure to address it. This requires case managers to observe a 'two month rule', where they will suspend action on a case (and notify claimants) only where a dividend payment is expected within two months. They are also required to follow-up the IP after a month to confirm progress. Otherwise, they are expected to progress the case and seek the IP's agreement to assist with that.⁶

⁶ Related issues are discussed later in Chapter 5 under 'Management of processing'

2.13 In light of the material omissions identified during the audit, the ANAO reviewed the system within DEWR for managing the business rules and procedures used to administer EESS and GEERS.

Management of rules and procedures

2.14 In any ongoing scheme that must operate in a complex framework and a large variety of circumstances, there is a continuing need to review rules and guidelines with a view to amending, developing and enhancing these in a timely fashion. This need is greater in the early years of a new scheme. When decision-making discretion is available, that discretion must be balanced by its use being properly explained, justified, documented and communicated. All relevant decision-makers can then be made aware of any precedent or extension to the rules. Only then can consistency and fairness in outcomes be expected. Therefore the ANAO examined how the development of rules and guidelines was managed by DEWR for EESS and GEERS.

2.15 The ANAO found, at the start of the audit, that there was no formal system for managing change to business rules and procedures or to record the exercise of discretion in decisions made under EESS and GEERS. Where a case manager required guidance not available from the Operational Arrangements or procedural guidelines, the matter was referred to the respective delegate for resolution. There were about five positions exercising decision-making delegations for these schemes within EEB. DEWR advised that consistency in decision-making was maintained within cases by having all claims in any particular case dealt with by the same delegate. Consistency across cases was achieved, in the department's view, by close working relationships and regular discussion among delegates.

2.16 While such an approach has merit, the ANAO found no evidence that key decisions were being systematically documented or made known to the whole branch. The business rules were not being advanced through the existing mechanism. This means that there was no reliable mechanism for ensuring that each of the people occupying delegate positions over time was aware of a potentially important and precedent-setting decision made by another. There is a risk in this environment that different delegates could take different positions and that consistency in decision-making and equitable treatment of claimants might not be maintained. Also, DEWR was unable to monitor the frequency or nature of the use of the discretion conferred on delegates.

2.17 To address the material omissions in the procedural guidelines identified during the audit (referred to in the previous section), DEWR introduced the *Case Manager* intranet portal, set up a policy and procedures committee, and

began issuing a series of 'procedural guidelines process alerts' to all staff. The committee is responsible for reviewing existing and emerging DEWR policy and procedures associated with the EESS and GEERS schemes.

2.18 The ANAO found that the new committee had initiated changes, including procedural alerts, to address the issues identified by the ANAO. However, there is still a significant risk of incompleteness, due to:

- the deficiencies already identified by the ANAO but not yet addressed by DEWR;
- the fact that there were no mechanisms to address these deficiencies and enable continued updating and maintenance of the currency of procedures until recently;
- the lack of any systematic approach to record the exercise of administrative discretion in relation to new circumstances; and
- the inherent risk with any such relatively new scheme that all material circumstances could not have been anticipated before the actual program operation.

2.19 Therefore the ANAO concluded that a comprehensive review is required to ensure the currency and completeness of the procedural guidelines. This could be directed towards ensuring those guidelines are brought up to date in light of just over two years' experience in administering the schemes.

2.20 A comprehensive review of the business rules and procedures would encompass reconsideration of each stage in processing, from claim to payment and recovery, and the circumstances that can arise at each point. The review would benefit not only from the contribution of experienced EESS and GEERS case management staff, but also from the practice in similar programs in other agencies. A review would also provide opportunities to incorporate rules and procedures into future versions of EEBase (or any successor IT system) as a means of ensuring a consistent approach to administration.

2.21 DEWR advised that it had initiated a review of existing processes and had dedicated a team to that review. As a part of the project DEWR had engaged a consultant to report, *inter alia*, on gaps and shortfalls between its current practice and best practice, and recommend changes that would enable the department to respond to issues raised by the ANAO. DEWR provided evidence that work on this review was in progress.

Recommendation No.1

2.22 The ANAO recommends that DEWR, as a priority, complete its review of business rules and procedures for administering the EESS and GEERS schemes.

DEWR response

Agree. The review of the rules and procedures initiated by DEWR is complete and implementation of a revised process including enhanced IT systems and controls is to be implemented progressively over the remainder of the financial year. This process will be further informed by the current business model review.

2.23 Ideally, the review will result in rules and procedures that are substantially more complete and an adequate system for their future management being put in place.

2.24 The ANAO suggests that, as part of the review of procedures, DEWR institutes a system to identify and record the exercise of administrative discretion and ensures that

- any consequential extensions to business rules and procedures are incorporated into GEERS documentation; and
- implementation issues such as training and use of quality assurance checklists are put in place.

Risk-based verification within the procedural framework

2.25 The ANAO found that the EESS and GEERS procedural framework included a number of processes where risk-based verification of procedure could improve the efficiency and effectiveness of the work.

2.26 A clear risk-based strategy for verifying claims would help DEWR assess where best to deploy its limited resources in checking claims. Such a strategy would outline the key risk factors to be considered when deciding to verify a claim or select a verification technique. For example, where DEWR has sought a statutory declaration it might suggest proof of identity checks based on materiality. Similarly, the strategy would help identify when to check awards through to the established practice of using independent accountants. Monitoring the use and outcome of verification work would also help in future risk assessments and refining the strategy.

2.27 DEWR advised the ANAO that it was reconsidering its current processing model for EESS and GEERS. One of the factors leading to this reconsideration is an internal view that its current model is highly risk-averse. This review could enable DEWR, at a minimum, to develop and implement a risk-based strategy for the cost-effective verification of data used in the assessment of employee entitlements.

2.28 The ANAO considers that DEWR's reconsideration of its processing model would benefit from taking account of the following factors on a risk basis:

- proof of identity requirements;
- the frequency and materiality of errors in information supplied by IPs;
- known patterns of non-co-operation by certain IPs;
- the size of the payments to be made (including the number of payments in the case); and
- the reliability of input data (including, for example, possible reduced reliability in statutory declaration cases).

2.29 The ANAO acknowledges that to devise such a strategy will also require some careful analysis of details of current performance, such as the frequency of IP error in reference to awards.

2.30 The ANAO suggests that DEWR recognise sources of risk in determining the most cost-effective future strategy for assessment of employee entitlements as part of its review of the current processing model. Some more detailed examples of where a risk-based strategy could be applied are set out in the panel below under the heading 'Where a risk-based approach could be applied'.

Where a risk-based approach could be applied:

Checking industrial awards—The numerical calculation of EESS and GEERS entitlements is largely mechanical and is performed by EEBase. The major task in ensuring an entitlement is correctly assessed is verifying eligibility and then obtaining the correct input figures on the claimants' unpaid entitlements. Data setting out all of these is usually obtained from spreadsheets supplied by the relevant IP. Once the verified data has been supplied by the IP, finalising the calculation of entitlement should be straightforward. However, DEWR expends some time and effort checking relevant industrial awards. It is not clear whether this is an area of substantial risk and it appears to duplicate what the IP has already certified as checked.

The ANAO found that IP data is sometimes corrected through the checks on awards and such like conducted by DEWR staff. However, the number and dollar value of such instances is not recorded, even though this could help DEWR to target its deployment of resources to areas of most risk.

Use of accountants—In about 10 per cent of cases, DEWR has engaged accountants to check information about employee entitlements. This is a significant administrative cost (see Appendix 1 for details of costs and frequency of use). The guidelines state that use of accountants is 'expected to be the exception rather than the rule' and should be decided on a case-by-case basis. Factors that increase the likelihood that an accountant will be engaged are where the records of the insolvent business are in a poor state or the lack of assets means the IP has little interest in calculating employee entitlements. DEWR advised that individual teams and case managers retain information on file about the use of accountants and can provide detailed assessment of results of their work. However, the ANAO found that DEWR was not collecting systematic data on the frequency and results of the use of accountants. Analysis of this data could be of strategic value in the further development of the schemes by helping DEWR to ensure it uses this resource in the most cost-effective way.

Statutory declaration cases—Cases occur from time to time where the IP cannot or will not provide verified data. In these cases, under the EESS and GEERS procedural guidelines, DEWR establishes the amounts claimed by seeking statutory declarations from the individual claimant. Where possible these are to be supported by documentation such as payslips, tax records and proof of debt.

Prima facie, the risks of accurately assessing entitlements are higher in statutory declaration cases. The ANAO understands that they are usually cases where IPs cannot obtain reliable records from the insolvent business. They are likely to be cases where there is no accurate and documented source of information independent of the employee's own claim. Interrogation of the database by the ANAO revealed over 420 instances where statutory declarations had been requested. Although this represents less than 2 per cent of claims received, the ANAO suggests that, given the higher risks of inaccurate assessment and payment, it would be of strategic value for DEWR to record the nature and frequency of such cases to help the department to target its verification effort. DEWR has advised that a mechanism to track the use of statutory declarations will be incorporated into a future release of EEBase.

Adherence to business rules and procedures

2.31 Effective and efficient administration requires not only that an administrative framework of business rules and procedures be in place, updated and managed but also that the rules and procedures be used and followed. Only then will there be a reasonable expectation of consistency, accuracy and equity in decision-making.

2.32 The ANAO reviewed adherence to procedures while examining case files and the EEBase IT system, finding that DEWR staff did not always follow existing procedures when processing claims. Examples identified by the ANAO of failure to adhere to procedure included the following:

- *Cases were closed before all relevant actions had been taken.*
- *Lack of follow-up.* The ANAO found that at all stages of processing there was a risk that matters in progress were not followed up adequately. In particular, DEWR has a standard procedure of following up IPs from whom information or advice is expected. However, the ANAO found little evidence that IPs have been consistently followed up to facilitate action. The risk is that time-critical action is delayed.
- *The department's record of appeals was out-of-date and incomplete.* In about half of cases, no date of receipt had been recorded on the department's appeals register. Where the appeal had been decided, in the great majority of cases, no decision date had been recorded. Several appeals were not in the register. This means that DEWR was not able to track a key performance indicator properly (see Chapter 4) nor equipped to learn from the outcomes of the appeal process. DEWR has advised that a new appeals register has been developed and would be implemented in November 2002.
- *Acquittal of payments by IPs to claimants was not consistently followed up.* In the sample checked by the ANAO, the audit team could find no acquittal on file for about half of those instances where an acquittal should have been received. In these instances DEWR has no certainty about when, and even whether, claimants have been paid their entitlement. In a few cases the ANAO identified, acquittal had taken place over a year after DEWR had paid the entitlements to the IP. During the audit, DEWR incorporated a new weekly reporting arrangement on the Case Manager Portal to highlight outstanding acquittals for follow-up.

- *Not all decisions about claims were properly made or documented.* In particular, decisions to reject claims on grounds such as ineligibility were not always formally made by the delegate. Such decisions can attract appeals and this approach would be less likely to help explain DEWR's rationale for rejecting the claim in these circumstances. During the audit, DEWR introduced a procedure for delegates to formally assess and document decisions about ineligibility.
- *The official record of the delegate's decision was missing.* That record is the delegate's endorsement of the case manager's report setting out the facts, consideration of issues and proposed payments in a case. This omission was observed in only a small number of cases. However, it leaves doubt as to whether the payments were properly made.

2.33 In response to issues raised by the audit, DEWR commenced a review of, *inter alia*, cases that had been closed between February and March 2002 and several thousand outstanding claims that had been received before September 2001. The initial results of this review reinforced the finding that many existing procedures are not followed consistently. For example, the project team reported that the 'problems with closure procedures not [being] followed seems to be across the board' and the team identified over a dozen cases that had been closed where claims were recorded as still active. Further work by DEWR then revealed that its records in these cases were out of date and only two remained genuinely active.

2.34 It is important for DEWR to understand why the procedures the department has put in place are not consistently followed. This could be an important input to any planned changes. The ANAO suggests that during DEWR's current review of its processes the department seeks to understand the strategic issues underlying the lack of adherence to existing procedural rules. The ANAO makes a recommendation on the related matter of quality assurance below.

Quality assurance

2.35 Systems of quality assurance can include a range of mechanisms intended to maintain and improve the quality of outputs, including the design of processing systems, good practice in day-to-day administration, and sound training of staff. However, a key feature is quality checking based on systematic feedback and review of the conduct and results (processes and output) of the work. This allows management to assess compliance with guidelines so as to identify any failures in processing and opportunities for process improvement. In addition, it can help reinforce a culture of continuous improvement in the quality of the work.

2.36 The ANAO found that there was no systematic quality-checking process or mechanism in place for EESS and GEERS. In particular there was no mechanism to verify that the processes and decisions made under EESS and GEERS had been carried out correctly and as intended. The ANAO notes that DEWR has derived some insight into procedural failure from an independent review of recently closed cases (see the section ‘Adherence to business rules and procedures’, above). Also, the report of the Year One Evaluation had specifically recommended ‘cross-team peer review of individual EESS cases as part of the ongoing evaluation of completed cases’. This recommendation was not implemented. However, such a mechanism could have helped with quality checking.

2.37 A quality-checking mechanism for EESS and GEERS would need to be systematic, risk-based, independent and draw on data collected in the EEBase system (noting, however, the current data quality issues set out in the next chapter). For example, such a mechanism might focus on areas of apparent higher risk such as statutory declaration cases or cases managed by newer staff. A thorough and systematic analysis of a random sample of cases and claims would help to identify with greater certainty the areas of risk. Such a system would also allow DEWR to build on its team-based management to encourage a focus on improving performance.

Recommendation No.2

2.38 The ANAO recommends that DEWR institute a system of quality assurance for the operation of EESS and GEERS (including risk-based checking of compliance with procedures) to highlight the strengths and weaknesses of current practices and improve the quality of its administration of the schemes.

DEWR response

Agree. Prior to the audit the administration of EESS and GEERS had a number of quality assurance controls. During the period of the audit, quality assurance controls were continuously updated and now include the following:

- *each applicant must complete a claim for assistance that provides legal recourse against fraudulent claims;*
- *data on claimants’ outstanding entitlements are provided by the insolvency practitioner managing the winding up of the company. The practitioner provides written verification that he or she has sighted a prescribed set of payroll records which validate applicants’ claims;*

- *independent accountants are contracted by the department to assist with the review of employee entitlements claims on a case-by-case basis;*
- *claims are reviewed by DEWR for accuracy and completeness and ambiguities are followed up with the insolvency practitioner or claimant;*
- *recommendations for claimant eligibility are subject to a peer review within DEWR prior to consideration by a delegate;*
- *the basis for recommendations and delegate decisions are documented using standardised pro forma;*
- *appeals against a delegate's decision are considered by an independent senior officer of the department; and*
- *policy and procedural issues raised by individual cases are referred to the process review team for consideration and, where necessary, issuing of revised procedures to all staff.*

These quality assurance controls are defined in the department's procedural documentation.

2.39 The ANAO suggests that, regardless of the processing model to be adopted, DEWR institute a system of quality assurance for the operation of EESS and GEERS.

Conclusion

2.40 The ANAO found that, although high-level policy guidance was in place for EESS and GEERS, business rules and procedures remained incomplete. In addition, there was not an adequate system for managing rules and procedures. Further, existing rules and procedures were not being consistently followed and there was no systematic quality checking mechanism. DEWR has been addressing gaps in the rules and procedures and their consistent application since the audit began, and has commenced a review of the business rules and procedures. A quality assurance system would help to improve the quality of administration.

3. Information Technology Support

This chapter examines DEWR's IT support for the operation of the EESS and GEERS schemes.

Introduction

3.1 The use of IT systems is integral to the efficient and effective administration of schemes such as EESS and GEERS. Such systems facilitate greater speed and efficiency in processing and allow management to monitor and manage performance more easily. Particular IT functionality can facilitate:

- internal information provision and exchange, which can be addressed through using an intranet or similar facilities; and
- direct support of claims processing work. This can also incorporate, to some degree, the business rules and processes of program management, including a capacity to generate performance information to help with the management of processing.

3.2 DEWR has developed an intranet-based case manager portal to give staff access to documents containing the available guidance on the operation of EESS and GEERS and other information relevant to the daily work of the Employee Entitlements Branch. DEWR has also developed a processing system known as 'EEBase' to support the delivery of EESS and GEERS.

3.3 EEBase is DEWR's primary IT system in support of the operation of the schemes. Most casework in EESS and GEERS involves using EEBase and most branch staff need to be familiar with how EEBase operates to carry out their duties. One of EEBase's important functions is to calculate entitlements under the relevant scheme. Also, EEBase data is used to compile certain important management and performance information for EESS and GEERS.

3.4 The ANAO has not conducted a specific IT audit of EEBase. However, given the central role that EEBase has in the administration of EESS and GEERS, the ANAO sought to form a view on how effectively the system supports that work and how well it is being managed.

3.5 Because of the importance of these IT-based functions, the ANAO focused on:

- information support;
- EEBase data integrity;
- EEBase processing integrity; and
- management of the EEBase system.

3.6 The ANAO noted that EEBase has been through many upgrades (in part, to cater for major policy changes since the implementation of GEERS), with six major releases between August 2000 and June 2002 (see Table 3.1).

Table 3.1
EEBase releases August 2001 – June 2002

<i>Release date</i>	<i>No.</i>	<i>Training provided?</i>	<i>Training documentation available?</i>	<i>User guide available?</i>	<i>Purpose of release</i>
Aug 2001	2	Unknown	Unknown	Unknown	New, web-based version of system, superseding old Access-based system
26 Oct 2001	3.02	Yes	No	No	Multiple payment scheme support for EESS, GEERS and SEESA
22 Nov 2001	3.2.2	Yes	Yes	No	Allows payment scheme to be set at employee level
7 Dec 2001	3.3	Yes	Yes	No	Allows letters to be payment scheme specific for each employee
11 Jan 2002	3.4	Yes	Yes	No	Improved employee letter navigation and added support data fields for payment schemes
5 March 2002	3.4.1	No	No	Yes	Maintenance release
24 May 2002	3.5	Yes	Yes	Yes	Added second weekly wage for redundancy, payment-after-termination changes, IP spreadsheet changes and bug fixes
27 May 2002	3.5.1	[Training covered in release 3.5]		Yes	Maintenance release (clean-up)
6 June 2002	3.5.2			Yes	Rounding and payment-after-termination updates

Source: Employee Entitlements Branch, DEWR

Information support

3.7 The ANAO found that the intranet-based DEWR case manager portal provided staff with easy access to the essential documents containing available guidance on the operation of EESS and GEERS, such as the procedural guidelines, pro forma letters, new items of interest and other relevant information. DEWR had also begun to use this facility to make its series of new ‘procedural alerts’

available, addressing gaps in the guidelines, including those identified by the ANAO. This means that all operational staff had immediate access to current information on EESS and GEERS issues.

3.8 Although the ANAO noted a lack of completeness in the guidance DEWR provides (see Chapter 2), it found that this facility was easy to access and use and, provided new and updated information continued to be entered promptly, it would continue to be a very useful resource and an effective medium of communication.

Data integrity

3.9 High data integrity is an important characteristic of IT systems used as essential tools in the operation of Commonwealth programs. Such data is relied upon to assess entitlement, commence payments and provide management information. Threats to data integrity could seriously undermine the successful operation of the schemes they support. For EESS and GEERS, poor data integrity could also detract from DEWR's capacity to use EEBase information for policy development in relation to employee entitlements support, as DEWR had intended.

3.10 The ANAO found that EEBase suffered from a number of data integrity problems, including:

- inadequate edit-checking, and
- dummy and duplicate records.

Inadequate edit-checking

3.11 The ANAO found that EEBase contained self-evident wrong or inadequate data in fields intended for a particular purpose, when appropriate checking facilities built into the data entry program could have prevented such data from being entered. For example, dates that are obviously incorrect can be entered (such as future dates or dates before the commencement of the scheme for receipt of claims). Invalid Australian business numbers could be recorded. Some claimants' full names did not appear on EEBase yet some of them have been paid. Some claimant records were found to have extraneous annotations to the name field, apparently added as an aide memoir to the case manager about the particular claim.

3.12 DEWR advised the ANAO that edit checking of data has been a particular problem for DEWR since the commencement of the scheme. It advised that operational staff had sometimes entered incorrect or inadequate data. In other cases, IPs had supplied incorrect claimant data in spreadsheets, which DEWR had then loaded into EEBase.

3.13 The ANAO noted the lack of edit controls to prevent the entry of incorrect data. Where incorrect data affects eligibility or the assessment of a claim, the consequential risks are that claims could be assessed incorrectly. More generally, incorrect data in EEBase increases the risk that management and performance information will be incorrect.

3.14 DEWR's EESS Risk Management Plan had identified incorrect data entry as a risk. The control proposed for this risk in that plan was to implement edit checks in the IT system. In response to the issues raised by the ANAO, DEWR has implemented both edit checking of fields with inbuilt alerts for the relevant case manager and improvements to the facility for data capture from IP spreadsheets.⁷

Dummy records and values

3.15 The ANAO also found that EEBase contained numerous records that were 'dummies' or deliberate duplicates of other records. DEWR subsequently analysed the database and identified over 300 such records, which represents between 1 and 2 per cent of claim records at the time of analysis. In addition, there were numerous instances where dummy values had been entered into fields in EEBase. DEWR advised that some dummy records had been entered in error and others had been created to overcome system deficiencies. That is, the latter were an ad hoc device or 'workaround' used to make the system behave as the users reasonably required and not delay processing.

3.16 The risks associated with this practice are that it could cause confusion in progressing a case or claim and introduce inaccuracies into performance reports. However, the ANAO's greater concern was, again, the lack of controls on the EEBase system indicated by the presence of dummy and duplicate records.

3.17 The ANAO recognises that using dummy records could be of practical value in future 'workaround' strategies. However, the successful use of such a strategy requires a disciplined approach in which a workaround is planned and implemented with appropriate controls.

3.18 DEWR has advised it is taking steps to identify and eliminate unnecessary existing duplicate and dummy records. The department has identified an automated facility for identifying potential duplicate employee records as a 'medium' priority change that is not yet scheduled for attention. This issue is discussed further in relation to workarounds later in this chapter.

3.19 The lack of controls on data integrity in EEBase led the ANAO to consider the system's processing integrity.

⁷ These changes were implemented as part of EEBase releases 3.6.1 and 3.6.2 in August and November 2002.

Processing integrity

3.20 To ensure that integrity of processing is maintained, it is desirable that an IT system such as EEBase has certain built-in checks. Mechanisms built into the system can ensure that basic business rules for processing are followed, either by prohibiting certain actions or alerting the user to an action that requires special care or authorisation. For example, a person who lodges a claim more than 12 months after the date of their termination resulting from a former employer's insolvency is not eligible for assistance under EESS or GEERS. It would be useful, therefore, for EEBase to alert a case manager where an attempt is made to enter such a case into the system. This would help ensure that the information being entered is correct and, where appropriate, the discretion available to a delegate has been exercised in permitting an exception to the normal rule.

3.21 The ANAO did not seek to undertake a systematic check of all potentially desirable processing controls against what is present in EEBase. However, it did find a number of instances where key processing checks were not present. These included the following:

- the system accepts claims more than 12 months after the date of termination resulting from a former employer's insolvency without alerting the user; and
- the system permits a case to be closed where the records show there are eligible claims that have not been finalised or other incomplete actions. During the audit, DEWR established a team to review closed cases and, after examining 115 such closed cases, found that 97 (84 per cent) required some subsequent amendment of the EEBase record.

3.22 The ANAO found EEBase records of claimants who were shown as ineligible, yet had apparently been paid. DEWR advised that the system cannot pay in respect of an ineligible claimant. If this is correct, then the system must have permitted either eligibility or payment status to be amended inappropriately after the event. The absence of any checks on these incorrect actions reduces the quality of EEBase records. This could adversely affect the proper management of claims to finality and reduce the reliability of any reports derived from the system.⁸

3.23 A key element in maintaining processing integrity in EEBase is the 'case status' recorded by the system. This is a system of 'flags' used to track the progress of a case throughout its duration. A DEWR report on the use of case status prepared during the audit states that, data accuracy, reporting, staff performance and case resolution times are all linked to statuses, the 'building

⁸ In particular, the ANAO found difficulty in deriving accurate reports on the claims that had been received by DEWR but which remained unfinalised. This matter is taken up in a later chapter.

blocks' of EEBase. However, according to the report, as implemented, this mechanism did not satisfy DEWR's business requirements. The report found that case status propagated inaccurate data through the system, could not be relied upon and did not accurately represent the current actual status of a case.

3.24 DEWR has listed 'process checks and balances' as a high priority in its register of future changes to EEBase. When implemented, these are intended to perform process checks to ensure, for example, that cases cannot be closed while claims remain incomplete. The proposed changes are yet to be scheduled. However, a system alert that a claim was over 12 months old was made available in EEBase in November 2002.

3.25 DEWR has assured the ANAO that processing checks will be considered in the context the broader review of its preferred future model for EESS and GEERS processing.

Recommendation No.3

3.26 The ANAO recommends that DEWR conduct a comprehensive, risk-based review of in-built processing checks and controls to ensure the integrity of EEBase.

DEWR response

Agree. Systems changes implemented during the audit have included enhanced data capture controls and automated alerts for users when incorrect or abnormal data is entered. EEBase releases are currently supported by comprehensive documentation and training. IT system developments will be further informed by the current business model review.

Management of EEBase

3.27 Given EEBase's strategic role in the EESS and GEERS schemes, the ANAO sought to establish how EEBase and its development were being managed at a strategic level. Specifically, the ANAO sought advice about:

- EEBase's strategic direction, and its enhancement and upgrade program;
- release management and user documentation;
- system workarounds; and
- capacity to change records in EEBase.

Strategic direction and upgrade program

3.28 DEWR provided a copy of its 'Information Technology Strategy' paper for employee entitlements schemes. This set out in brief proposed developments in the short, medium and long term, focusing on the technical architecture of the application. The paper was considered and agreed by the EEBase Steering Committee in August 2002. The paper makes it clear that one of the likely outcomes from the review of the EESS and GEERS processing model (see Chapter 2, paragraph 2.27) will be a recommendation to redevelop EEBase using more up-to-date applications development techniques.

3.29 DEWR advised that change request priorities are authorised by senior DEWR management and the EEBase Steering Committee. It also provided a document entitled *EEBase Change Request List*. This document provides a business-focused prioritised list of change requests with a clear statement of the issues to be addressed, the business objective of the request, business priority and, for the highest priority items, a nominated release. During the course of the audit, this document replaced change request data previously maintained by IT staff in a program also used for IT technical purposes (including maintaining test scripts and tracking system 'bugs').

3.30 DEWR provided copies of detailed and costed project proposals for EEBase for 2001–02. These gave a useful indication of some intended direction for development but did not, of themselves, comprise a complete strategic plan.

3.31 The ANAO suggests that, as part of the review of the processing model, DEWR develop a strategic plan for EEBase, focusing on the business requirements (as contrasted with the technical architecture referred to above). This could set out a program for the future of the system, including a high-level statement of functionality, a broad timetable for release, and resource requirements. A strategic plan would also establish a sound framework for assessing priorities for a program of more minor changes, improvements and upgrades in functionality. This could reflect the business manager's priorities.

Release management and user documentation

3.32 Before an IT system or an upgraded version of the system is released into 'production', the business manager needs assurance that the system is robust, operates predictably and as required, has been thoroughly tested, and is supported by an appropriate implementation plan, including a training program, support and documentation. A short history of recent releases is set out in Table 3.1 (earlier in this chapter).

3.33 The ANAO sought evidence that the business manager had obtained appropriate assurance for the various releases of EEBase. Formal assurance for this purpose was provided for Release 3.5 in May 2002 and subsequent releases in August and November 2002, but not for earlier releases. The ANAO suggests that this good practice be maintained.

3.34 It is important that a current user guide be available to users of an IT system that is critical to the effective delivery of a scheme. DEWR provided the *EEBase User Guide version 1.5* to the ANAO. However, since the release of *EEBase User Guide version 1.5* there had been six major releases of EEBase and several minor ones, but the user guide had not been fully updated. DEWR subsequently produced an updated *EEBase User Reference Guide* for Release 3.5 in May 2002. This is available in printed form and on the DEWR case manager portal.

3.35 The ANAO suggests that DEWR continues the practice established for Release 3.5 and ensures that each future release of EEBase is accompanied by:

- written verification of testing to the satisfaction of the business manager prior to release; and
- user documentation in an up-to-date, comprehensive and accessible form.

System workarounds

3.36 As IT systems grow more complex, users often encounter problems in the system that obstruct their completion of proper and necessary actions. In these circumstances, it is sometimes necessary to implement interim arrangements to ensure the work can be done. These arrangements, known as ‘workarounds’, can become recognised as a standard interim practice that remains legitimate until a system change is implemented. The use of dummy records referred to earlier was, at least in some instances, an example of the use of a workaround in EEBase.

3.37 It is important that necessary workarounds of all types be documented and made known to processing staff to ensure that they can complete their work in a consistent way. Only when workarounds are implemented consistently can there be effective management control over processing. This includes performing any corrective action that flows from the use of a workaround with minimum difficulty. For example, where DEWR has deliberately used dummy records to overcome some system difficulty, it will be necessary in due course to remove or amend these records. This will be easier and less costly if they have been created using a standard approach.

3.38 The ANAO found, at the start of the audit, no documentation or other systematic record of workarounds used in EEBase and thus could not assess the extent of the use of workarounds. The ANAO suggests that all such workarounds be fully documented, and this documentation be made easily available to all users. DEWR has subsequently put in place a formal process for the implementation of system workarounds.

Capacity to change records in EEBase

3.39 As a part of managing an IT system such as EEBase, it is important that there are controls to protect the integrity of the records it contains. The ANAO examined two aspects of the controls on changing EEBase records. First, the availability of an audit trail enables all material user actions to be reviewed. If all changes can be traced to the system user who performed them, users will have an incentive to act with greater care. This provides a control against misuse of the system and inhibits fraud. Second, it is important that there are limits on the capacity to create, delete and amend EEBase records. This inhibits inadvertent as well as intentional and fraudulent changes to official records.

3.40 On the first point, the ANAO found evidence that an audit trail could be generated from EEBase. This shows all activities, including creation and amendment of data. DEWR advised that automated systems audit trails have been available since August 2001. During the audit, DEWR introduced a requirement that these be examined monthly.

3.41 On the second point, the ANAO found that only authorised users can access and amend EEBase. However, the ANAO found that most EEBase users were authorised to 'super-user' status and could modify or overwrite existing data in any field in the database. In addition, the ANAO found no administrative policy or system for authorising the setting-up of new service providers or altering existing ones within EEBase. In response to these concerns, DEWR listed 'redefinition of security profiles' on EEBase as a 'critical' business priority and implemented new security profiles in Release 3.6 of EEBase, in August 2002.

Conclusion

3.42 DEWR has made good use of Intranet facilities to provide easy access by staff to the guidance available on the day-to-day operation of EESS and GEERS. An IT system, such as the EEBase system DEWR has developed, is essential to the efficient operation of the schemes. This is required to collect and record essential data; perform the calculations necessary to assessment; and provide management information.

3.43 However, DEWR developed EEBase for EESS, which was replaced by GEERS after less than two years' operation. This change is likely to have contributed to deficiencies, such as the data integrity and security profile issues identified by the audit. DEWR has responded to the ANAO concerns about the integrity and management of EEBase, seeking to 'cleanse' existing records, improving access control and instituting a business-focused change program to address the more pressing requirements for system modifications.

4. Performance Measurement

This chapter examines the performance indicators used to report on the efficiency and effectiveness of EESS and GEERS.

Introduction

4.1 Robust performance information is required to measure progress against government outcomes and provide enhanced accountability for agency performance in producing the appropriate outputs. Performance information promotes external accountability enabling Commonwealth agencies to meet the mandatory requirement that they provide Parliament with sufficient information in their PBS to explain their resourcing and proposed performance in relation to outcomes and outputs.

4.2 This chapter examines first how the EESS and GEERS schemes fit into the DEWR outcomes and outputs structure. Second, it examines the indicators of performance DEWR has selected for managing and reporting on EESS and GEERS. Third, the chapter reviews how DEWR has measured its performance in terms of these indicators. DEWR's actual performance on the key issues of timeliness and the management of processing are considered in the next chapter.

Outcomes

4.3 Outcome statements represent the end result or community impact that government policy is seeking. Current arrangements require agencies to define government outcomes, to have these approved by the agency's minister(s) and reviewed and endorsed by the Minister for Finance and Administration. Outcome statements are expected to provide Parliament and other stakeholders with a clear statement of policy goals and be the basis for the development of outputs (the business-specific products of an agency's operations) that contribute to the achievement of the outcome.⁹ Outcome 2 is articulated as 'Higher productivity, higher pay workplaces' (DEWR PBS 2002–03, p. 25). The PBS goes on to explain:

Through the achievement of Outcome 2 the Government seeks to assist employment growth and productivity business performance. It seeks to achieve the outcome by introducing and supporting a legislative and institutional framework, which facilitates flexible work practices underpinned by a minimum safety net and an equitable and safe working environment for all employees (p. 38).

⁹ Australian National Audit Office, *Performance Information in Portfolio Budget Statements: Better Practice Guide*, Commonwealth of Australia, May 2002, p. 3.

4.4 The ANAO understands that the EESS and GEERS schemes, by providing a 'safety net', are considered to contribute to Outcome 2 by providing employees with greater confidence that they will obtain the entitlements due to them from their employer, thereby improving their incentive to contribute to higher productivity in their workplace.

Inputs and outputs

4.5 The administration of EESS and GEERS is funded wholly from an administered appropriation. Funds for both payments to employees under the schemes and administrative expenditure by DEWR on the operation of the schemes are drawn from a special account (this is explained in Chapter 8). The fact that funds for both purposes are drawn from an administered appropriation is noted in the DEWR PBS. There are consequences for the structure of DEWR's outputs and its reporting on proposed expenditure.

4.6 Employee expenses and other administrative costs are normally funded separately under 'Departmental items'. In contrast, administered items are expenses managed by agencies on behalf of the government, such as grants and benefits. This includes expenses such as payments to employees under EESS and GEERS. According to the Department of Finance and Administration's advice on government finances, administered items are identified separately from departmental items because they involve different accountability requirements.

4.7 The ANAO understands that the reason for including all funds—departmental as well as administered—in the special account for EESS was that this would ensure that the then expected funds from States and Territories would contribute half the *total* costs of the Scheme. That is, they would contribute to its operating costs as well as the cost of funds paid to employees. However, as has been noted earlier, few States and Territories agreed to contribute funds and the newer scheme, GEERS, is fully Commonwealth-funded.

4.8 Because *all* funds used for EESS and GEERS are administered funds, the employee and other administrative costs of the EESS and GEERS schemes (up to \$5 million a year) are not separately accounted for as an identifiable departmental output in DEWR's PBS. DEWR advised as follows on how it proposes to report on the costs to the Commonwealth of administering EESS and GEERS. This includes the price of the 'outputs' the department produces for this purpose, under the particular funding arrangements pertaining to EESS and GEERS:

Arrangements are in place to track departmental costs so that the question could be answered if asked either by Finance, the ANAO or the Parliament. It is our understanding that we are required to report on the Special Account as a whole.

Internally we maintain detailed records of all expenditure so that we can respond to more detailed questions about the break-up of the costs being charged to the Account.

In addition, the Operational Arrangements for EESS and GEERS set out the reporting arrangements for the respective schemes, namely, that the department will report to Parliament on the financial and performance operations of the schemes through normal accountability arrangements, Legislation Committees and the department's Annual Report.

4.9 Official guidelines on the Commonwealth Outcomes and Outputs framework specify that 'all activities undertaken by an agency should be covered by the agency's outputs, or as overheads or shared resources contributing to the production of its outputs'.¹⁰ A clear definition of outputs is essential to agency accountability because outputs comprise the actual services the agency produces. The Employee Entitlements Branch has a current staff of around 60, whose work comprises a significant and distinct body of activity for DEWR. This would ordinarily constitute a substantial output.

4.10 However, because there is no DEWR output comprising or including its EESS and GEERS work, DEWR's PBS does not include a specific estimate of proposed expenditure on this item. This approach makes transparency of the proposed administrative costs of EESS and GEERS contingent on whether the formal institutions of accountability pose questions. Whereas annual reports provide a retrospective account of where resources have been used, there is no mechanism available to present proposed administrative expenditure for scrutiny.

Recommendation No.4

4.11 The ANAO recommends that DEWR clearly define the outputs it produces for EESS and GEERS.

DEWR response

Agree. DEWR has implemented EESS and GEERS in accordance with Cabinet and Ministerially approved requirements. DEWR will propose that the Government consider the separation of departmental funding from administered funding appropriations in the context of next year's budget.

4.12 Performance cannot be reduced only to matters of cost but must also encompass the question of what and how much was produced for that cost: this is implicit in the concepts of outputs and their price. This leads to the question of the selection of DEWR's performance indicators for EESS and GEERS.

¹⁰ These are set out on Finance's website <www.finance.gov.au/budgetgroup> under 'Government finances'.

Selection of performance indicators

4.13 Originally, the EESS and GEERS ministerially approved Operational Arrangements specified that performance indicators would be developed to enable measurement of the schemes' performance in:

- accuracy (payments made as per eligibility);
- promptness of payment;
- efficiency; and
- claimant satisfaction.

4.14 DEWRSB set out four indicators for EESS in the 2000–01 PBS, corresponding to each of the above. These varied slightly for 2002–03 (Table 4.1). The current indicators are intended to represent measures of DEWR's performance in timeliness and accuracy of processing claims for assistance, ministerial satisfaction with policy advice and stakeholder satisfaction with management of the schemes.

Table 4.1

DEWR performance measures for employee entitlements support schemes

Effectiveness indicators, 2001–02		Effectiveness indicators, 2002–03	
<i>Item</i>	<i>Target</i>	<i>Item</i>	<i>Target</i>
Timeliness of the processing of claims	80 per cent of claims processed within 12 weeks	Timeliness of the processing of claims	80 per cent of claims processed within 16 weeks
Level of accuracy in payment of entitlements	No errors identified through appeals by claimants against the delegate's decision and reviews	Accuracy of the processing of claims	Fewer than 3 per cent of payments are varied after appeal
Number of processed claims compared to number of incoming claims	Between 110 per cent and 100 per cent of claims processed compared with incoming claims	[No corresponding item in 2002–03]	–
Level of satisfaction of the Minister with the provision of policy advice	Satisfactory	Level of satisfaction of the Minister with the provision of policy advice	Satisfactory or above
[No corresponding item in 2001–02]	–	Level of satisfaction of stakeholders with the management of the employee entitlements support schemes	Satisfactory or above

Source: DEWRSB PBS 2001–02, p. 58; DEWR PBS 2002–03, p. 41

4.15 The EESS Operational Arrangements also require information (including statistical information) on the operation of the scheme to be posted to the DEWR website. This was done in the *Year One Activity Report* (January 2001). There is no similar requirement for GEERS.

4.16 Revised Operational Arrangements took effect on 4 July 2002 that no longer include efficiency as a measure of performance. This aligns the Operational Arrangements with the indicators specified in the 2002–03 PBS (Table 4.1).

4.17 No distinction is made in the PBSs between EESS and GEERS and the ANAO understands that each of the indicators is intended to apply equally to both schemes.

4.18 The ANAO considers that timeliness, accuracy and satisfaction of various stakeholders are all essential measures of performance for schemes such as EESS and GEERS. However, having regard to the nature of these schemes and the Finance guidelines, which require that output performance be measured in terms of quality, quantity and price, there are three additional items that would help to measure performance and improve the external transparency of the schemes:

- volume of output;
- recovery performance; and
- administrative efficiency.

4.19 There is no performance indicator to reflect the volume or quantity of work completed and none is currently required by the Operational Arrangements. Similarly, there is currently no indicator for recovery of payments from the sale of assets of insolvent businesses. Commonwealth receipt of such payments is described as a ‘main element’ of the schemes in the Operational Arrangements and the procedures emphasise that, where taxpayer funds have been distributed, these should be recovered from insolvent businesses wherever possible. Recoveries therefore comprise an important output of DEWR.

4.20 Nevertheless, although neither work volume nor recovery is a formal performance indicator, DEWR has reported both in its annual reports¹¹ and the ANAO suggests that DEWR continue to do so.

4.21 If there were a separate output identified in the DEWR PBS for the administration of EESS and GEERS, these indicators could be measures of performance in the production of that output and are of value in managing and reporting on the schemes. If the department also set some targets, that would enable Parliament to assess whether the agency was delivering what it set out to achieve.

¹¹ See DEWRSB Annual Report 2000–01, p. 46 and DEWR Annual Report 2001–02, p. 85.

Administrative efficiency

4.22 The ANAO considers that general understanding of the performance of the schemes would be enhanced by DEWR developing indicators to reflect the efficiency of its administration. DEWR itself has expressed concern about the costs of processing, in part, because of the effort involved in processing the many small cases. However, some authors regard low administrative cost as a notable advantage of a publicly funded universal coverage scheme such as EESS. For example, Bickerdyke et al. note that the UK scheme (the Redundancy Payments Service) had running costs in 1998–99 of £4.7 million for payments of £147 million—or 3.2 per cent of total pay-outs to employees.¹² In 2000–01 this ratio had improved to 1.9 per cent and is projected to improve further.¹³

4.23 In Australia, the Government has also indicated that the design of EESS was perceived as having significant advantage in administrative costs compared to other designs.¹⁴ From data in the *Year One Activity Report*, the average cost of making payments, \$804, was a substantial proportion (36.9%) of the payments themselves. However, that was the initial, start-up year of EESS. For 2001–02 (and across both EESS and GEERS) that ratio had fallen to 8 per cent.¹⁵ This percentage can be expected to reduce as payments under GEERS predominate.

4.24 One useful approach to reporting efficiency would be to measure the mean cost of processing per claim paid under the schemes. In effect, this could be seen as the average unit price of the department's principal EESS and GEERS outputs. The ANAO also notes that costs of processing could be expected to be larger initially (due to investment in set-up, IT systems development, development of documentation, materials and procedures and so on) but could also be expected to decline later.

4.25 The number of payments made and the total administrative costs have been reported in (i) the *Year One Activity Report* (January 2001), where the mean administrative cost of making each payment was \$804; and (ii) the DEWRSB 2000–01 Annual Report (pp. 46–47), where the mean administrative cost was \$744 a payment and the DEWR 2001–02 Annual Report (p. 85), where it had fallen to \$434. The ANAO suggests that the trend in this cost be measured and reported.

¹² Bickerdyke, I., Lattimore, R. and Madge, A. 2000, p. 111.

¹³ UK Department of Trade and Industry, <http://www.dti.gov.uk/expenditureplan/expenditure2002/html/c_services_group/ea_rps.shtml> last viewed 7 November 2002.

¹⁴ Statement by Minister Abbott, January 2001 'Protection of Employee Entitlements on Employer Insolvency'.

¹⁵ This figure can be derived from the performance information published in the DEWR 2001–02 Annual Report, p. 85.

Measurement of performance

4.26 The ANAO examined the specific measures being used to report against DEWR's current performance indicators to form a view on their adequacy for that purpose.

Timeliness

4.27 Currently, DEWR's first performance indicator for these schemes is timeliness of processing. This indicator is clearly linked to the schemes' objectives. DEWR also regards the indicator as of prime importance and has stated to Parliament that it 'wants the money in the hands of the individual claimants'.¹⁶ However, the ANAO found two difficulties with DEWR's reporting on timeliness:

- current reporting provides only partial information and has unintended operational incentives; and
- DEWR is not measuring the most appropriate period.

DEWR's actual performance by this indicator is discussed in Chapter 5.¹⁷

4.28 The DEWR third quarter 2001–02 performance report explains how the department interprets this measure: 'Timeliness of claims processing is measured by the percentage of claims received in the quarter that have been processed within 16 weeks of receipt.' However, this does not provide sufficient information to enable a judgment to be made on *promptness of payment*, as envisaged by the Operational Arrangements. This measure reveals how many claims received in a particular period were processed within 16 weeks but sheds no light on the time taken to process the residue of that group. For example, ANAO analysis found that some 57 per cent of all EESS and GEERS payments made to 30 June 2002 were made within 16 weeks (as normally measured by DEWR). However, no information is routinely reported on the other 43 per cent of payments and how long they took to be paid.

4.29 There are also risks in this arrangement. The current target provides incentives to process claims within 16 weeks but, once that has passed, there is no account of what becomes of older claims. There is an inherent incentive therefore, to divert processing attention to newer cases, which may still be counted in the performance indicator, in preference to progressing older ones, which will not. In effect, this choice of indicator risks distorting work priorities.

¹⁶ Evidence of DEWR, Senate estimates hearings, Wednesday, 20 February 2002.

¹⁷ The discussion here is about how DEWR sets about measuring its timeliness. The discussion in Chapter 5 is about DEWR's performance in the timely processing of cases and claims. This is strongly linked to aspects of its management of processing and therefore warrants separate treatment from the issue of performance measurement.

4.30 A more informative approach would be to report against the same indicator by referring to the time taken to process all claims that were *finalised* (as opposed to *commenced*) in a particular period.¹⁸ By focusing on *finalisation* rather than *commencement*, it would be possible to report not only on the proportion that met the target but also on the mean processing time for the whole cohort finalised in the chosen period. A further piece of data is necessary to give an adequate picture and not distort incentives. In particular, comprehensive reporting would also take account of cases still in hand. DEWR could achieve this by reporting the number and mean age of unfinalised claims.

4.31 The timeliness indicator is intended to report on the performance of the schemes in terms of promptness of payment. 'Processing' includes finalising claims by making payment, determining the claim to be ineligible or closing the case (for example, because the business had met its employee entitlement obligations and assistance under EESS or GEERS was no longer required). The ANAO takes the view that 'payment' would ordinarily be interpreted as meaning 'paying the employees their assessed entitlements claimed under the scheme'. This would be taken as the time elapsing from when an eligible employee lodges a claim to when they receive the relevant payment.

4.32 However, the ANAO found that DEWR's current timeliness measurement measures the time elapsing from the date the claim is received to the date the DEWR delegate authorises the payment transaction. There is a further period after DEWR makes a payment to an IP (or accountant) before the employee receives their payment from the IP. DEWR allows the IP two weeks to do this (and a further two weeks to acquit) but does not count this period in its timeliness data.

4.33 DEWR expects IPs/accountants to make the payment within two weeks of receiving it from the department. Because of the delays reported to DEWR by claimants it had surveyed in July 2001, the department decided to monitor the time taken for IPs to pay claimants. This was 'to enable problem areas to be detected quickly and resolved'. However, the ANAO found no evidence that this had been done and DEWR does not currently collect this information in EEBase. DEWR has not consistently pursued acquittal by IPs and therefore does not necessarily have a record of the date of payment to the employee. Therefore, given existing data and work practices, it is difficult for DEWR to report accurately and completely on the promptness of payment of entitlements to employees.

¹⁸ That is, the information reported could be expressed in the following terms: 'Of all claims whose processing was finalised in such-and-such a month, X per cent had been finalised within 16 weeks.'

4.34 In the sample of files examined by the ANAO, the mean time taken for a claimant to be paid by an IP (where this data could be identified) was 11 days. In some cases, the IP had made the payment very promptly (within one day) but in others it had taken over five weeks.

4.35 The ANAO identified 107 cases in its sample where an acquittal by the IP was due but found an acquittal on file for only 56 (52 per cent). The outstanding acquittals had been overdue for an average period of just over six months.¹⁹ This means there are many cases where DEWR did not know if, or when, the claimant actually received payment.²⁰

4.36 The ANAO concluded that, when reporting promptness of payment, a better measure would include the whole of the time taken to pay claimants. This would be consistent with the ordinary understanding of the indicator and would thereby reduce the risk of misinterpretation. DEWR could eliminate the unintended incentives in the current reporting arrangement by reporting timeliness for all claims.

Accuracy

4.37 DEWR's measure of accuracy is 'accuracy of processing of claims'. DEWR currently uses the proportion of payments varied after appeal as a 'target', with an upper limit of no more than 3 per cent of payments varied. The ANAO found that:

- a more informative measure would be the accuracy of payment of entitlement, not merely the accuracy of 'processing'; and
- the current measure will inherently tend to understate the actual incidence of inaccurate payment.

4.38 On the first point, the ministerially approved Operational Arrangements clearly require accuracy to be expressed in terms of the degree to which payments actually made properly reflect eligibility. To achieve this, DEWR must ensure both (i) that the information the department obtains is as accurate as possible and (ii) that that information is processed correctly to work out the entitlements to be paid. However, as currently expressed, the measure could be seen as relating only to the latter. DEWR is, of course, highly dependent on information supplied by the IP and its procedures reflect its endeavour to obtain accurate data. However, in the ANAO's view, an adequate performance indicator would reflect the 'end-to-end' process, ensuring payments made to employee are based on an accurate assessment of what is owed to them.

¹⁹ This is counted from after the expiry of the 28 days subsequent to the date of the payment by DEWR to the IP, which is the period DEWR allows for the IP to pay the claimant and then to acquit.

²⁰ The procedural deficiency implicit in this finding is addressed in Chapter 2.

4.39 On the second point, inaccurate assessment of benefits by DEWR could result in overpayments as well as underpayments. If an employee receives much less than they were expecting, they may appeal, and an inaccurate decision may come to light. However, if they receive close to the amount they were expecting or more, they have no reason to appeal and are less likely to do so. This is especially the case given that DEWR does not currently explain in its payment advice to an employee how the assessed benefit is calculated. Therefore, incorrect payments do not necessarily lead to appeals and it is unsafe to depend on the latter to measure accuracy.

4.40 DEWR's appeals register was inaccurate and did not contain current information. While that register is inaccurate DEWR is unable to report its own performance in terms of the measure of accuracy set out in the Operational Arrangements. (Management of appeals is discussed in Chapter 6.) The impossibility of evaluating whether this criterion had been met was noted in DEWR's Year One Evaluation Report. DEWR has since brought the register up to date.

4.41 A more reliable measure of accuracy could be obtained by an independent, periodic review of a random sample of cases and claims paid. This could be done as part of a quality assurance process. A process of this sort was undertaken by DEWR for its Year One Evaluation Report and this recorded an error (defined a miscalculation in payment or incorrect judgment on claimant eligibility) in only 0.6 per cent of claims in a sample of nearly 1000 claims analysed.²¹

4.42 The ANAO concluded that there would be benefits from DEWR revising its indicator of accuracy to reflect correct payment to claimants; and its method of measuring the accuracy of payments made. DEWR has advised that its method of assessing payment accuracy, including through improved quality assurance, will be considered as part of the review of its processing model.

Client satisfaction

4.43 The final performance indicator required by the Operational Arrangements is client satisfaction. DEWR has two measures of this: the Minister's satisfaction with policy advice on the schemes; and stakeholder satisfaction with the management of the schemes. In each case 'satisfactory or above' is the target. While DEWR advises that it reserves the term 'clients' for its ministers, the Operational Arrangements make it clear that the term was intended to include IPs and affected employees.

²¹ The sample upon which this was based was not randomly selected. Rather, it was selected to ensure that it contained a wide variety of cases.

4.44 DEWR's third quarter performance report for 2001–02 states, in relation to the client satisfaction indicator, that 'Data from an annual survey of Insolvency Practitioners should be available for the June quarter.' This does not address the question of how DEWR will assess the views of affected employees. DEWR did survey EESS claimants in early 2001 as part of its internal evaluation of EESS, and had also decided in July 2001 to conduct annual surveys of claimants 'to ensure satisfaction remained high'. However, the ANAO found no evidence that surveys had been conducted.

4.45 DEWR already has some ongoing capacity to assess employee satisfaction through recording views put by claimants over the hotline, the nature and number of ministerials on EESS and GEERS, and so on. These sources would not present a representative survey of views, but they could help to gauge trends and identify emerging issues from the claimant perspective.

4.46 There would also be benefits in conducting further systematic surveys to gather representative user satisfaction data. If DEWR were to seek employees' views by such means it would not need to do so very frequently. Also, at this relatively early stage of the life of EESS and GEERS such a survey could have a range of benefits in seeking claimant views on the operation of the scheme.

Recommendation No.5

4.47 The ANAO recommends that DEWR revise its measures of its existing set of indicators, timeliness, accuracy and client satisfaction, to ensure completeness and reliability in its reporting.

DEWR response

Agree. Annual review is consistent with DEWR's established practices.

Conclusion

4.48 There is a risk that the funding arrangement for EESS and GEERS, in which all funds, including those used to meet departmental expenses, are derived from an administered appropriation, could obscure departmental activity that would otherwise constitute a departmental output. Transparency of the administration of EESS and GEERS would be improved if the outputs produced for EESS and GEERS were made explicit.

4.49 DEWR has put in place a set of performance indicators for EESS and GEERS and reported against them. However, there are opportunities for DEWR to improve the range of indicators and the means of measuring performance (including timeliness, accuracy and client satisfaction) for EESS and GEERS.

5. Timeliness and the Management of Processing

This chapter examines the timeliness with which EESS and GEERS claims are processed, and opportunities for improving it.

Introduction

5.1 This chapter considers DEWR's actual performance in the key area of timeliness of payment under the employee entitlements schemes. In the ANAO's analysis of timeliness, a range of issues arose relating to the overall management of processing under EESS and GEERS. Therefore, the chapter reflects the ANAO's examination of:

- the timeliness of processing; and
- DEWR's management of processing, focusing especially on those aspects that could affect the timeliness of processing.

5.2 The timeliness of delivering employee benefits has always been a key consideration in the design and operation of EESS and GEERS. The ministerial statement of January 2001, Protection of Employee Entitlements on Employer Insolvency, which assessed EESS against a range of other alternatives, stated:

In the past, workers who have not received their full entitlements on their employer's insolvency have been left in the queue of creditors under the Corporations Law. This has meant many employees were not paid monies owed, with no safety net *that would have enabled the quick payment of at least some of these entitlements* [emphasis added].

5.3 In explaining EESS, that paper goes on to say:

Under EES, an employer remains liable for the payment of their employees' full entitlements. However, taxpayer funded safety net payments are able to be made from the scheme *'up front'* to eligible employees, with the scheme then *claiming those monies back from the employer if and when they become available* [emphasis added].

5.4 This shows that the Commonwealth is assuming two risks previously borne by employees. The most obvious risk it is taking from the employee is that of not being paid at all. But it is also clear that the intention is to pay the employees promptly—'up front'—and the Commonwealth is accepting the risk of the delay in recovery. Expeditionary payment of monies (even if this is only a part of their full employee entitlement) to eligible employees is a primary objective of EESS and can reasonably be presumed to be the case with GEERS. Therefore the ANAO has given this performance criterion particular attention.

Timeliness of processing

5.5 To analyse timeliness of processing, the ANAO examined:

- (i) DEWR's overall timeliness in processing EESS and GEERS claims since the commencement of EESS, based on data derived from EEBase;
- (ii) trends in timeliness of processing, based on DEWR's internal performance reports;
- (iii) the backlog of eligible claims; and
- (iv) the time consumed in the various steps involved in processing.

5.6 DEWR's original target for completing processing of claims was 12 weeks (according to the Year One Evaluation Report the department prepared in April–May 2001) or three months, (according to the Year One Activity Report, prepared in January 2001). The Year One Activity Report stated that a third of claims were processed within this target but this was 'expected to improve in 2001 as the backlog [was] reduced'.

5.7 The forecast of improved performance was accurate and, by April 2001, the evaluation report stated that 41 per cent of claims had been processed within the 12-week target for the entire period March 2000 to April 2001. Moreover, the figure for the then latest quarter, January to March 2001, had increased to 50 per cent. However, the report concluded that the 12-week target was 'not realistic' and stated that it had been modified to 16 weeks 'as a temporary measure while final staffing arrangements were being completed'. In practice, the target of 16 weeks has remained and DEWR now seeks to achieve a performance standard of completing the processing of 80 per cent of individual claims within that time.

5.8 DEWR paid 12 365 claimants under EESS and GEERS from inception to 30 June 2002.²² Its overall performance in making timely payments can be summarised as follows:

- Half of the claimants waited more than 13 weeks for payment (that is, the median waiting time was between 13 and 14 weeks). About 20 per cent waited more than six months.
- Seven claimants waited over a year and a half and the longest individual wait for payment (of those paid by 30 June 2002) was 118 weeks or two years and three months.

²² This analysis excludes the 12 claims that are shown on EEBase as having been paid before they were received, on the assumption that the dates have been wrongly recorded in these instances. Note that DEWR made 12 940 *payments* (as stated in Table 1.4) but some 600 of these comprised subsequent payments to existing claimants.

- The overall average (mean) waiting time was 115 days (16.5 weeks).
- For payments up to 30 June 2002, about 42 per cent had been paid within DEWR's target of 12 weeks. About 57 per cent had been paid within 16 weeks (the revised target from 1 July 2002).
- Only after six months (or 26 weeks) had 80 per cent been paid.

5.9 This summary reflects the ANAO's analysis of data from DEWR's EEBase system. It shows that payment has not been timely by current standards. However, this analysis is of the history of the two schemes as a whole and does not take account of trends, an important consideration in a dynamic program environment.

5.10 Given this overall picture, the ANAO next sought to examine trends to see if timeliness was changing significantly. The ANAO initially reviewed DEWR's internal monthly performance reports. The department reported its timeliness performance for the December 2001 quarter as 65 per cent of claims processed within 16 weeks and that its processing efficiency was undergoing sustained improvement. However, its monthly reports for the same period showed an apparent rapid growth in the proportion of 'active' claims over 16 weeks old: 8.3 per cent of active cases in October 2001, 32 per cent in November 2001 and 61 per cent in December 2001. No comparable monthly reports have been available from DEWR after December 2001. However, DEWR provided the ANAO in November 2002 with a statistical report that showed that, over the period February–September 2002, it had maintained a rate of 65 per cent of claims processed within 16 weeks.

Work on hand

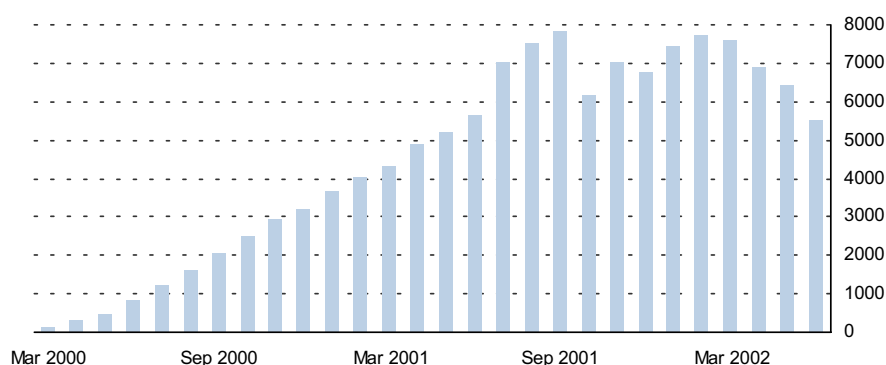
5.11 To help understand the underlying developments, the ANAO sought to analyse the number of 'active' claims on hand and how this had varied over time, based on data contained in DEWR's internal performance reports. Active claims comprise claims from individuals DEWR considered eligible for assistance under the EESS or GEERS schemes, but not yet paid. This data could help to provide an understanding of whether DEWR's 'throughput' was keeping up with incoming work and thereby help to gauge likely future trends in processing timeliness. DEWR was not tracking this variable as a time series.

5.12 The number of eligible claims on hand increased continuously from the commencement of the EESS scheme to September 2001, when a peak of nearly 8000 was reached (Figure 5.1). Occasional fluctuations correlate with the commencement and finalisation of some very large cases comprising many claims. (This effect can also be seen in the particularly large numbers of payments made in October and December 2001, see Figure 5.2). To March 2002, the trend was

generally towards a growing backlog of work. However, there has been a consistent decline in the work on hand since then. This decline is due in part to a substantial increase in the number of claimants paid per month and a simultaneous reduction in the numbers of new claims lodged during the last quarter of 2001–02.

Figure 5.1

The numbers of unpaid eligible EESS and GEERS claims on hand, March 2000 – June 2002



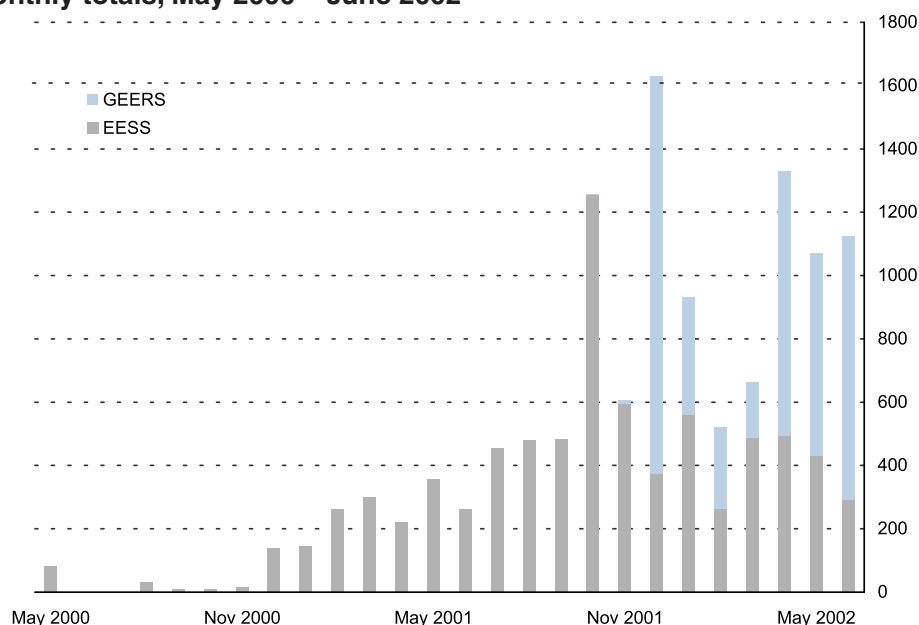
Source: DEWR reports derived from EEBase

5.13 Some of the claims still registered by DEWR in EEBase as ‘eligible’ for assistance under EESS and GEERS require no further action because entitlements had already been paid from the insolvent business’s assets. These instances are not readily distinguishable in EEBase from claims that are genuinely awaiting processing effort and finalisation. The ANAO understands that the project instituted by DEWR to review outstanding old claims has shown that over 1000 claims may have been in this category and their removal has also contributed to the recent decline in the numbers of outstanding claims.

5.14 It is reasonable to expect that schemes such as EESS and GEERS will develop some backlog as time passes, as claim processing inherently takes some time. It is also reasonable to expect that the backlog will reach equilibrium, provided the resources devoted to processing can achieve an adequate throughput. It is difficult to judge whether the recent moderation and decline in the backlog represents the achievement of that equilibrium. However, DEWR has been paying about 1200 claims a month on average over the last quarter of 2001–02 (see Figure 5.2) and, at that rate and, assuming no change in the rate of receipt of claims, it would take over five months to clear the existing backlog.

Figure 5.2

**Numbers of claimants paid under EESS and GEERS;
monthly totals, May 2000 – June 2002**



Source: ANAO analysis of data supplied by DEWR

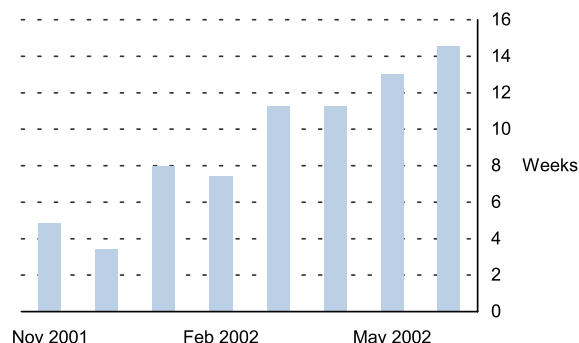
5.15 To enable the ANAO to analyse the age of the eligible claims on hand, DEWR provided data on these claims at 8 August 2002. This showed that nearly 2000 eligible EESS claims remained ‘on hand’ and had a mean age of 61 weeks (median 58 weeks). There were over 2500 eligible GEERS claims on hand, and these had a mean age of 14 weeks (median of 17 weeks). This data suggests that the backlog of claims has decreased further since June 2002; however, the age of the residue remains a concern.

5.16 The way data is held in EEBase has made it difficult for DEWR to track its EESS and GEERS claims workload. Nevertheless, a measure of work on hand in terms of unfinalised claims remains a useful parameter for management to monitor performance. The ANAO notes that DEWR is yet to complete its project of reviewing ‘old’ claims, and updating and correcting its records accordingly. It suggests that DEWR begin to monitor the number of unfinalised eligible claims as an additional, internal, operational performance measure and management tool.

5.17 A separate analysis of the mean time taken to pay GEERS claims is set out in Figure 5.3. This shows, for example, that payments made in June 2002 had taken an average of 102 days. This is less than 16 weeks (112 days) but the trend at that point had been rising. However, this trend reflects the recent commencement of GEERS and equilibrium may not have been reached.

Figure 5.3

Mean time taken (in weeks) to make GEERS payments, by month in which payment was made November 2001 – June 2002



Source: ANAO analysis of data supplied by DEWR

Where the time goes

5.18 The ANAO sought to work out how long DEWR took to obtain verified information from the IP; how long the internal processes of assessment, report preparation and decision-making took, and so on. However, to work this out efficiently requires the relevant timing points to be recorded in EEBase. Not enough processing milestones were recorded consistently to measure and track where delays could be occurring, and this limits any analysis of processing time. The ANAO suggests that, in future, DEWR record key processing milestones, such as the date it receives verification of the data supplied by the IP. DEWR subsequently modified EEBase in August 2002 to enable staff to enter the date on which the department is satisfied it has received verification of data from the IP for each case. (To ensure that this information is recorded correctly, these entries will need to be included in a quality assurance regime.)

5.19 The ANAO turned to its randomly selected sample of 200 claims to gain an insight into where time elapses during the administration of claims. This sample was drawn from the entire EESS and GEERS database (excluding claims received before 1 July 2000, the period of initial establishment of EESS). Therefore the sample represents the schemes in their entirety and does not distinguish between EESS and GEERS or otherwise between different periods in the short history of these schemes.

5.20 In this sample, the ANAO gathered the data from paper files or the corresponding records in EEBase as appropriate. It did not find records for all the information it sought. While this limits the confidence with which data derived from the sample can be presumed to be true of the entire population of claims, the available data indicates the following:

- Around 16 weeks on average elapse between the date DEWR issues the 'IP pack' seeking the data in a spreadsheet and the date the department receives that spreadsheet.

- Where a report to the delegate had been prepared, an average of seven to eight weeks elapsed between when DEWR first received the spreadsheet and when it completed the report. IPs do not always provide complete or correct data initially and DEWR advises that it often spends considerable time clarifying minor points with IPs or seeking additional detail to reach the position of having verified data.
- Where decisions have been made, on average, delegates took just under nine days to consider and decide the formal reports referred to them. This appeared to have been skewed by a small number of cases that took a long time, and the median was three days.
- Where a claim had been paid, an average 116 days, or 16.6 weeks, elapsed from the date of receiving the claim to the payment date. This is consistent with the data from the census of all payments made to 30 June 2002, referred to above. DEWR had no specific record of the date on which it received all the information necessary to assess the benefit to be paid.²³ However, from the data available on file in these cases the ANAO estimates that, the average time between when DEWR had all of the required data and the date of payment to the IP for these claims was five weeks.

5.21 As indicated, because comprehensive data on key timing points for the sample could not be found, care is needed in interpreting this data. Nevertheless, the analysis does provide some indications and one aspect is clear, and merits comment. It takes a considerable time in many cases for data on employee entitlements to be collected by DEWR from IPs. This is the greater part of the elapsed time for those claims in the ANAO's sample that had proceeded as far as payment. Several factors are likely to have contributed to this elapse of time as follows:

- In some cases, the records of the insolvent business could be incomplete and data may not be available.
- Providing employee entitlement data to DEWR is not necessarily a priority for the IP, who has many other responsibilities in dealing with the affairs of an insolvent business. However, the IP bears little risk in delaying a response to DEWR.
- It may be possible for DEWR to follow up IPs more assiduously to obtain the data the department needs to assess and pay entitlements. However, as DEWR has not kept systematic records of such follow-up action (and the responses from IPs), it is not possible for the ANAO to form a view on this point.

²³ A facility to record this date was implemented in EEBase Release 3.6.1 in August 2002.

5.22 Given that prompt payment of entitlements is likely to remain a priority, DEWR could benefit from recording and tracking more closely the process of obtaining data from IPs, including its follow-up of IPs. This would make the duration of this part of the process more certain and more transparent. A closer focus on the process could also improve performance and reduce the time taken.

5.23 Recording the key timing information in EEBase would facilitate tracking, the use of automatic (system-based) alerts and the production of management information. It would also be possible to ascertain whether the time taken for the various aspects of processing are improving on past performance. Subsequently, it may be more cost-effective for the department to move review and control processes to a sample basis. DEWR has advised that it intends to include a claims tracking and workflow module in the revised processing model it has under consideration.

Management of processing

5.24 Management of schemes such as EESS and GEERS, which requires the timely processing of a large number of claims for assistance, benefits from a capacity to track the progress of that work. Ideally, that capacity would include the ability to identify where, in the process, cases and claims are up to and where delays are developing, especially where timeliness of payment of an entitlement to an individual is important. This would also help to set priorities for completing the work.

Management of cases and claims

5.25 The ANAO found, at the start of the audit, that the processing focus within DEWR had been primarily on EESS and GEERS cases as a whole. This flows from a model that envisages claims arriving in a single batch, generally through the IP. This expectation is incorporated in the GEERS Operational Arrangements which note that: 'Where possible, DEWR will seek to distribute claim forms through the IP and process claims from all employees of a given business at one time'. Under this model, when the case manager has assessed and verified any unpaid entitlement, they prepare a report to a delegate, leading to a single payment being made to the IP to cover all entitlements under the EESS or GEERS scheme (as appropriate) in the case. Recovery, should it occur, is inherently case-focused.

5.26 There are two main risks created by trying to balance a case-focused and claim-focused approach. First, if DEWR does not receive all claims in a particular case at the same time, the case manager has to decide how long to wait for any residue before progressing the case. There is a consequential risk of increased

processing time for all claims in the case. DEWR's internal evaluation report of EESS noted that the 'optimum timeframe was only achievable where everything goes according to plan ... and all claim forms have been received. However, this was not the norm.' There is no guidance in current procedures on this matter. Second, if DEWR begins processing before all claims have arrived, there is additional work when the subsequent claims do arrive.

5.27 However, in examining case files, the ANAO found that, for the purposes of paying entitlements, cases have not always followed the case model of operation. Although most claims may be lodged in a single batch, there have been several hundred cases (around 10 per cent overall) where a further small number of claims has subsequently been lodged and further payments have been made after the first 'bulk payment'.

5.28 The imperative for prompt payment provides a reason not to wait to collect every claim before progressing the case to payment. However, there is a risk that subsequent claims can be overlooked or not managed appropriately because they are not in the mainstream processing for the relevant case. This could be due in part to the case-focus of DEWR management practice. There is a further risk in this approach in that it can appear that a case has progressed (reflecting the progress of the main body of claims in that case). However, without a separate capacity for focusing on and monitoring individual claims, those that are separate from the main group are at a greater risk of escaping management attention. There are no guidelines on how to handle these circumstances.

5.29 One of the consequences of a case focus is that claims from individuals who turn out to be ineligible have not been dealt with in a timely manner. Those individuals have had to await the resolution of the case as a whole to be advised of their ineligibility. This is examined in detail in the highlighted panel below, 'Waiting to be told of ineligibility'.

Waiting to be told of ineligibility

The ANAO observed a systematic problem in processing claims from claimants who were, *prima facie*, ineligible. In the cases that came to the ANAO's attention, several claimants had made it clear on their claim forms that they had resigned. This, at the time, would have immediately precluded them from assistance under EESS. However, DEWR did not make a formal decision about the eligibility of these claimants nor tell them of this until after the case as a whole had been resolved, which (in the cases observed in detail) was up to 15 months later. This had the effect of making these claimants wait a lengthy period only to be advised that they were ineligible—when sufficient evidence of their ineligibility was contained on their claim form. The ANAO considers that such claims could be dealt with promptly, and the claimant advised immediately.

The ANAO suggests that EESS and GEERS procedures be amended to support such an approach. The ANAO analysed EEBase data about ineligible claimants, for whom it found 695 records. It sought to identify how much time elapsed between the date DEWR received a claim from an ineligible claimant and the date the department recorded their ineligibility. The date DEWR recorded claimant ineligibility is likely to be the time (or close to the time) when it advised the claimant they had been found to be ineligible. This gives a measure of the time that ineligible claimants had to wait to be advised of their ineligibility. The results are set out in Table 5.1.

Table 5.1

How long do claimants wait for their ineligibility to be decided?

<i>Claimants who waited more than...</i>	EESS		GEERS		Total	
	number	proportion	number	proportion	number	proportion
12 months	215	50%	n/a	–	215	31%
6 months	318	74%	12	5%	330	47%
16 weeks	354	82%	43	16%	397	57%
<i>Total ineligible</i>	432	100%	263	100%	695	100%

Source: ANAO analysis of data supplied by DEWR

For nearly three-quarters of ineligible EESS claimants, more than six months elapsed before their ineligibility was decided. One half waited over 12 months. Prima facie, these waiting times are much reduced for GEERS claimants where only 5 per cent had to wait 6 months or more. However, because GEERS has been in place only since September 2001, this data is less likely to fully represent the longer term experience.

5.30 The case focus in EESS and GEERS processing flows from:

- DEWR's dependence on the IP for information on claimants. The IP inherently operates on a case basis, grouping creditors' claims and considering them in terms of priority, the potential for distribution of dividends and potential to trade on through a deed of company arrangement;
- eligibility flowing from insolvency in the particular case; and
- reliance of the schemes on s. 560 of the Corporations Act to effect recovery, which operates at a case level.

5.31 Thus it would be impractical to abandon a case focus in favour of a total claims-focus in processing, and the ANAO does not suggest this course. However, there is a place for both in improved systems for managing the processing of the work. Indeed, the ANAO understands that, in contrast to DEWR's earlier approach of waiting to receive all details for every claim, batching claims and processing them all together, the department is now processing in 'tranches' (smaller batches).

Large and complex cases

5.32 While non-simultaneous arrival of all claims in a case is more likely in large cases, these cases present other processing challenges and this warrants some comment.

5.33 The rate of arrival of new cases at DEWR is generally stable, though variable from month to month. This predictability, were it continuous, would make managing the workload easier. However, from time to time, there is a large corporate insolvency and DEWR receives many claims (sometimes several hundred) at the same time. Such cases are generally unpredictable, and often have a high public profile. This profile is likely to lead to additional expectations of responsiveness on the part of DEWR. The combination of a high, unexpected workload and expectations of prompt action can place a strain on DEWR's administrative capacity to respond. The extra workload due to the handling of large cases has been noted in some of DEWR's internal performance reports.

5.34 The ANAO found that DEWR has no mechanisms in place for assessing the complexity and associated processing difficulty of cases the department received and for estimating the workload involved with processing each case. Large and complex cases are not recognised as a significant contingency in the DEWR risk management plan.

5.35 The ANAO acknowledges that, at the commencement of EESS, it would have been difficult to have anticipated the need for a mechanism to set priorities to deal with the issues that have emerged over the last two years, including those discussed here. There is an opportunity now to build on this experience to put a suitable operational policy in place.

Recommendation No.6

5.36 The ANAO recommends that DEWR seek to improve its processing performance by enhancing its strategy for planning and managing its resource allocation

DEWR response

Agree. DEWR has successfully managed the varied workload and delivered a consistent level of output, irrespective of the size and number of cases. The average GEERS case managed by DEWR comprises nine claimants. In 2002, DEWR effectively dealt with a small number of very large cases. Building on the successful management of the workload thus far, DEWR aspires to achieve a higher level of output and meet its performance target.

5.37 Having an improved strategy would enable DEWR to deploy its resources more effectively. At the level of individual case officers this could involve establishing general work priorities, processing targets and guidelines on when, for processing purposes, to separate a claim from the rest of a case. At a higher level, this could set out a strategy for deploying resources to meet contingencies such as large and complex cases, or developing backlogs. The strategy could include a mechanism for reallocating staff to priority work and securing temporary staff as necessary.

5.38 The ANAO found, at the start of the audit, there was no evidence of a mechanism to track the processing of claims or priority setting by DEWR, such as an established management practice of reviewing cases or claims by age. DEWR had produced weekly and monthly reports but these did not highlight key variables apposite to managing the work on hand. The ANAO found no mechanism that highlights those claims where there has not been any action for a specified time or that seem to be suffering a delay in processing. Thus it was possible for cases and claims not to progress without this becoming apparent to management.

5.39 Given the doubts about the integrity of data in EEBase, it is not possible to be certain about the status of all claims lodged without a manual review of all the unfinalised cases and claims received. In short, there is no system of controls in place to manage this aspect of processing. The most extreme examples of loss of control over processing the ANAO found when examining case files were two separate EESS cases where DEWR had decided to pay the claimants, but there was then no *action* to pay them for one and two years respectively.

Recommendation No.7

5.40 The ANAO recommends that DEWR develop a mechanism to manage, track and report on all cases and claims through its processing, with facilities that allow it to detect and report on the development of any backlogs, inaction or 'bottlenecks' in the processing.

DEWR response

Agree. Monitoring and reporting on case and claim processing has been progressively improved over the life of the schemes including during the period of the audit. The department has implemented standardised weekly reports available to all staff via the department's case manager portal to track the progress of key processes including cases, acquittals and recoveries. Claim and case management arrangements will be further informed by the current business model review.

5.41 Such a mechanism could be built onto EEBase and could be used for both management control and reporting. To work effectively, the mechanism would require the systematic recording of key milestones within EEBase as recommended above. In the course of the audit, DEWR introduced its Case Manager Weekly Reports, which provides some capacity to track case progress, acquittal and recovery.

Conclusion

5.42 There are substantial challenges in making prompt payments under the EESS and GEERS schemes. Overall, DEWR has taken 26 weeks to clear 80 per cent of claims, well short of either its original published standard, 80 per cent in 12 weeks, or its revised standard, 80 per cent in 16 weeks. This may be attributable in part to the difficulty DEWR has in obtaining, promptly, verified information from IPs on unpaid employee entitlements. However, it will only be possible to clarify this if DEWR keeps more detailed records of the key steps in processing.

5.43 There may be practical limits to the capacity of IPs to collect and provide the necessary information to allow DEWR to process claims. Nevertheless, working within the existing framework for EESS and GEERS, there are opportunities for DEWR to gain greater control over the processes. The primary challenge is to develop enhanced management information systems that will allow DEWR to report on and keep track of cases and claims as they flow through the processing system, and to take corrective action as necessary. A substantial improvement in management information is a key to both better understanding the existing process and enhancing it.

6. Relationship Management

This chapter examines the relationship between DEWR and EESS and GEERS claimants and that between DEWR and IPs.

Introduction

6.1 The ANAO examined DEWR's management of the following two key relationships in administering EESS and GEERS:

- (1) *client service for claimants*, that is, the service provided to the intended beneficiaries of the scheme, former employees of insolvent businesses. (The question of assessing client satisfaction has already been discussed in Chapter 4); and
- (2) *the relationship with IPs*. The management of this relationship is important because the co-operation of IPs is an essential element in the current design of the schemes, both in ensuring employees receive their proper entitlements and in facilitating recovery of funds by the Commonwealth from the assets of insolvent businesses.

Client service for claimants

6.2 For the scheme to be working effectively and providing good service, claimants need to be:

- aware of the assistance available and how to seek it;
- generally aware of what happens once they have lodged a claim, especially where there are often claimant expectations of immediate outcomes that are not likely to be realised;
- aware of the consequences of receiving assistance and how that assistance was assessed; and
- advised of reasons for rejection (should their claim be refused) and avenues of appeal should they be dissatisfied with any departmental administrative action.

Awareness of the schemes

6.3 Under the current arrangements, a person who wishes to be provided with assistance under EESS or GEERS must ensure that their signed claim is lodged with DEWR. They may lodge the form directly or it may be lodged on their behalf by the IP in the case. The requirement for the individual claim is set

out clearly in the ministerially approved Operational Arrangements. If there is no claim, DEWR does not follow up any unpaid entitlement that is due to the person from their former employer. Thus, even though under DEWR's preferred model of operation, the IP lodges claims with the department in a batch, the individual claim from the former employee is necessary to trigger action to make an assessment and provide assistance under the scheme.

6.4 Therefore, for the schemes to work, it is essential that individual potential claimants are aware of the availability of assistance. They also need to be given the opportunity to claim if they believe that an insolvent former employer has not paid them an entitlement. If their claim has been lodged with an IP, they also need to be aware that until the IP has forwarded that claim to DEWR, processing action cannot commence.

6.5 It is inherently difficult to provide effective advice about contingent events that claimants are not anticipating, such as their employer's insolvency and the termination of their job. Potential individual claimants are unlikely to note the availability of the schemes before their employment is about to be terminated. Only at that point might they recognise a possible need for assistance in securing their entitlements from their employer. This means that specific channels rather than generalised publicity are likely to be the better approach.

6.6 As the agency responsible for the schemes, the onus is on DEWR to ensure that consistent and correct information is available from the sources of advice most likely to be used by potential claimants. Currently, DEWR relies heavily on IPs for this purpose and the approach has obvious advantages. IPs are most likely to be able to identify all former employees and have access to their contact details as well as being uniquely placed to work out their unpaid entitlements.²⁴

6.7 DEWR has taken several initiatives to ensure, as far as is practicable, that potential claimants have the opportunity to lodge claims, namely:

- providing advice to peak industry bodies and unions as well as IPs;
- producing brochures on EESS and GEERS, which are made available through Centrelink offices (where unemployed people are likely to seek assistance);
- providing information on EESS and GEERS on its website; and
- providing a hotline for IP and public enquiries.

²⁴ DEWR does not require the IP to verify that they have made reasonable effort to contact and explain the schemes to each employee who is owed entitlements. It asks the IP only to 'send out claim forms' to those potential claimants who have not yet lodged one.

6.8 The ANAO's analysis of EEBase shows that DEWR collects and verifies entitlement data through the IPs for many potential claimants from whom DEWR receives no claim. It found that some 6118 EEBase records relate to former employees of insolvent businesses where no claim form has been lodged. Of these, the great majority, 5188, are potentially EESS-related and the remaining 930 are potentially GEERS-related.

6.9 On the basis of advice provided by IPs to DEWR, this large group of employees who had not lodged a claim were, nevertheless, at the time the information was provided, owed employee entitlements by an insolvent employer. Some of these may be ineligible for assistance under the rules of the schemes; for example, they may have resigned or have been a director of the business or a relative of a director. Some will be claimants whose entitlements were paid and who did not need assistance under EESS or GEERS. However, it is also possible that a material number did not claim because they were not aware of the schemes. The ANAO found no evidence that DEWR had taken any action to analyse these records to ascertain whether any of these employees had been unaware of the schemes or had merely elected not to seek assistance in relation to unpaid entitlements.

6.10 The objective of the schemes is to provide assistance to former employees with an unpaid legal entitlement who have been terminated because of their employer's insolvency. If such people do not claim assistance merely because they are unaware of the schemes, the schemes are not being fully effective. The ANAO suggests that DEWR undertake some research to determine whether the current awareness mechanism is effective by following up a sample of 'non-lodgers'. This would allow the department to adjust its strategy, if necessary, for ensuring potential claimants are aware of the assistance available and how that assistance may be claimed.

6.11 DEWR has advised the ANAO that for the department to undertake such work would be at odds with its specified role in the Ministerially-approved Operational Arrangements. The ANAO does not see any prohibition on this research in the Operational Arrangements and suggests that DEWR clarify the Minister's expectations in relation to the analysis of take-up.

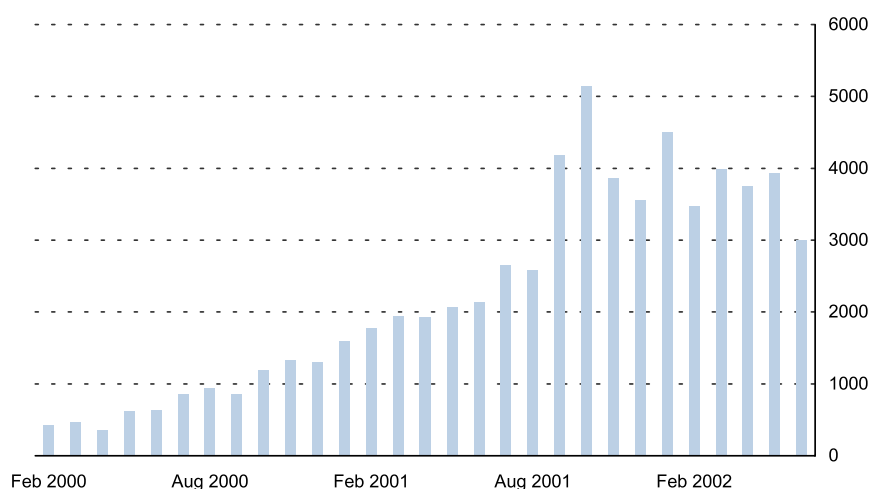
Hotline

6.12 DEWR provides a 'hotline' telephone number to answer enquiries about the schemes. Primarily these are from new or potential new claimants and current claimants. DEWR advises that the latter enquire frequently about the status of their claim.

6.13 DEWR holds limited statistics on calls made to its hotline. The department has recorded the numbers of calls received (Figure 6.1), but has no systematic information on their nature. According to the broad call statistics DEWR provided, the hotline received a steadily increasing number of calls over the life of EESS. A marked rise in the number of calls was recorded in late 2001, from the commencement of GEERS and SEESA.

Figure 6.1

Numbers of EESS and GEERS hotline calls received by DEWR, by month February 2000 – June 2002



Source: ANAO analysis of data supplied by DEWR.

Notes: (1) All calls before September 2001 must relate to EESS. After the introduction of GEERS in September 2001 it is not possible to attribute calls to a particular scheme as no records are kept to facilitate this.

(2) The surge in call numbers around September–October 2001 is associated with the collapse of the Ansett group of companies.

6.14 DEWR advised the ANAO that it was proposing to introduce a trial system to collect more detail on the nature of calls to the hotline. DEWR expected that this would provide better information on use of the hotline.

6.15 The hotline staff provide both general advice to the public on the nature of the employee entitlements schemes and specific advice on individual cases (where the case manager has completed the ‘comments field’ in EEBase). The hotline is likely to be the first and most influential point of contact between a claimant or potential claimant and DEWR. Therefore, it is important that the oral advice provided to such people is of good quality. DEWR stated that while it had never formally monitored the oral advice provided by the hotline staff, both the hotline manager and its administration team manager, due to their close physical proximity, informally monitor the appropriateness of such advice.

6.16 Hotline staff depend on the contents of the 'comments field' in EEBase to provide prompt, accurate oral advice to claimants about the status of their claim. However, the ANAO found that the information provided in this field by DEWR staff to record case status was often incomplete. A review by DEWR in May 2002 found that the notes provided in this field are 'not adequate to show what is happening with [the] case' and 'some cases have no notes at all'. In November 2002, DEWR automated the recording of the Case Manager's name and the date an entry was made on EEBase and now provides unrestricted space to record case and claimant details.

6.17 The ANAO suggests that monitoring the hotline would provide a system of quality checking of the hotline's operation. DEWR management could also stress the importance of using fully facilities such as the comments field to provide hotline staff with sound information on which to base advice to claimants.

Delays in processing

6.18 For good service to be provided, claimants should be advised where a claim process is likely to be delayed. This is especially the case given that there is a known, widespread expectation among claimants that payment will be prompt.

6.19 The procedural guidelines require DEWR to send a letter to claimants when a case is experiencing delays. The letter should be sent 8 to 12 weeks after DEWR receives the claim form unless payment is likely to be made shortly. However, the guidelines state that case managers should exercise their judgment about when and to whom to send such a letter. There is a pro forma letter DEWR staff can use to advise claimants of any delay in processing their claim. There is also a facility within EEBase for recording the issue of such a letter.

6.20 The ANAO reviewed several hundred files during the audit (including those examined as part of its random sample) but the audit team found little evidence of the pro forma delay letters being sent to claimants. It also found no evidence of the EEBase facility being used. DEWR advised that, under the existing procedural guidelines, the issue of the letter is determined by the individual circumstances of the case and there is no routine procedure to follow. Further, the department does not keep statistics on delay letters issued. In addition, in the particular instances where the ANAO found that processing of claims was substantially delayed, with some taking 12 months, DEWR advised that 'unless approached directly by the individual claimants, we generally progress all matters through the IP'.

6.21 It is possible that claimants who want to know of progress with their claim are contacting the hotline for advice. However, given the unavailability of sound and complete case status notes for the hotline staff to draw upon, this is unlikely to be a satisfactory basis for providing advice to claimants.

Recommendation No.8

6.22 The ANAO recommends that DEWR ensure that claimants are informed about any known or likely delay in processing their claim, including the reason for the delay.

DEWR response

Agree. DEWR currently provides information to claimants with advice on the status of their claim via letters at key processing points including the receipt of a claim and on assessment. Additional updates are provided to claimants in response to enquiries to the schemes' telephone hotline and email account. Insolvency practitioners also provide all creditors, including employees, with regular updates on the status of an insolvency process; in many cases this would include the status of EESS or GEERS assistance processes. DEWR will implement a system of more regular advice direct to claimants.

6.23 To ensure effective communication, DEWR would need to test and validate each channel. While it is likely that the IP provides the most effective channel for most purposes and much of the time, DEWR needs to be able to assure itself that adequate communication is taking place. Given that claimants expect prompt payment, the administration of EESS and GEERS may benefit in some circumstances from DEWR communicating more actively and directly with them. The ANAO suggests that there is an opportunity through such a strategy to both better manage claimant expectations and improve service to claimants.

Interaction with social security payments

6.24 Claimants under the schemes need to be aware that EESS and GEERS payments could affect their entitlement to social security payments and that DEWR advises Centrelink of the payments it makes. Without this awareness, claimants may fail to understand adjustments to their payments or may incorrectly anticipate greater amounts of assistance than their correct entitlement.

6.25 The ANAO found that the following measures were in place to ensure that claimants are aware of this possible interaction:

- DEWR publicity leaflets on EESS and GEERS provide clear advice that payments may affect a claimant's entitlements. Hotline staff issue the leaflets with claim forms to potential claimants who contact it.

- Similarly, the information kit DEWR provides to IPs includes a request to give potential claimants a copy of the information leaflet containing this advice, along with a claim form.
- Finally, the pro forma letter DEWR sends to claimants who are about to be paid also includes advice to contact Centrelink where the claimant is receiving a social security payment.

Payment advice

6.26 For claimants to understand how their payments have been assessed and calculated, they need clear advice about how their entitlement was calculated. If they are dissatisfied with the outcome and want to appeal the decision, they need advice about how they may do so. A suitable way of providing all of this advice is to include it with the letter formally notifying claimants that they are about to be paid.

6.27 The ANAO found that DEWR uses a pro forma letter to provide claimants with direct, formal advice that they are to receive a payment under one of the schemes (see Appendix 3). This letter indicates:

- the gross amount of the payment (that is, before tax or other proper deductions have been made by the IP);
- how this amount is made up, giving figures for the components: unpaid wages, annual leave, long service leave, payment in lieu of notice and redundancy (severance) pay;
- the limits or ‘caps’ that apply to the assessment of entitlement under the rules of the scheme;
- in general terms, the parameters taken into account in assessing the amount to be paid; and
- advice on how and to whom the claimant can appeal, should they wish to do so.

6.28 The ANAO found that, in the great majority of those cases examined where the audit team was able to identify both the date of issue of this letter and the relevant payment date, the letter had been despatched in a timely manner, generally within a few days of the respective payment going to the IP in the case.

6.29 The ANAO considers that the claimants could benefit from clearer advice of the basis upon which the assessed payment has been calculated. This would mean stating, for example, how many weeks of unpaid wages and how much long service leave have been used in performing the calculation. However, it

would improve service to the claimants for them to receive advice as to how the calculation of the components of their entitlement was made. This would also clarify the decision and expedite any appeal or further consideration of the particular claim. The ANAO therefore suggests that DEWR consider including in its letter of advice of payment to claimants full detail of the calculation of the assessed entitlement. This is not to suggest that DEWR provide a reconciliation where the amounts to be paid vary from the amounts claimed by the claimant in their claim. That could be onerous and impractical. For example, the claimant may not have explained the basis of their claim.

Appeals

6.30 Each claim under EESS and GEERS leads to a formal decision by DEWR about whether the claimant is eligible and, if so, what amount DEWR will advance by DEWR to be distributed to that claimant. Therefore the ANAO sought to identify:

- whether there was a effective mechanism to allow a claimant who is dissatisfied with a decision to appeal against that decision; and
- whether that appeals mechanism was being properly managed.

Effective management of the appeals process includes:

- ensuring those affected by DEWR's decisions are aware of opportunities to appeal;
- keeping proper records of the appeals;
- having performance standards; and
- monitoring and reporting on the process in terms of those standards.

6.31 The ANAO found that there is a mechanism of appeal available to individual claimants. DEWR tells claimants how they can appeal if they wish. As the letter to claimants advising of prospective payment makes clear, in the first instance, they can appeal to DEWR. However, as that letter also indicates, the claimant may take their concerns to the Commonwealth Ombudsman.

Appeals register

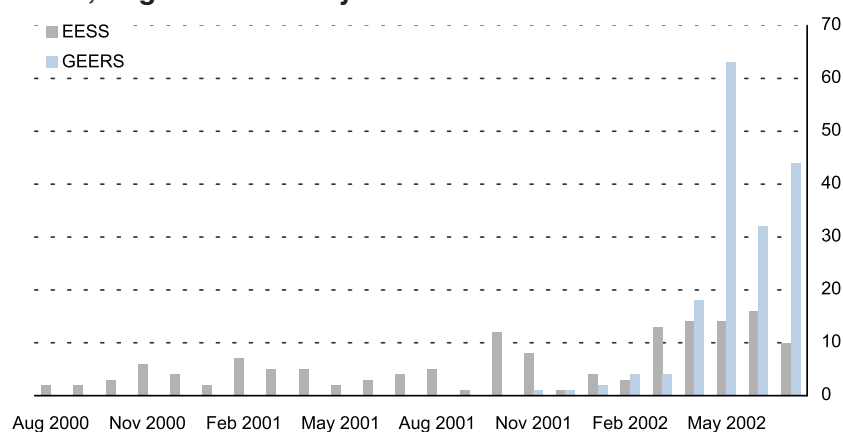
6.32 A basic step in managing appeals is maintaining a register of all appeals received and their status. This is necessary not only to manage the appeals process but also to help analyse the nature of the appeals made. This, in turn, can facilitate process improvement or even highlight a need for policy clarification.

6.33 The ANAO found that DEWR records appeals in a separate spreadsheet, known internally as the 'appeals register'. This is designed to facilitate tracking the number of appeals and their progress and outcome. The ANAO also found that the Appeals Register had not been kept up to date and that it contained self-evidently erroneous or inadequate data. For example, in some cases the name of the appellant or the date of receipt of the claim had not been recorded. In others, the dates of decision were set in the future or before the respective dates of receipt. Also, the ANAO came across a number of appeals that had not been incorporated in the register. The Department's own Year One Evaluation Report had noted in July 2001 that it was not possible to interpret the record of appeal outcomes confidently.

6.34 DEWR subsequently brought the register up to date and developed a new database (separate from EEBase) to hold and maintain its EESS and GEERS appeals data. Based on that updated data, the numbers of appeals received by DEWR is set out in Figure 6.2. This shows a substantial increase in the numbers of appeals from early 2002, especially in relation to decisions made under GEERS as compared with EESS. DEWR advises that this increase 'coincided with some major corporate collapses towards the end of 2001' and that significant policy or legal issues had been raised in these appeals.

Figure 6.2

Numbers of appeals against EESS and GEERS decisions, by month received, August 2000 – July 2002



Source: ANAO analysis of data from DEWR's appeals register of 8 August 2002

Performance in appeals processing

6.35 The ANAO found that DEWR has set time standards for handling appeals. Under EESS procedural guidelines the target is 28 days, and it is 21 days for GEERS. The ANAO suggests that the target be consistent for both schemes.

6.36 The ANAO examined DEWR's appeal processing performance based on the data contained in the updated Appeals Register. It found that a significant proportion of decisions are taking longer than 28 days to be resolved (Table 6.1). The average time taken to decide an appeal was not significantly different between EESS and GEERS but, if a 28-day standard were applied to both, the proportion of GEERS appeals failing that standard is substantially greater than EESS cases.

Table 6.1

How long do EESS and GEERS appeals take?

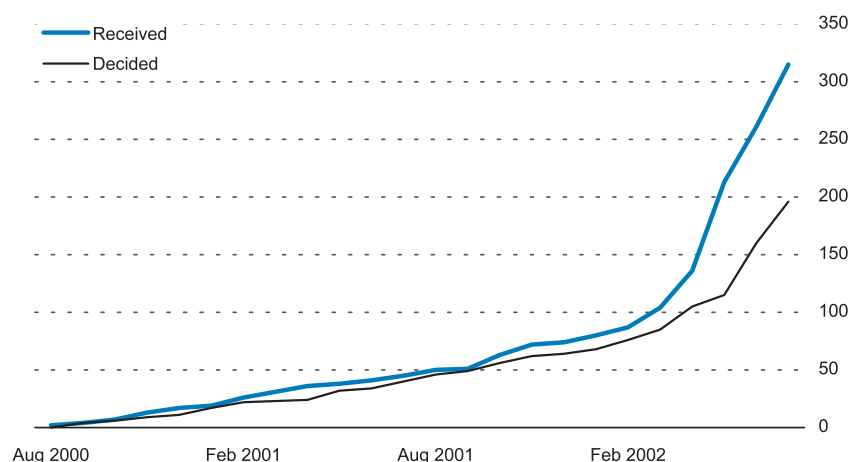
Scheme	No. decided	Mean no. of days taken to decide	Decisions taking over 28 days		Longest time to decide (days)
			Number	Proportion	
EESS	128	37	50	39%	217
GEERS	68	38	41	62%	144
Total	196	36.5	91	46%	–

Source: ANAO analysis of data from DEWR's appeals register of 8 August 2002

6.37 The ANAO examined the number of appeals received and decided over time. This shows that at June 2002 there was a widening gap, meaning that the number of undecided appeals was growing (Figure 6.3).

Figure 6.3

Cumulative numbers of EESS and GEERS appeals received and cumulative numbers decided, August 2000 – June 2002



Source: ANAO analysis of data from DEWR's appeals register of 8 August 2002

6.38 The status of appeals at 8 August 2002 was as follows:

- DEWR's Appeals Register showed that 315 appeals had been received. This is less than 3 per cent of decisions made on individual claims.
- Of these 119 (38 per cent of appeals received) remained undecided.
- Of all appeals, 146 were EESS cases and 169 GEERS cases.²⁵
- Of the 196 appeals that had been decided, 118 (60 per cent) had been rejected and 78 (40 per cent) had been accepted. This split is consistent across EESS and GEERS.

Improved management of appeals

6.39 The ANAO found at the start of the audit that DEWR did not monitor appeals processing in any key management reports. The ANAO suggests that it would help DEWR's management of appeals in future if the department were to monitor and report internally on appeals processing.

6.40 As noted above, DEWR updated the register after the ANAO raised concerns about its currency. One step the department took to facilitate keeping the register current was making it available through the Case Manager Portal. The ANAO also suggests that management of appeals could be improved substantially by the better use of EEBase.

6.41 EEBase encompasses most current processes from notification and claim to payment and recovery. It is easier to use IT to support schemes such as EESS and GEERS if that can be done with a single, integrated system for all major components of the work. There would be advantages in incorporating the DEWR appeals information in EEBase. This will make a number of processes easier, more reliable, robust and useful. For example, better information would be available to hotline staff in a single reference point to facilitate their dealing with queries from claimants. DEWR has advised that it has listed the integration of the register into EEBase as part of the EEBase upgrade and change program.

Relationship with insolvency practitioners

6.42 The design of EESS and GEERS has clearly been built around existing insolvency processes. Their business rules reflect the need for DEWR to work effectively with IPs. Given the essential role of IPs in the schemes, a strategy to inform and educate IPs about the operation of the schemes is essential to successful operation.

²⁵ Only 17 per cent of all EESS appeals (26 in number) remained undecided, whereas 60 per cent of all GEERS appeals (103 in number) remained undecided.

6.43 DEWR provided IPs with an *Insolvency Practitioners' Manual*, made up of a suite of documents on CD-ROM, to help IPs in their interactions with DEWR in the operation of EESS. A representative of the Insolvency Practitioners' Association of Australia (IPAA) advised the ANAO that the manual provided very good information for practitioners. The ANAO found that this material was very informative and comprehensive. Following the introduction of GEERS, DEWR has provided this information to IPs either by mail (including email) or in hard copy at the start of each case.

6.44 IPAA advised the ANAO that they continued to have a good relationship with DEWR over employee entitlements issues and that communications with DEWR were very good.

6.45 DEWR advised that it had also spent time conducting information sessions and 'training' the IPs, particularly in the early days of EESS. The department also has IPAA agreement to place an advertisement and regular article in each edition of the IPAA journal.

6.46 Earlier in the life of EESS, although DEWR had found IPs welcomed EESS 'on the whole', the department expressed considerable frustration in dealing with cases where IPs remained uncooperative. The ANAO found evidence that, despite DEWR's subsequent efforts (including the IP manual), some IPs remain unco-operative. DEWR has highlighted on at least one occasion in its monthly internal performance reports that an IP is 'noted for non-co-operation'. Any unwillingness on the part of IPs to co-operate presents difficulties in managing the schemes. DEWR states that its strategy for dealing with unco-operative IPs involves using statutory declarations and accountants in appropriate cases. DEWR has also advised that it has found IPs are welcoming GEERS and are increasingly willing to co-operate with the department in the operation of the new scheme.

6.47 The ANAO notes that there is no regular consultative forum between DEWR and industry representative bodies, such as IPAA and the Insolvency and Trustee Service Australia. The nominated IPAA representative advised the ANAO that, although communications had been good, IPAA saw merit in maintaining this through a formal consultative forum meeting at, say, quarterly intervals. The ANAO suggests that DEWR consider establishing a regular consultative arrangement in order to maintain good communication between the department and the industry.

Conclusion

6.48 DEWR has undertaken a range of targeted communications measures to ensure that potential claimants have the opportunity to lodge claims under EESS or GEERS. However, it is difficult for the department to be confident about the effectiveness of these without some further research. Given that EESS and GEERS processing is frequently delayed, there are also opportunities for DEWR to improve client service by ensuring that claimants are aware of what they can expect from the system and of the reason for any delays that occur.

6.49 The numbers of appeals against EESS and GEERS decisions rose during the first six months of 2002. DEWR is taking longer than its target time to resolve most cases. Monitoring processing and integration of the appeals register into EEBase would help DEWR to maintain the timeliness of resolving appeals.

6.50 IPs have a substantial and essential role in the successful operation of EESS and GEERS. DEWR has continued to provide informative advice to IPs about the schemes. The relationship between DEWR and IPs can be strengthened by formalising contact, possibly through a regular consultative mechanism.

7. Recovery from Assets

This chapter examines how DEWR has recovered funds from the distribution of assets of insolvent businesses, after making EESS or GEERS payments to the former employees.

Introduction

7.1 Recovery of funds by the Commonwealth from the sale of the assets of insolvent businesses is an important aspect of the EESS and GEERS schemes. DEWR pays outstanding entitlements as an advance. The department does this only when the IP in the case formally recognises that there is, as a consequence, a debt to the Commonwealth. This establishes the Commonwealth's priority as a creditor to the insolvent business. DEWR articulates the intent of its recovery policy thus: 'Where taxpayer funds have been distributed under the scheme for the benefit of employees, these should be recovered from insolvent businesses or bankruptcies wherever possible'.

7.2 The history of insolvencies shows that recovery takes time; for example, IPAA advises that it takes an average of two years to realise business assets. Nevertheless, DEWR seeks to maximise its prospects of recovery, and this partly offsets the costs of making payments to employees under the schemes.

7.3 This performance audit was conducted two years after the commencement of EESS. Therefore, on the basis of IPAA advice, it is reasonable to expect some experience with recovering funds to have been gained and early trends to be emerging as to the aggregate rate of recovery.

7.4 The ANAO examined the level of recovery achieved to date and how DEWR was setting about this task.

Recovery outcomes

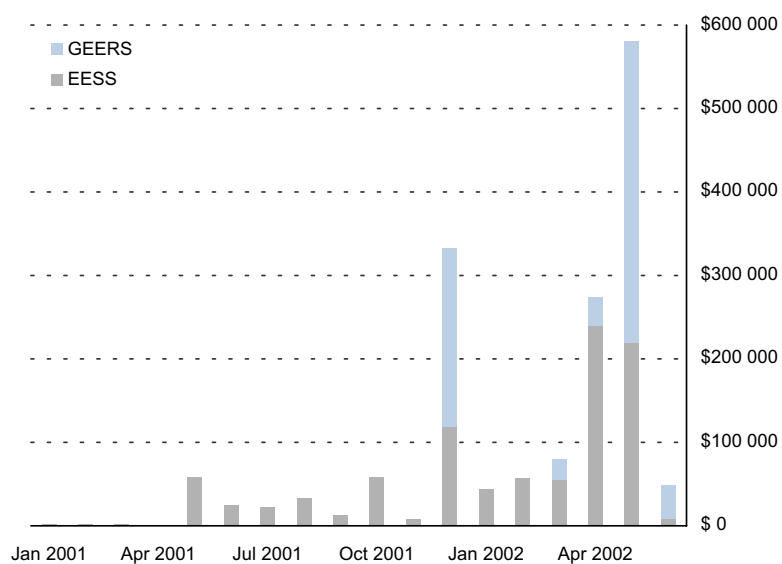
7.5 The ANAO obtained, from DEWR's BIS financial system, records of recovery payments actually received. The results of the ANAO's analysis of this data from January 2001 to June 2002 are set out in Table 7.1.²⁶ The amounts recovered and numbers of recoveries are set out in Figure 7.1 and Figure 7.2 respectively (based on the same ANAO analysis). Both were greater in the period from December 2001 than at any earlier time. This may reflect the maturing of the process consistent with the IPAA estimate mentioned above of the time taken to resolve insolvency cases.

²⁶ By late August 2002, DEWR had recovered over \$2 million in aggregate, around 3 per cent of the value of payments made to 30 June 2002.

Table 7.1**Recoveries by the Commonwealth under EESS and GEERS,
January 2001–June 2002**

	EESS	GEERS	Total
Total amount recovered	\$963 456	\$673 581	\$1 637 037
Number of recoveries	91	12	103
Mean value	\$10 587	\$56 132	\$15 894

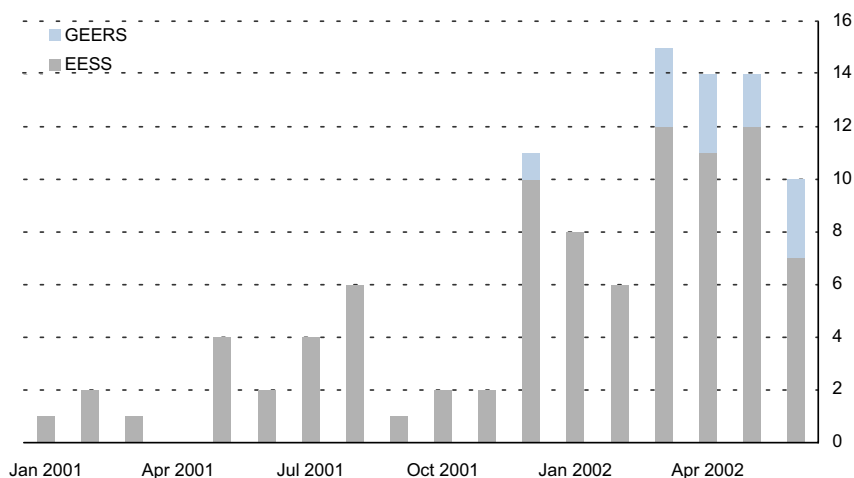
Source: ANAO analysis of data supplied by DEWR from its BIS system.

Figure 7.1**Amounts recovered by DEWR from the assets of insolvent companies—
totals by month, January 2001 – June 2002**

Source: ANAO analysis of data derived from DEWR's financial system, BIS.

Figure 7.2

Numbers of recoveries by DEWR from insolvencies, by month, January 2001 – June 2002



Source: ANAO analysis of data derived from DEWR's financial system, BIS.

Organisation of recovery

7.6 In reviewing how DEWR was setting about recovering funds, the ANAO examined:

- the process by which the debt to the Commonwealth is established. Under the current arrangements, this is an essential prerequisite to successful recovery;
- DEWR follow-up action to secure recovery, including monitoring relevant trends in the industry; and
- how DEWR is dealing with outstanding debts to the Commonwealth.

Establishment of the debt

7.7 Under the policy framework provided by the Operational Arrangements, most EESS and GEERS payments to claimants are made through IPs. This process also establishes the Commonwealth's right to recovery in a case where it has funded unpaid employee entitlements under EESS or GEERS. From a legal perspective, the Commonwealth regards its advance as a loan, which the IP agrees to use only to pay employees who are owed legal entitlements by the business. The Commonwealth then becomes a priority creditor of the insolvent business, in effect, stepping into the creditor position occupied by the employees whose entitlements it has funded. However, the Commonwealth is a creditor

only to the extent of the funding it has provided. In cases of liquidation this is achieved under s.560 of the *Corporations Act 2001*, which confers on the Commonwealth the same priority as the employees would have had as unsecured creditors under s. 556(1) of the Act. Where the creditors of the business decide on a deed of company arrangement DEWR seeks an agreement to the same priority for the Commonwealth as it would receive under the s. 560 mechanism.

7.8 An essential procedural step, therefore, is getting the IP in the case to recognise formally that the Commonwealth's payment of the unpaid employee entitlements creates a debt to the insolvent business. DEWR achieves this by sending a letter to the IP, the second page of which is a form the IP can sign to indicate their agreement, and return to DEWR. This then establishes the Commonwealth's creditor status and its place in the queue for payment when the assets of the insolvent business are eventually sold. If the IP did not agree to recognise the debt under the Act this would prohibit recovery from the assets of the business. DEWR advised that, in such circumstances, funds could not normally be advanced for former employees under either EESS or GEERS.

7.9 DEWR stated that only in a very small number of cases had the IP failed to agree to recognise the debt. These are usually cases where there is a suspected impropriety or illegality involving the business or the employees. DEWR advised that, since such cases had been infrequent, the department does not have a defined procedure for handling them. Senior officers within DEWR normally deal with these cases on an individual basis and DEWR advised that no statistics on these cases are available. The ANAO suggests that statistics be kept in future.

DEWR follow-up action

7.10 DEWR advised the ANAO that responsibility for recovery is distributed among its EESS and GEERS case management teams, who undertake recovery work as part of their normal case management duties. DEWR has not created a special functional unit or expert cell to deal with recovery.

7.11 Once DEWR has IP agreement to distribute EESS and GEERS funds to former employees it allows existing insolvency processes to run their course through to the conclusion of the recovery process. After seeking IP agreement to the conditions of funding, the only other two actions required of case managers in the procedural guidelines are (i) seeking advice from IPs on the likelihood of recovery and (ii) writing a follow-up letter two to three months later if nothing is heard. No account is taken in existing procedures of the magnitude of the payments made under EESS or GEERS or the probability of successful recovery action.

7.12 DEWR advised the ANAO that once funds from the Commonwealth are advanced to the insolvent business, there is a legal obligation on the IP to distribute any dividend from the business assets according to the priorities in the Corporations Act. The ANAO found no evidence of any monitoring of these actions.

7.13 The Operational Arrangements for GEERS provide that DEWR ‘may decide to use other methods of recovery in particular cases’.²⁷ For example, in a case of deliberate fraud, DEWR would not have to rely on the Operational Arrangements to seek recovery. However, to date, no other method of recovering funds has been invoked or relied upon.

Optimising recovery

7.14 The current approach to recovery is consistent with the administration of EESS and GEERS being perceived as complementary to pre-existing insolvency processes. DEWR has stated that the Commonwealth can do no more than await the outcome of the winding up of the affairs of the insolvent company. It has a procedure and pro forma letter for following up IPs at three-month intervals. However, there are no monitoring arrangements or systematic records to verify that this action has been occurring.²⁸ In effect, the current insolvency framework is largely left to run its course and the process is assumed to provide the appropriate amounts to the Commonwealth in due course should there be a realisation of assets.

7.15 The ANAO considers that DEWR’s approach is unlikely to yield the optimum outcome for the Commonwealth. The IPAA representative advised the ANAO that IPAA believed there were opportunities for DEWR to be a more ‘active creditor’—that is, to be more attentive to recovery of its debts.

7.16 The ANAO accepts that recovery and distribution of funds is the formal role of the IP. However, this does not mean that the Commonwealth cannot be a more ‘active creditor’. DEWR has advised that its own discussions with IPAA revealed a view that the very existence of GEERS is reducing the pressure on IPs to pursue debtors and is thought to be affecting GEERS recovery. Given that, with the introduction of EESS and GEERS, one creditor or group of creditors under the Corporations Act (the employees) has been replaced by another (the Commonwealth) the question must arise as to what has diminished that pressure. It is likely that the former employees would have had a strong personal interest in recovering their unpaid entitlements and they would have pursued the IP to do so on their behalf. In contrast, DEWR does not pursue the IP very actively.

²⁷ On this point GEERS rules differ from those of EESS. DEWR advised that the same statement is not included in the EESS Operational Arrangements because no such potential need was identified at that time.

²⁸ The completeness of and adherence to procedures and quality-checking of processing action are addressed directly in Chapter 2.

7.17 The IPAA representative advised the ANAO that, in many insolvency cases likely to arise under EESS and GEERS, it was highly probable that insolvent trading had taken place. However, where the Commonwealth had paid some of the monies owed to former employees there could then be little residual incentive for the IP to pursue the directors responsible for the insolvent trading. This would especially be the case where the insolvent business had little or no assets.

7.18 There is evidence from views expressed by IPs that the insolvency industry is expecting the Commonwealth to take a more active role. Also, during the course of the audit, DEWR had further discussions with IPAA on the recovery issue and advised that IPAA had agreed that IPs could be more 'proactive' in recovering funds and that GEERS would benefit from this.

7.19 In summary, DEWR could become a more active creditor primarily by more consistent and persistent following-up of outstanding recovery action with IPs. This could be done on the basis of risk and materiality, which, as noted above, the current process does not address. It would signal to IPs the importance the Commonwealth places on debt recovery.

Recommendation No.9

7.20 The ANAO recommends that DEWR enhance its recovery strategy to more actively manage the Commonwealth's interests as a creditor in EESS and GEERS cases. The strategy would involve tailoring working relationships with IPs according to the potential return in the case.

DEWR response

Agree. The department's existing recovery strategy provides a cost-effective means of managing the Commonwealth's interests. EESS and GEERS advances are made on the basis that they will be repaid from the assets of the insolvent business on terms that are consistent with the Corporations Act 2001. DEWR, as a creditor, must be informed of any intended distributions by the IP. The Commonwealth is dependent on the insolvency practitioner to that extent, noting that an insolvency practitioner must meet obligations imposed by the Corporations Act or put at risk his or her capacity to continue to operate in the role.

DEWR procedures also require that three months after EESS or GEERS funds have been advanced, DEWR writes to the IP to determine whether a dividend will be paid or whether the company/business has been wound up and there will be no distribution of assets to creditors of the company/business. This process is repeated each quarter until the advance is repaid in full or the insolvency practitioner advises that no further distributions will be made. The recovery strategy will be further informed by the current business model review.

7.21 The key step in managing the Commonwealth's interests as a creditor is to establish, in consultation with the IP, as early as possible the amount likely to be recovered and time it is expected to take. Based on that information, cost-effective contact arrangements can be designed to follow up the progress of the case with the IP. Effective liaison with the IP in these circumstances will require an understanding of the issues the IP is dealing with, such as the status of the insolvent business's financial accounts, the extent of assets, and other legal and financial matters.

7.22 Cost-effective options could therefore include:

- enhancement of the procedural framework to assist non-specialist staff in dealing with IPs on recovery matters; and/or
- the use of a specialist unit to manage interaction with IPs in relation to recovery and, more generally, to help ensure that the Commonwealth's interests are fully represented.

Conclusion

7.23 The Commonwealth has begun to receive significant amounts of recovered funds only during 2002. This is reasonable as it is consistent with industry advice on the time it takes to realise business assets after insolvency. However, effective recovery will require DEWR to become a more active creditor, including following up IPs with more vigour to ensure that they are taking all appropriate action.

8. Funding Arrangements

This chapter examines the funding arrangements for EESS and GEERS and explains how these have operated.

Intended arrangements

8.1 When the Government decided to establish EESS in February 2000, it also decided that payments of entitlements under the scheme would be made from a fund to be established and maintained by the Commonwealth as a special account. A special account can be established by the Finance Minister under section 20 of the FMA Act.

8.2 A special account under the FMA Act is a ledger within the Consolidated Revenue Fund. It is used to record monies received or expended for designated purposes. Finance guidelines state that special accounts may be established to deal with monies that are to be set aside for specific purposes. The Australian Government Solicitor (AGS) advised DEWR on this point as follows:

Special Accounts established under the Financial Management and Accountability Act 1997 ('the FMA Act') are merely divisions of the Consolidated Revenue Fund (CRF). They can therefore only be used in relation to money that is properly accounted for as a part of the CRF, i.e. money that has been received by the Executive Government of the Commonwealth (see section 81 of the Constitution). A Special Account serves to ear-mark money for the purposes for which the Account is established, enables the appropriation in section 20(4) of the FMA Act to be relied upon for expenditure for those purposes and generally facilitates keeping track of receipts and expenditure relating to the particular purpose, activity or business in respect of which the Special Account has been established.²⁹

8.3 When the special account was established, the Government expected that the Commonwealth would meet 50 per cent of the assessed entitlement for each insolvency and the relevant State or Territory jurisdiction would meet the other 50 per cent. This was the reason for using a special account. It was intended to hold contributions from participating States and Territories, as well as funds provided by the Commonwealth from the Consolidated Revenue Fund. There was also an expectation that recovery would run at about 15 per cent with an 18 month lag and that an equivalent amount to these funds would be placed in the account and contribute to the funding of the scheme.

8.4 DEWR has confirmed that the account was expected to hold a reserve of funds and those funds not immediately required were to be invested. To facilitate administration, contributions were expected to be allocated to the fund on the basis of *expected* demand rather than after an entitlement had been paid out.

²⁹ AGS written advice of 18 October 2001.

Establishment of the special account

8.5 A determination to establish a special account was made on 13 March 2000 by a delegate of the Finance Chief Executive. That established the Employee Entitlements Support Scheme Account as a special account under s. 20 of the FMA Act. Such a determination must specify the purpose of the special account. It provided, *inter alia*, that:

the purposes for which amounts may be debited to the account are:

- (1) For payments of outstanding employee entitlements under the Employee Entitlements Support Scheme and related purposes; and
- (2) Expenditure directly attributable to the administration of the Scheme.

8.6 The determination, a disallowable instrument, was tabled in Parliament on 15 March 2000 and gazetted on 22 March 2000. Each DEWR/SB/DEWR PBS has recorded, in a special note against employee entitlements schemes, that 'administration for these schemes is funded wholly from the administered appropriation and is therefore not included in departmental outputs'.

8.7 In relation to its departmental expenses on EESS, DEWR advised that the implementation required significant set-up costs, for example, developing a computer system. The appropriation did not include the establishment of a formal cap on departmental expenses, but the department sought to minimise departmental expenditure. During the implementation of GEERS, DEWR and Finance negotiated a cap of \$5 million a year. DEWR monitors expenditure for departmental expenses using appropriate charge codes in its financial system, BIS.

Operation of the special account

8.8 DEWR has advised that the practical operation of the account has been as follows, with some variation from the expectations stated above:

- Both EESS and GEERS use the one special account (without sub-accounts). On requests from DEWR, Finance transfers funds from the Consolidated Revenue Fund to the special account. DEWR draws funds from the Special Account as required to meet payments processed in BIS against the relevant charge codes. DEWR invoices State or Territory governments after relevant EESS payments are made. When DEWR receives State or Territory Government contributions, the payments are receipted and recorded in BIS, thereby transferring them to the Special Account.

- The drawdown of funds from the Consolidated Revenue Fund to the special account is done in small amounts (relative to the overall appropriation). The timing and size of the drawdowns depends on the level of demand. Generally, drawdowns of \$10 million are made as required. Administered payments are made from the special account as required, while departmental costs are drawn down from the Special Account retrospectively each month.
- Funds received from returned payments or recoveries are handled in the same way as contributions from State or Territory governments, with all payments receipted, recorded in BIS and thus transferred to the special account. The codes against which these payments are receipted differs according to the type of payment (that is, State contribution, recovery, and so on).
- Where a State or Territory has confirmed that it will contribute to an EESS payment, contributions have been made retrospectively. Operationally the Commonwealth makes the full EESS payment and invoices the State or Territory for their contribution. Only South Australia and the Northern Territory have contributed to EESS payments.
- There has been no option or opportunity for the department to invest funds as (i) funds in the special account are drawn down only on the basis of demand; (ii) few States and Territories contributed to the scheme and (iii) those that did so chose to provide funds retrospectively. The account balance is 'swept' by Finance at the close of business each day.

8.9 The special account is also being used for the replacement scheme, GEERS, even though GEERS is fully Commonwealth-funded.

8.10 Shortly after the inception of GEERS, DEWR sought legal advice on whether a special account was needed for GEERS and whether the pre-existing EESS special account could be used for GEERS. The AGS advised DEWR in October 2001:

In my view, GEERS can be operated without a Special Account. Whether a Special Account is desirable for accounting or financial transparency reasons is a matter for the Department of Finance and Administration. *The Special Account established for EESS could not be used for GEERS.* In any case, if the use of a Special Account for GEERS were considered desirable for accounting or transparency reasons, the use of a Special Account servicing two schemes would not appear to achieve that purpose [emphasis added].

8.11 Although DEWR received this advice that the EESS special account could *not* be used for GEERS, it proceeded to do so.

8.12 After some 10 months and after the ANAO had raised the question of the appropriateness of using the EESS special account for GEERS, DEWR sought further legal advice. On this occasion the department asked specifically whether GEERS could be regarded as a 'related purpose' under the determination. The AGS then advised that, while the position was not free from doubt:

there is a reasonable argument that payments under, and relating to, GEERS were properly debited to the EESS Special Account. However, if GEERS is to be operated from a Special Account in the future, I think it would clearly be desirable for the determination relating to the EESS Special Account to be amended to make it clear that the Account can be used for GEERS. Alternatively, a new Special Account could be established specifically for GEERS.

8.13 DEWR was unable to provide evidence that, at the time it received the original legal advice, it assessed the consequential risk to proceeding as it did. The department advised in September 2002 that:

the original request for advice was not fulsome in its description of the background to the special account nor the circumstances surrounding the introduction of GEERS. Therefore, we sought urgent clarification from AGS of their original advice taking into account the additional information we provided regarding the total circumstances surrounding the issue.

8.14 DEWR has, in other instances, assessed risks to the program emerging from legal advice and acted accordingly. The ANAO suggests, in this case, that the agency consider whether arrangements established over the past year, after the formation of the current department, are the most appropriate in the circumstances.

8.15 DEWR has been seeking to eliminate any doubt about the current arrangements for funding GEERS. However, there have been material changes between certain important assumptions on which EESS was implemented and how GEERS operates. Most particularly, GEERS is wholly Commonwealth funded. In addition, recovery appears lower than anticipated with a greater lag, reducing significantly any 'self-funding' in the scheme. In the light of these changes, and the AGS advice (cited above) that GEERS can be operated without a Special Account, the ANAO suggests that DEWR ensure the most appropriate mechanism is adopted for funding the scheme going forward.

Conclusion

8.16 The funding arrangements for the EESS and GEERS schemes are unusual in that all funds for the schemes are provided through a special account. This arrangement derives from the original conception of how EESS would operate, with contributions from States and Territories.

8.17 Although it had originally received legal advice that the special account could not be used for GEERS, DEWR continued to do so. DEWR is now seeking to address the legal basis of GEERS funding. However, given that States and Territories are not expected to contribute to GEERS funding, it is not clear that a special account remains the most appropriate mechanism for funding arrangements.

A handwritten signature in black ink, appearing to read 'P. J. Barrett', is positioned above the printed name.

P. J. Barrett
Auditor-General

Canberra ACT
10 December 2002

Appendices

Appendix 1

Supplementary statistical data

The constituents of EESS and GEERS payments

EESS and GEERS payments comprise unpaid employee entitlements made up of wages, long service leave, payment in lieu of notice and redundancy pay. The detail of the proportions of each of these is set out in Table A.1.

Table A.1

The constituents of EESS and GEERS payments

	<i>EESS</i>		<i>GEERS</i>		<i>Total</i>	
	<i>Amount</i>	<i>Proportion</i>	<i>Amount</i>	<i>Proportion</i>	<i>Amount</i>	<i>Proportion</i>
Wages	\$2 214 651	10.5%	\$4 362 139	9.9%	\$6 576 791	10.1%
Annual leave	\$5 641 895	26.8%	\$10 381 002	23.5%	\$16 022 897	24.6%
Long service leave	\$3 861 856	18.3%	\$8 549 414	19.4%	\$12 411 270	19.0%
Payment in lieu of notice	\$4 906 922	23.3%	\$11 368 622	25.8%	\$16 275 544	25.0%
Redundancy pay	\$4 426 250	21.0%	\$9 458 274	21.4%	\$13 884 524	21.3%
Total	\$21 051 574	100.0%	\$44 119 452	100.0%	\$65 171 026	100.0%

Source: DEWR; data extracted from BIS financial system

Payments to insolvency practitioners

DEWR pays IPs to undertake certain tasks to help the department administer EESS and GEERS. Summary data on these payments is set out below.

- In total, DEWR made 426 payments to IPs and expended \$897 465 on accountancy services for EESS and GEERS from the inception of EESS to 30 June 2002.
- The average (mean) payment was \$2107. The highest was \$90 909.
- The expenditure pattern and number of payments per month are set out in Figure A.1 and Figure A.2 respectively.

Figure A.1

Total amounts expended by DEWR on IP services for EESS and GEERS, by month June 2000–June 2002

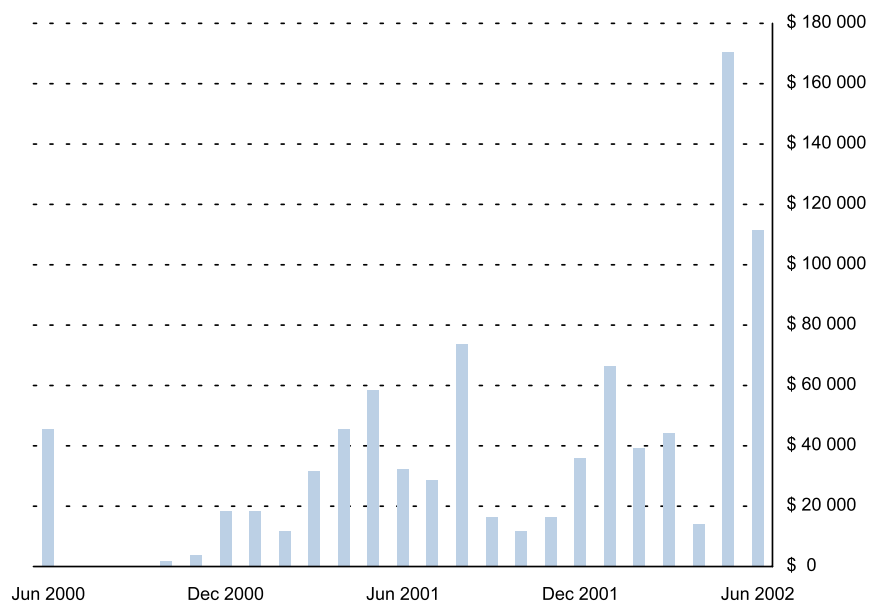
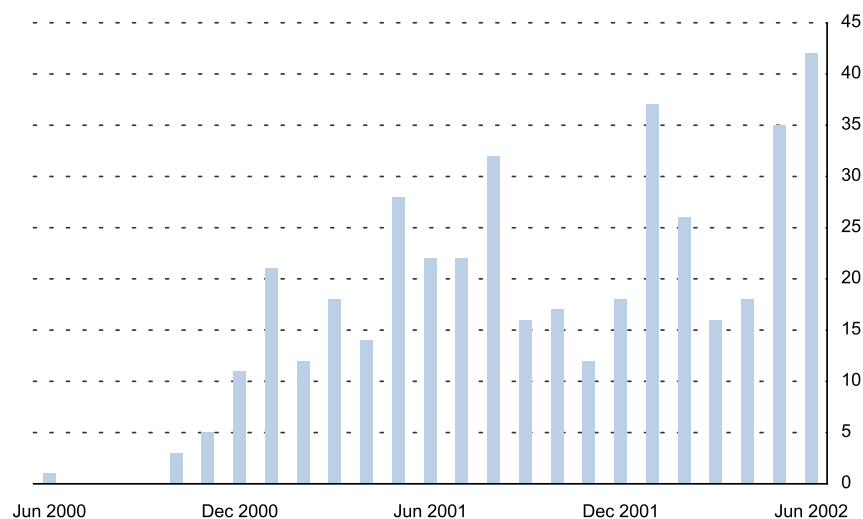


Figure A.2

Total numbers of payments by DEWR for IP services for EESS and GEERS, by month June 2000–June 2002



Payments to accountants

DEWR pays accountants to undertake certain tasks to help the department administer EESS and GEERS. Summary data on these payments is set out below.

- In total, DEWR made 226 payments to accountants and expended \$608 629 on accountancy services for EESS and GEERS from the inception of EESS to 30 June 2002.
- The average (mean) payment was \$2693. The highest was \$46 364.
- The expenditure pattern and numbers of payments per month are set out in Figure A.3 and Figure A.3 respectively.

Figure A.3

Total amounts expended by DEWR on accountant services for EESS and GEERS, by month June 2000 – June 2002

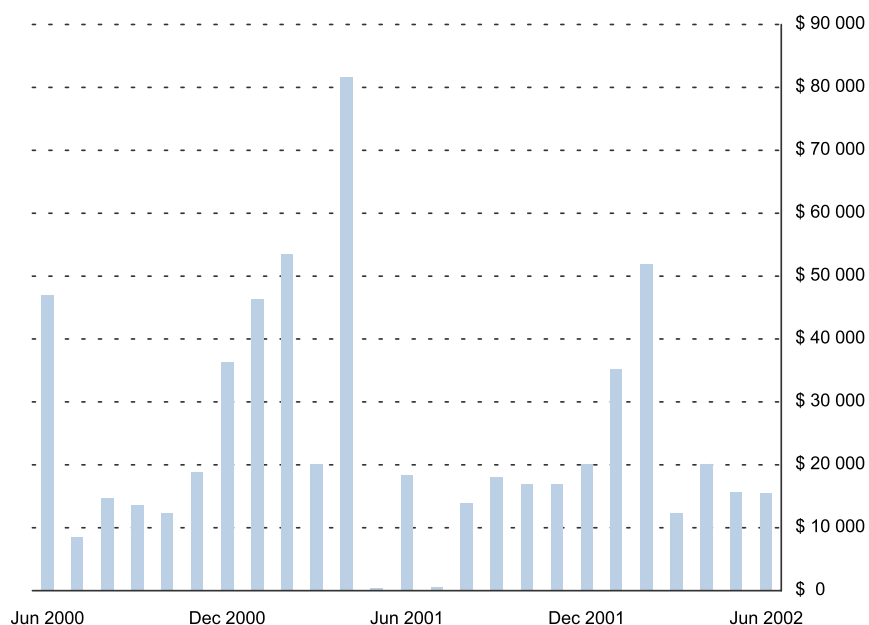
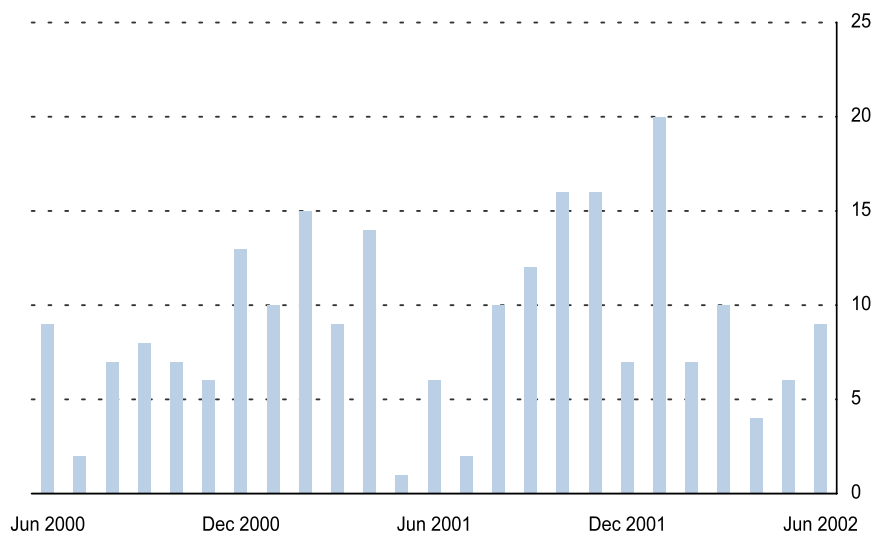


Figure A.4

Total numbers of payments by DEWR for accountant services for EESS and GEERS, by month June 2000 – June 2002

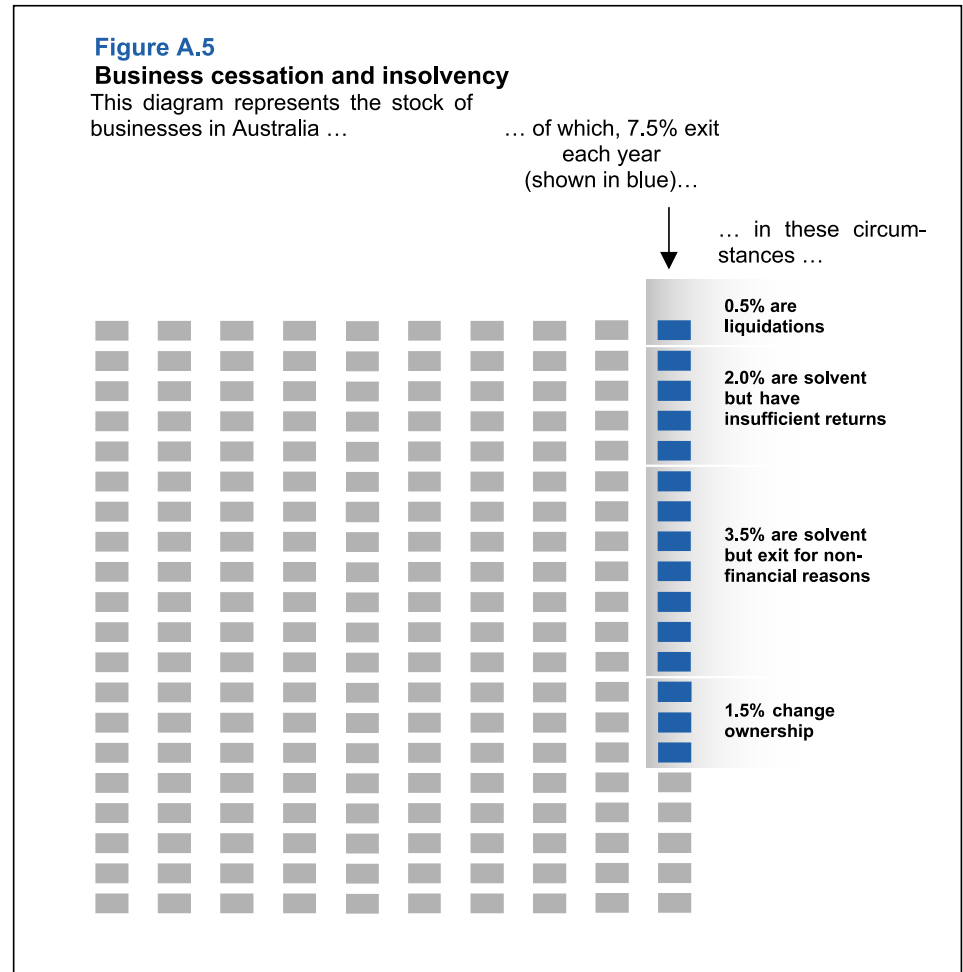


Appendix 2

Contextual data

Business cessation and insolvency

A Staff Research Paper published by the Productivity Commission in December 2000, (Bickerdyke, I., Lattimore, R. & Madge, A., *Business failure and change: an Australian perspective*, Ausinfo, Canberra), concludes that around 7.5 per cent of businesses exit ('go out of business') each year. Around 80 per cent of exits are business cessations, with changes in ownership accounting for the remainder. The majority of cessations consist of solvent businesses closing for non-financial reasons (such as the owner retiring). The remainder may be classed as 'business failure'. However, most have remained solvent. The paper concluded that only around half of 1 per cent of the existing stock of businesses fail through insolvency (liquidation or bankruptcy) each year. This is illustrated in Figure A.5. The data used was based on Australian Bureau of Statistics survey work in 1997.



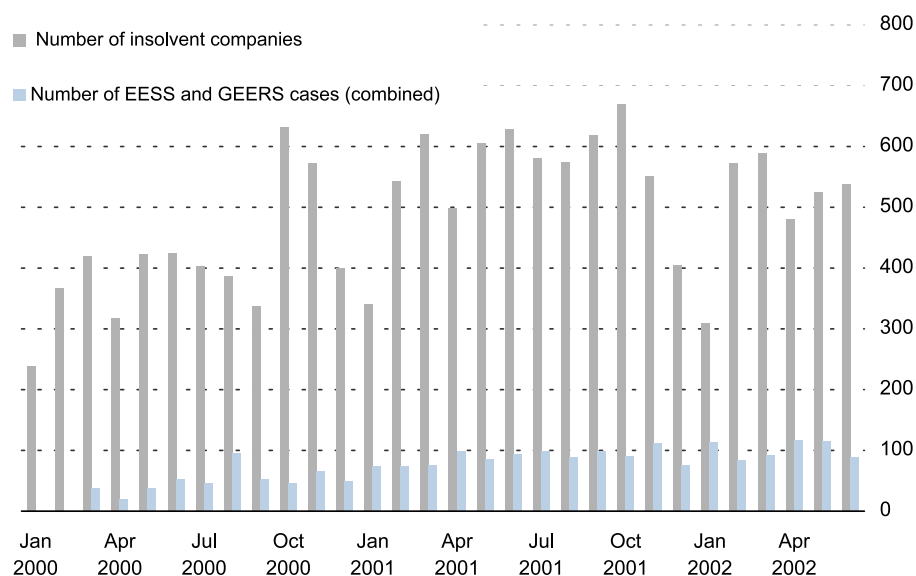
Company insolvencies

The Australian Securities and Investments Commission (ASIC) provides data on the numbers of company insolvencies in Australia. This represents the number of companies that have entered a form of external administration for the first time. This data does not include non-incorporated bodies (personal bankruptcies). However, very few bankruptcies involve an employment relationship and very few EESS and GEERS cases derive from bankruptcies. Therefore, the great majority of EESS and GEERS cases are a subset of the insolvent companies reported by ASIC.

Figure A.6 shows both the numbers of companies declared insolvent each month from January 2000 to June 2002 and the numbers of EESS and GEERS cases commencing from March 2000 to June 2002. Care is needed in comparing these series of data because the date of entering external administration may not coincide with any consequent employee terminations or the date of a corresponding inception of an EESS or GEERS case at DEWR. However, looking at the data broadly, the total number of EESS and GEERS cases has been about 16 per cent of the number of companies declared insolvent in the same period, rising to around 19 per cent since the inception of GEERS. The data suggests that the greater proportion of insolvent companies do pay their employees their entitlements promptly at termination and, therefore, do not give rise to EESS and GEERS cases.

Figure A.6

Number of companies in Australia declared insolvent, and number of EESS and GEERS cases (combined) by month January 2000–June 2002



Source: ASIC data (insolvent companies) plus DEWR data (EESS and GEERS cases)

Appendix 3

Pro forma payment advice to claimants



National Office

GPO Box 9879 CANBERRA ACT 2601

«Title» «Firstname» «Surname»
«Postaladdress»
«POSTALSUBURB» «POSTALSTATE» «PostalPostCode»

Dear «Title» «Surname»

General Employee Entitlements and Redundancy Scheme (GEERS)

I am pleased to inform you that you have been assessed as eligible for payment under GEERS. GEERS provides a safety net arrangement for people who lose their jobs and employee entitlements, on or after 12 September 2001, because their employer becomes insolvent.

GEERS safety net payments are equivalent to existing unpaid legal entitlement derived from legislation, an award, a statutory agreement or a written contract of employment, as it was at the date of their former employer's insolvency. They may be eligible to receive payments equivalent to the following:

- wages;
- accrued annual leave;
- long service leave;
- pay in lieu of notice; and
- up to 8 weeks redundancy payment (subject to the existence of a legal entitlement)

Workers who earned more than the GEERS annual income limit (\$75 200 for 2001–2002 or \$81 500 for 2002–2003, indexed annually) will have GEERS payments calculated as if they earned the income limit.

You should have received, or will shortly receive, a payment from «Dbo_Serviceprovidertradingname», insolvency practitioners for «Legalname» for your entitlement under GEERS.

The gross amount (ie before tax) of the GEERS payment for each of the following components is:

- | | |
|----------------|---------|
| • unpaid wages | «wages» |
| • annual leave | «al» |

- | | |
|------------------------------|---------|
| • long service leave | «lsl» |
| • payment in lieu of notice | «piiln» |
| • redundancy (severance pay) | «red» |

Total	«total»
--------------	----------------

However the insolvency practitioner will have taken tax out before you receive your payment.

Your payment has been calculated by using verified information from the company records where available and/or the relevant industrial award, employment contract or federal legislation under which you were employed. Where company records are unclear, we may use information you have provided as a basis for our payments. You will not receive a payment where there is no legal entitlement owing to you from the verified company records or under the relevant employment instrument.

You should contact Centrelink as soon as possible if you are currently receiving an income support benefit such as Newstart or Mature Age Allowance. Your payment under GEERS may impact on your benefits. In the interests of ensuring that you are not overpaid any income support benefits, we are advising Centrelink of the details of payments made under GEERS to employees.

Please telephone the Hotline on, 1300 135 040, if you have any questions about the information in this letter or about GEERS in general.

The department has now finalised your claim. If you would like to dispute your entitlement under GEERS, you should write to:

Employee Entitlements Branch (LC 64N31)
Department of Employment and Workplace Relations
GPO Box 9879
Canberra ACT 2601

outlining your reasons for disagreeing with the department's decision. Your claim will then be reviewed by a senior officer not involved with the original decision. You may complain to the Commonwealth Ombudsman about any aspect of the way your claim has been administered. The Ombudsman will usually require that you have raised your concerns with the Department, and given it a reasonable opportunity to respond to them, before approaching his office. The Ombudsman can be contacted on 1300 362 072 for the cost of a local call.

Yours sincerely

«CaseManager1»
Employee Entitlements Branch
Workplace Relations Services Group
28 November 2002

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