

The Auditor-General
Audit Report No.29 2003-04
Performance Audit

Governance of the National Health and Medical Research Council

National Health and Medical Research Council

Department of Health and Ageing

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of Australia 2003

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Canberra ACT
20 February 2004

Dear Mr President
Dear Mr Speaker

The Australian National Audit Office has undertaken a performance audit in the National Health and Medical Research Council and the Department of Health and Ageing in accordance with the authority contained in the *Auditor-General Act 1997*. Pursuant to Senate Standing Order 166 relating to the presentation of documents when the Senate is not sitting, I present the report of this audit and the accompanying brochure to the Parliament. The report is titled *Governance of the National Health and Medical Research Council*.

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, appearing to read 'Oliver Winder'.

Oliver Winder
Acting 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

AFC	Audit and Fraud Control
AHEC	Australian Health Ethics Committee
ANAO	Australian National Audit Office
ARC	Australian Research Council
ART	Assisted Reproductive Technology
CAC Act	<i>Commonwealth Authorities and Companies Act 1997</i>
CEI	Chief Executive's Instructions
CEO	NHMRC Chief Executive Officer
Council	National Health and Medical Research Council
Finance	Department of Finance and Administration
FMA Act	<i>Financial Management and Accountability Act 1997</i>
FMIS	Financial Management Information System
HAC	Health Advisory Committee
Health	Department of Health and Ageing
HREC	Human Research Ethics Committee
MREA	Medical Research Endowment Account
Minister	Minister for Health and Ageing
MoU	Memorandum of Understanding
NHMRC	National Health and Medical Research Council
NHMRC Act	<i>National Health and Medical Research Council Act 1992</i>
ONHMRC	Office of the National Health and Medical Research Council
PBS	Portfolio Budget Statements
PHC Act	<i>Prohibition of Human Cloning Act 2002</i>
PMF	Performance Measurement Framework
PS Act	<i>Public Service Act 1999</i>

RIHE Act	<i>Research Involving Human Embryos Act 2002</i>
RMIS	Research Management Information System
ROEM	Research Outcome Evaluation Model
Secretary	Secretary of the Department of Health and Ageing
TGA	Therapeutic Goods Administration

Summary and Recommendations

Summary

Background

1. This audit examines the National Health and Medical Research Council's (Council's) governance and administrative systems. The Australian National Audit Office (ANAO) has made five recommendations to the Council and one recommendation to the Department of Health and Ageing (Health) to improve these systems.

2. Since 1936, the Council¹ has fostered health and medical research in Australia. The Council was established as a body corporate by the *National Health and Medical Research Council Act 1992* (NHMRC Act), with the following objectives:

- raising the standard of individual and public health throughout Australia;
- fostering the development of consistent health standards between the various States and Territories;
- fostering medical research and training and public health research and training throughout Australia; and
- fostering consideration of ethical issues relating to health.

3. A major role for the Council is to advise the Minister for Health and Ageing (the Minister) on the strategic direction of health and medical research in Australia. The Principal Committees² of the Council are responsible for: advising the Council and recommending the allocation of Commonwealth funding for health and medical research; the development and oversight of ethical guidelines governing the conduct of research involving humans; the development and production of health advice guidelines and associated materials; and overseeing the national regulatory system established under the *Research Involving Human Embryos Act 2002* (RIHE Act) and *Prohibition of Human Cloning Act 2002* (PHC Act).

4. The Secretariat³ supports the Council in the performance of its statutory functions. The Secretariat works with the Council and its committees to: process health and medical research funding applications;

¹ The constitution of the Council (currently 29 members) is prescribed by the NHMRC Act, Part 4, Division 1.

² The NHMRC Act establishes Principal Committees to assist the Council to carry out its functions (Part 5).

³ For the purposes of this report, the term Secretariat refers to departmental staff made available to the Council under S45(2) of the NHMRC Act.

coordinate assessment processes and administer continuing awards; develop and publish health advice guidelines and related materials; support more than 200 Human Research Ethics Committees (HRECs)⁴ in institutions and organisations across Australia; and process licence applications, as well as supporting assessment processes, issuing licences, and monitoring compliance under the RIHE Act and PHC Act. The Secretariat also provides corporate services to the Council, and supports the Council's participation in Parliamentary processes, communication with the Minister, and interactions with other Australian Government agencies and portfolios. The Chief Executive Officer (CEO) of the Council has statutory responsibility for the day-to-day activities of the Council including the oversight of Secretariat support to the Council and its committees.

5. In 2002–03, administered⁵ expenditure on medical research awards⁶ was \$266.5 million. The Secretariat—which comprised 128 staff—had an operational budget⁷ of \$12.1 million, with an additional \$3.2 million in administered funding used to support the Council, its committees and other operational costs.

6. The findings of a major review of health and medical research in Australia—the Health and Medical Research Strategic Review⁸ (Wills Review)—were released in May 1999. In response to the Wills Review, the Australian Government, in the 1999–2000 Federal Budget, increased health and medical research funding by \$614 million over six years. The Council and its Secretariat have undertaken functional and operational reforms to support the implementation of the Wills Review's recommendations and the resulting expansion in Australian Government funding.

7. In 2000, Parliament passed amendments to the NHMRC Act, which included a provision for a CEO for the Council. Day-to-day administrative

⁴ Institutions and organisations in which research involving humans is undertaken must establish an HREC in accordance with the NHMRC's *National Statement on the Ethical Conduct in Research Involving Humans*. The task of HRECs is to review proposals for research involving humans and to ensure that such research is soundly designed and conducted according to high ethical standards.

⁵ Administered items are those assets, liabilities, revenues and expenses controlled by the Government and managed or overseen by agencies or authorities on behalf of Government.

⁶ For the purposes of this report, the ANAO uses the term 'award' to represent the mechanisms used by the NHMRC to distribute funding for health and medical research. It includes the mechanisms defined by the NHMRC as *Research Grants*, *People Support Grants* and *Training Awards*.

⁷ The NHMRC's operational budget is sourced from departmental items funding. Departmental items are those assets, liabilities, revenues and expenses controlled by agencies or authorities and used in producing their outputs.

⁸ The Wills Review was commissioned by the then Federal Minister for Health and Aged Care in March 1998. The focus of the Wills Review was on the future role of health and medical research in Australia to the year 2010.

support for the Council was subsequently separated from Health's divisional structure in preparation for the commencement of the inaugural CEO in January 2001.

8. The audit objective was to assess the administrative effectiveness of the Council's governance and administrative systems. The audit comments on a range of issues, including: administrative arrangements; accountability structures; legislative obligations; planning, monitoring and reporting of performance; and administrative systems.

Key Findings

9. The key findings below reflect upon the legislative framework and administrative arrangements under which the Council operates and their consequences. The key findings include some illustrative statements to facilitate understanding by readers.

Council-Health administrative arrangements (Chapter 2)

The facilities and staff required by the Council to perform its functions are provided by Health.

10. The Council is a body corporate under the NHMRC Act. However, the Act is silent on whether the Council is able to hold funds. The funding, facilities and staff required by the Council to support the performance of its functions are currently provided by Health.

The Secretary of Health determines the level of operational funding allocated to the Council.

11. The funds required to finance the operations of the Council are appropriated to Health as part of Health's operational funding. Although the Council operates under separate legislation, it competes with Health's divisions for its funding allocation. If Health's operational budget is cut, the Council may have to bear its share of the cut. Further, if the Government or Parliament increases the Council's responsibilities, the resources needed to discharge the increased responsibilities are determined by Health.

The Secretary is responsible for the proper use of resources allocated to health and medical research, but has limited influence on their allocation.

12. The NHMRC Act states that the Minister, acting on the advice of the Council, determines the allocation of health and medical research funding. This Act also requires the Council to monitor health and medical research funding. Over 90 per cent of the funds appropriated by

Parliament to Health for medical research are allocated to the Medical Research Endowment Account (MREA).⁹ However, the Secretary has limited control over how these funds are allocated to research projects. This is determined by the Council and is approved by the Minister.¹⁰ Yet, under Section 44 of the *Financial Management and Accountability Act 1997* (FMA Act),¹¹ the Secretary is responsible for the proper use of these resources.

Health and the Council have established a Memorandum of Understanding (MoU) to govern the provision of staff and facilities.

13. The NHMRC Act provides that the Council may enter into an arrangement with the Secretary to provide staff and facilities to assist the Council. An MoU was signed in March 2003, 33 months after the July 2000 separation of the Secretariat from Health's divisional structure.

The CEO requires authority delegated from the Secretary to manage the resources allocated to the Council to perform its functions.

14. Funding for medical research¹² and funding for operating the Council¹³ are appropriated by Parliament to Health. The Secretary has chosen to delegate her authority for financial tasks under the FMA Act to the CEO and senior officers in the Secretariat. The Secretary has also chosen to delegate limited authority under the *Public Service Act 1999* (PS Act) to enable the CEO to manage the day-to-day activities of departmental staff allocated to the Secretariat. These delegations facilitate administration and enable the CEO to discharge his responsibilities. However, they also mean that the CEO is the officer responsible to the Secretary for the proper use of the resources allocated to the Secretariat and for the human resource management of Secretariat staff.

The Council's CEO has lines of accountability to the Council, the Secretary, and the Minister.

15. The CEO is accountable to the Council for the day-to-day activities of the Council, including for the best use of the resources. At the same time, the CEO is accountable to the Secretary for the proper use of

⁹ The MREA is a special account established under the NHMRC Act. Payments are made from the MREA for medical research and public health research.

¹⁰ The Secretary can, however, advise the Minister on the allocation of health and medical research funding.

¹¹ A Chief Executive must manage the affairs of the agency in a way that promotes the proper use of the Commonwealth resources for which the Chief Executive is responsible. In this section proper use means the **efficient**, **effective** and **ethical** use (S 44, FMA Act).

¹² Administered items.

¹³ Departmental items

resources made available to the Council by Health. As the Minister appoints the CEO, the CEO is also accountable to the Minister for the discharge of his contract of employment.

The CEO has to balance the needs of two organisations.

16. Where there is a difference between the Council's intentions and the requirements of the department, the CEO is required to represent the interests of both the Council and Health.

Working within the legislative framework has required significant and ongoing effort from both the Council and Health.

17. The Council is accountable for the performance of its legislated functions and requires funding from Health to enable it to perform these functions. The Secretary supports the funding needs of the Council, as well as those of the rest of Health, and is accountable for the proper use of Commonwealth resources, but does not determine the Council's strategic objectives. These arrangements have necessitated significant and ongoing effort from both the Council and Health. The arrangements have also, in some instances, lead to tensions between the two agencies, which have required additional effort to resolve.

The CEO cannot delegate his financial authority.

18. Chief Executives of FMA agencies hold their financial authority under legislation and are able to delegate their authority, particularly during absences. The NHMRC CEO's financial authority is delegated from the Secretary and cannot be further delegated by the CEO.

The provision to appoint an acting CEO during the absence from office of the CEO has not been utilised.

19. Section 44F of the NHMRC Act provides that the Minister may appoint an acting CEO when the CEO is absent from duty or outside Australia. Before a person can act effectively as CEO, that person must also receive delegated powers from the Secretary. At the date of preparing this report, Section 44F had not been used. Further, appropriate arrangements to ensure the continuity of business operations in the absence of the CEO had not been established.

The Council and its committees (Chapter 3)

The Council has a hybrid governance structure.

20. The Council is established as a body corporate with a separate legal identity to the Commonwealth. While the Council appears similarly structured to a Commonwealth authority, i.e. with a CEO reporting to a board (Council) which is accountable to the Minister, it is not a

Commonwealth authority as it does not hold money on its own account. Overall, the Council's governance structure represents a hybrid of the accountability models established by the FMA Act and *Commonwealth Authorities and Companies Act 1997* (CAC Act).

The governance role of the Council is not clearly defined by its enabling legislation or wider administrative law.

21. The Council has an important governance role. This role stems from the Council's legal obligations as a body corporate and its statutory function of administration of the NHMRC Act. However, the NHMRC Act provides Council members with only limited guidance on their governance role and responsibilities. The Council is not subject to the CAC Act (nor to the FMA Act).¹⁴

The Council's structure is complex.

22. The Council's structure comprises: a statutory Council (currently 29 members) appointed by the Minister for Health and Ageing; three statutory committees¹⁵ established by two Acts,¹⁶ each headed by a statutory office holder appointed by the Minister for Health and Ageing and, in one case, the Minister for Ageing; one committee¹⁷ established by the Minister for Health and Ageing, whose head is appointed by that Minister; a CEO who is a statutory office holder and a member of the Council appointed by the Minister for Health and Ageing; and a Secretariat staffed by departmental officers, with Senior Executive Service officers appointed by the Secretary and other officers appointed by the CEO.

¹⁴ The NHMRC is not:

- a Commonwealth authority under the CAC Act;
- an FMA Agency;
- a prescribed agency under the FMA Act;
- incorporated under the *Corporations Act 2001*;
- a statutory agency established by an Act of Parliament for the purposes of the PS Act; nor
- established as an executive agency under the PS Act.

¹⁵ These are the Australian Health Ethics Committee, the Research Committee and the Licensing Committee.

¹⁶ These are the NHMRC Act and RIHE Act.

¹⁷ This is the Health Advisory Committee.

The Council's composition enables it to work as a peak stakeholder forum, but is less conducive to a governing role.

23. The large and diverse membership of the Council facilitates its ability to work as a peak forum providing policy and advice on health and medical research. The Wills Review reported that, while the Council's size and composition had advantages in meeting its roles under the NHMRC Act, it was an unworkable number to provide effective governance.¹⁸ Consistent with this was the view—expressed by Council members and Secretariat staff surveyed for this audit—that the Council's size, composition and legislative basis limit the effectiveness of the Council as a governing body. The Council is, however, working to address these matters within the scope of the legislative framework.

There is a lack of clarity over the roles and responsibilities, and consequently the accountability, of the Principal Committees, particularly in relation to the Council and the CEO.

24. There was a divergence of opinion between 2000–03 triennium Council members, Principal Committee members, and Secretariat staff as to an effective role, responsibility, accountability and reporting framework under which governance is enhanced and statutory compliance is assured.

The Council is working to clarify lines of accountability and authority.

25. The Council has formed a Management Committee, with the purpose of improving coordination across the Council, Principal Committees and the Secretariat. The Council has also endorsed role statements for itself, the Chair of Council and the CEO. The Council has foreshadowed a review of the NHMRC Act in its *Strategic Plan 2003–2006* to improve the clarity of its roles and responsibilities.

Legislated responsibilities and compliance arrangements (Chapter 4)

The Secretariat has identified and communicated the legislated obligations of the Council to members and Secretariat staff.

26. The Secretariat has identified statutory obligations arising from the Council's enabling and related legislation, with obligations communicated to staff and members through operational handbooks.

¹⁸ Health and Medical Research Strategic Review Committee, 1999, *The Virtuous Cycle: working together for health and medical research*, Commonwealth of Australia, Canberra, p.173.

Council member's capacity to monitor legislative compliance is limited.

27. The Council currently receives information from the Secretariat and its committees to enable members to monitor some aspects of legislative compliance. However, information currently provided to Council members is not sufficiently detailed to facilitate the effective monitoring of legislative compliance.

Planning, measuring and reporting performance (Chapter 5)

The Council and the Secretariat have developed strategic, business and operational plans, but need to develop a planning framework for greater effectiveness.

28. In compliance with its Act, the Council has developed a three-year strategic plan, which establishes the longer term direction of the Council. The Secretariat and Principal Committees have developed business plans and committee work programs to support the Council's strategic objectives. The Council does not, however, have a framework to coordinate its planning activities; to regulate the content of plans; and to integrate its strategic plan with committee work programs and Secretariat business plans.

There is limited integration of plans, including links between plans and budgets.

29. In regard to 2002–03 planning, the ANAO found limited integration of plans with gaps between them, limited performance measures, and minimal financial information in business plans. Further, the Council did not integrate budgeting processes with its planning processes.

The Council is working to strengthen its planning and budgeting processes.

30. The Council is improving its planning and budgeting by aligning its 2003–04 business planning and budgeting processes with those of Health. This is improving the rigour, content, alignment and timeliness of business planning and budgeting processes. It also assists the department to assess the Council's needs against the resource needs of other work areas.

The development of appropriate measures for health and medical research is complex.

31. Outcomes from health and medical research are generally long term. As a consequence, some impacts can only be measured over many years. This limits the volume of performance information available to support regular, shorter term reporting. It is also difficult to quantify the full impact of the Council's activities on the health and medical research

sector in Australia and, in turn, the impact on the health and well-being of the community.

32. Further, the broad range of activities undertaken by the Council necessitates a broad range of measures to facilitate performance assessment. This increases the complexity, time and cost of data collection. The ANAO has made suggestions in this report to assist the Council to further develop its performance measurement systems for greater effectiveness.

The Council measures its performance, but the observed limitations of its performance measurement systems impact its capacity to monitor performance effectively and efficiently.

33. The Council has established measures against which it monitors its performance. These measures are established under the Council's Performance Measurement Framework (PMF), Health's Portfolio Budget Statements (PBS),¹⁹ and, to a lesser extent, the Council's strategic and business plans. However, the Council's capacity to effectively and efficiently monitor its performance is limited. This is due to the large number of performance measures, limited integration between measurement systems, infrequent data collection, the limited use of quantifiable targets, and the lack of alignment between the PMF and strategic objectives. The Council does not have a framework to integrate long term health and medical research indicators with short term operational performance measures. Further, at the time of fieldwork, the Secretariat had not been routinely collecting and analysing performance data to facilitate the monitoring of actual performance against business plans.

The Council's calendar year annual report comments on operational performance, but does not report on its performance measures.

34. The Council's annual report provides extensive information on the activities of the Principal Committees, an overview of corporate issues, and details of awards. It does not, however, report against performance measures established in Health's PBS nor in the Council's PMF. Nor does it explicitly report on performance against objectives established in the Council's strategic plan. Information on financial resources used by the Council to perform its functions is contained in Health's annual report.

¹⁹ As funding required by the NHMRC to perform its functions is appropriated to Health, the NHMRC must contribute to Health's PBS and annual report.

Health's financial year annual report does not provide Council-specific financial and performance information.

35. Performance and financial information on the operations of the Council in Health's annual report is not separated from that of the department. There is also, in some instances, insufficient detail provided to explain important aspects of the Council's performance. As a result, it is difficult to assess the Council's achievements against its performance measures. Further, stakeholders' are unable to identify the cost of administering Australia's health and medical research activities, and to compare the efficiency of the Council with similar bodies. This is because the Council's operating budget is not specified and its use of administered funds for administrative purposes is not adequately explained.

The current reporting arrangements make it difficult for Parliament, the Government and other stakeholders to determine the Council's efficiency and effectiveness.

36. The Council's performance is primarily reported in two annual reports—one on a calendar year basis (NHMRC's annual report) and one on a financial year basis (Health's annual report). Despite this, the coverage of the Council's activities in these reports is incomplete, with insufficient detail to enable stakeholders to effectively assess the Council's performance.

Administrative systems and aspects of internal controls (Chapter 6)

The Council has not comprehensively reviewed its administrative system needs.

37. The Council is responsible for its Research Management Information System (RMIS), and it has reviewed its business requirements and developed performance standards for monitoring the RMIS. The department provides the majority of other administrative systems used by the Council. The most important are the financial management system, records management system and human resource management system. The Secretariat has not conducted a similar review for these administrative systems. The Council would be in a better position to negotiate with Health about its administrative systems if it could demonstrate a link between its systems requirements and the performance of its functions.

The Council and Health have not agreed on performance levels and measures for administrative systems provided by the department.

38. The MoU between the Council and Health commits the department to provide the Council with the same services, according to the same quality and timeliness standards, as those provided to Health's divisions.

The department has not, however, provided details of these standards to the Council, nor has the Council sought them. This has limited the capacity of both Health and the Council to monitor the appropriateness of the services provided to the Council.

The ANAO found that the Council's internal controls require further strengthening.

39. The ANAO reviewed a number of internal controls over which the Council exercises responsibility, in particular, risk management, fraud control, policies and procedures and internal audit. The ANAO found that all require strengthening to address the potential risk to efficient and effective use of Commonwealth resources.

Overall audit opinion

40. In the ANAO's opinion, the legislative framework and resulting administrative arrangements under which the Council operates do not facilitate sound administration. The framework necessitates administrative arrangements that are cumbersome and include multiple lines of accountability, as well as unclear roles and responsibilities. While the legislative framework is beyond both the Council's and Health's control, the ANAO has made recommendations to both the Council and Health for improvements in the following administrative areas: governance arrangements; strategic and business planning; monitoring and reporting of performance; administrative systems; and internal controls.

The Council's achievements

41. The Council has acknowledged the need to improve its governance arrangements and is working to strengthen its structures and improve the quality of its administrative systems. The Council is also planning to review its relationship with Health and the administrative arrangements that support this relationship, and to review its enabling legislation.

42. The majority of this work has been identified and progressed following the commencement of the inaugural CEO and the resulting restructuring of administrative arrangements. This work is being conducted in a complex and changing operating environment, following the major 1999 review into health and medical research, which recommended fundamental changes to the way in which the Council performs its legislated functions.

NHMRC and Health comments

NHMRC Response

43. The NHMRC's full response to the draft report can be found at Appendix 1. The NHMRC advised the ANAO that the following was its summary response:

The ANAO's performance audit of the governance of the National Health and Medical Research Council (NHMRC) was undertaken during a period of transition and development following the implementation of the recommendations contained in the report of the Strategic Review of Health and Medical Research, *The Virtuous Cycle: Working Together for Health and Medical Research* (1999).

The ANAO report identifies areas for improvement within the NHMRC and in its relationship with the Department of Health and Ageing (Health). The NHMRC has over the past three years implemented significant changes in governance and administration within its current legislative framework and organisational relationship with Health.

The NHMRC is committed to making further improvements in line with the recommendations of the ANAO. The NHMRC also recognises that the implementation of further change will need to be considered in the context of the current *Investment Review of Health and Medical Research* and the current review of statutory bodies within the Health portfolio being undertaken by Health.

Health Response

44. Health advised the ANAO that the following was its full response to the audit:

In responding to the ANAO report, the Department of Health and Ageing notes that the governance and administrative arrangements of the Council, including the role of the CEO, are set out in legislation, specifically under the *National Health and Medical Research Council Act 1992*.

The Department and the NHMRC have established arrangements, principally through a Memorandum of Understanding (MoU), as a means of managing the relationship between the two organisations. The MoU details the administrative arrangements and sets out mechanisms that enable the CEO to effectively operate in a similar way to an agency head in managing the day-to-day affairs of the NHMRC.

The Department acknowledges the governance and administrative issues identified in the Report and views the MoU as a framework for a cooperative solution to a large proportion of these issues. Discussions have already commenced between the Department and the NHMRC in

establishing standards of service, consistent with the process or mechanisms provided for in the MoU.

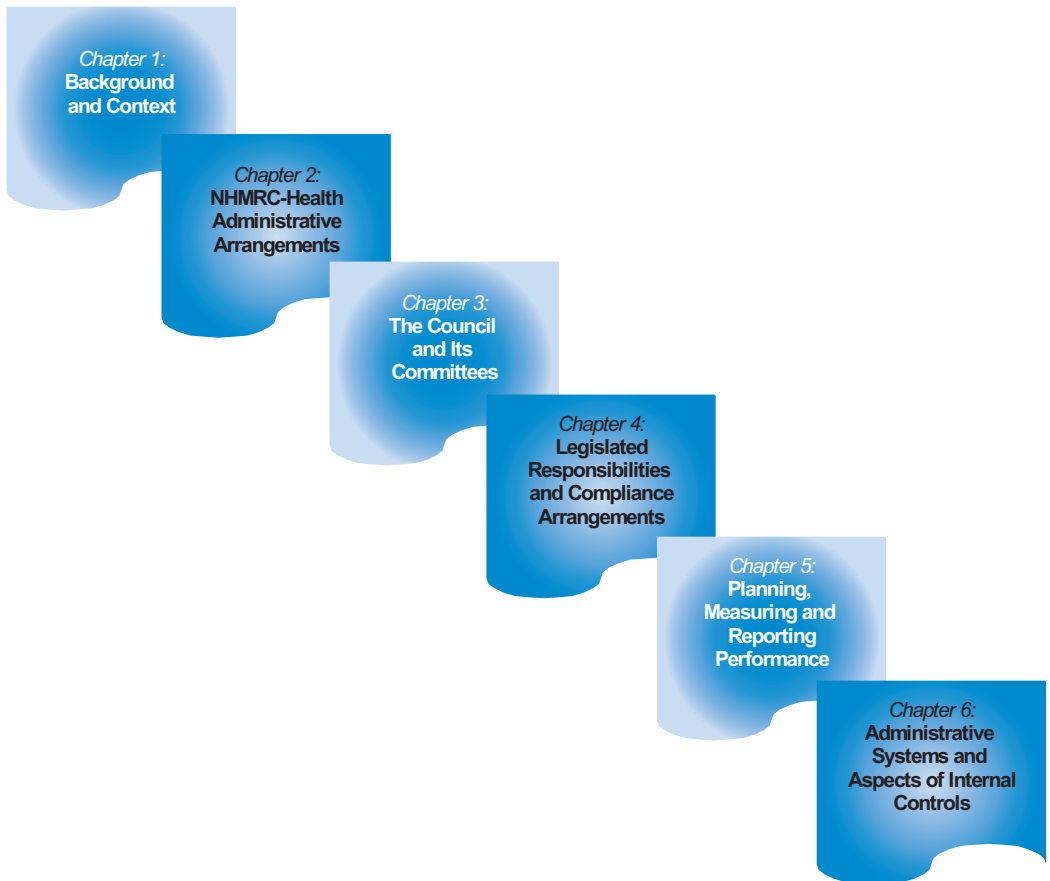
As noted in the Report, there are currently a number of reviews, including the Uhrig Review, the consultancy commissioned by the Department, and the external *Investment Review of Health and Medical Research*, which will address issues affecting the NHMRC's governance and management arrangements. The Department will consider the findings of these reviews and the ANAO Report in preparing advice to Government on options for change.

Report structure

45. The report is organised into six chapters. Chapter 1 provides background information on the Council and the audit. Chapter 2 describes administrative arrangements between the Council and Health and discusses the implications of these arrangements on the administration of the Council. Chapter 3 analyses role clarity within the Council, with a focus on the Council and its committees. Chapter 4 reviews the identification and monitoring of statutory obligations. Chapter 5 assesses planning, monitoring and reporting arrangements, while Chapter 6 analyses administrative systems and aspects of internal control. The report structure is depicted in Figure 1.

Figure 1

Report structure



Recommendations

The ANAO's recommendations are listed below with report paragraph references. To improve governance and administrative systems, the ANAO has made five recommendations to the Council and one recommendation to Health. The ANAO considers that the Council give priority to Recommendations 1 and 2.

Recommendation No.1
Para. 3.46 The ANAO recommends that the Council, in order to clarify governance arrangements within existing legislation and administrative arrangements:

- assess the appropriateness of existing governance arrangements, particularly links between the Council, the Principal Committees, the Management Committee and the CEO, and amend as necessary;
- document and endorse a governance charter, that clearly describes the separation of functions of the Council, the Chair of Council, Principal Committees and the CEO;
- delegate powers where necessary and implement appropriate reporting against delegated powers; and
- regularly monitor compliance with, and evaluate the effectiveness of, endorsed structures.

NHMRC's response: Agreed in principle.

Recommendation No.2
Para. 5.70 The ANAO recommends that the Council, in order to strengthen planning and budgeting, develop, establish and use an integrated business planning and budgeting framework. The framework should identify the relationships between various plans; establish appropriate timeframes; identify planning responsibilities and accountabilities; and describe the internal budgeting process.

NHMRC's response: Agreed.

**Recommendation
No.3
Para. 5.72**

The ANAO recommends that the Council, in order to simplify and strengthen performance measurement:

- review its Performance Measurement Framework measures to develop intermediate outcome measures where appropriate, to ensure that they adequately facilitate regular, balanced performance reporting on outcomes; and
- align its Performance Measurement Framework measures, its Portfolio Budget Statement measures, and operational measures.

NHMRC's response: The NHMRC agreed in principle to the first point and agreed with the second point.

**Recommendation
No.4
Para. 5.74**

The ANAO recommends that Health, in order to improve accountability to external stakeholders, separately identify the Council's:

- performance information within the 'Performance Information for Departmental and Agency Outputs' table in its Portfolio Budget Statements;
- departmental items budget within the 'Resource Summary' for Outcome 9, in its Portfolio Budget Statements;
- performance information within the 'Performance Information for Departmental Outputs', under Outcome 9 in its annual report; and
- departmental items budget within the 'Financial Resources Summary', under Outcome 9 in its annual report.

Health's response: Agreed.

**Recommendation
No.5**

Para. 6.44

The ANAO recommends that the Council, in order to improve the soundness of its administrative systems:

- identify the type, composition and source of administrative systems needed to support its legislated functions;
- assess the costs and benefits of existing systems in comparison with alternative systems;
- monitor standards to ensure that systems are operating efficiently and effectively and are meeting identified needs; and
- regularly meet with an appropriate departmental officer with responsibility for oversight of the Memorandum of Understanding to ensure that it is functioning properly and that services are provided in accordance with defined standards.

NHMRC's response: The NHMRC agreed with all points except the second point, which it agreed to in principle.

**Recommendation
No.6**

Para. 6.46

The ANAO recommends that the Council, through the CEO, develop its internal control processes by:

- establishing a risk management policy and implementing processes to monitor compliance with the policy;
- providing training to Secretariat staff on risk management and fraud control arrangements;
- documenting policies and procedures and consolidating these materials to facilitate monitoring and management; and
- arranging appropriate internal assurance facilities commensurate with the Council's governance role.

NHMRC's response: The NHMRC agreed with all points except for the fourth point, which it agreed to in principle.

Audit Findings and Conclusions

1. Background and Context

This Chapter consists of two parts. Part I introduces the Council. Part II discusses the importance of sound corporate governance and sets out the audit objective, scope and methodology.

Part I—The National Health and Medical Research Council

Background

1.1 The Council was established in 1936 to bring the Commonwealth, States and Territories, professional organisations and community groups together to advise governments on health issues and funding for health and medical research.

1.2 Fifty-six years later, in 1992, the Council was established as a body corporate by the *National Health and Medical Research Council Act 1992* (the NHMRC Act).²⁰ The legislated objectives of the Council are to:

- raise the standard of individual and public health throughout Australia;
- foster the development of consistent health standards between the various States and Territories;
- foster medical research and training and public health research and training throughout Australia; and
- foster consideration of ethical issues relating to health.

1.3 The NHMRC Act was amended in 2000 to strengthen the Council's executive management through the creation of the position of Chief Executive Officer (CEO) of the Council. The CEO is a statutory office holder – appointed by the Minister for Health and Ageing (the Minister) – with responsibility for the Council's day-to-day activities.

1.4 The Council's functions were extended in 2002 when it was charged with monitoring compliance with the *Research Involving Human Embryos Act 2002* (RIHE Act) and the *Prohibition of Human Cloning Act 2002* (PHC Act).²¹

²⁰ See Appendix 2 for general information on the NHMRC Act.

²¹ See Appendix 2 for general information on the RIHE Act and PHC Act.

Role of the Council

1.5 Under the NHMRC Act, the Council inquires into, issues guidelines on, and advises the community on:

- the improvement of health;
- the prevention, diagnosis and treatment of disease;
- the provision of health care;
- public health and medical research; and
- ethical issues relating to health.

1.6 The Council advises and makes recommendations to the Commonwealth and the States and Territories on these matters. The Council also makes recommendations to the Commonwealth on funding of public health research and training, and medical research and training.

1.7 The Minister appoints Council members for up to three years. Consequently the work of the Council is planned and reviewed on a triennial basis. The Council develops a strategic plan for each triennium to provide overall direction for the Council. The Council reviews its progress against its strategic plan at the end of each triennium and provides a written report to the Minister on its achievements.

1.8 The Council currently comprises 29 nominees of Commonwealth, State and Territory health authorities, professional and scientific colleges and associations, unions, universities, business, consumer groups, welfare organisations, conservation groups and the Aboriginal and Torres Strait Islander Commission.

1.9 There are currently four Principal Committees of the Council. The NHMRC Act established the Research Committee and the Australian Health Ethics Committee (AHEC) and provides for their functions. The RIHE Act formed the Embryo Research Licensing Committee (Licensing Committee) and provides for its functions. The Minister, as provided for in the NHMRC Act, created the Health Advisory Committee (HAC). These Committees have specific roles that relate to the operation of the Council. Information on the roles of the Principal Committees is included at Appendix 3.

1.10 The Secretariat supports the Council and its committees in the discharge of their legislated functions. The Council, with support from the Secretariat, recommended the awarding of 827 new health and medical research awards in 2003, while the Secretariat managed 1656 continuing awards. The Research Committee works with the Secretariat to ensure that research funded by the Council is conducted in accordance with agreed

terms and conditions. In addition, the Secretariat and Principal Committees work together to develop new guidelines and maintain a publications catalogue of over 150 guidelines, information papers and pamphlets.

1.11 The Secretariat also works with the AHEC to support more than 200 Human Research Ethics Committees (HRECs)²² in institutions and organisations across Australia. The Council, through its Licensing Committee, is also responsible for the national regulatory system recently established under the RIHE Act and PHC Act.²³ Secretariat support to the Licensing Committee comprises the processing of licence applications, assisting in the assessment of applications, the issuance of licences and the monitoring of compliance. The CEO's statutory responsibility for the day-to-day activities of the Council includes the oversight of Secretariat support to the Council and its committees.

Council structure

1.12 The structure of the Council comprises Council members, Principal Committees (as outlined above), a Management Committee, a number of working committees (including expert committees and an Indigenous Health Forum²⁴), the Chief Executive Officer and a Secretariat. The organisational structure of the Council is shown at Figure 1.1.

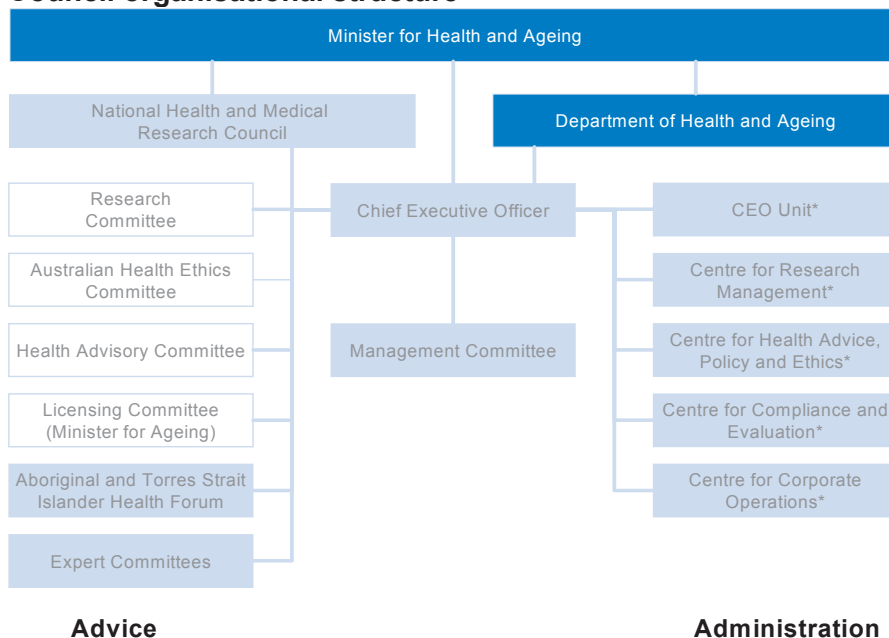
²² Institutions and organisations in which research involving humans is undertaken must establish an HREC in accordance with the NHMRC's *National Statement on the Ethical Conduct in Research Involving Humans*. The task of HRECs is to review proposals for research involving humans and to ensure that such research is soundly designed and conducted according to high ethical standards.

²³ The RIHE Act and PHC Act, which includes information on the national regulatory system, can be found at <<http://www.nhmrc.gov.au/embryo/index.htm>>.

²⁴ The Indigenous Health Forum is an overarching forum of indigenous members and other representatives that advises the Council on Aboriginal and Torres Strait Islander health issues.

Figure 1.1

Council organisational structure



* Secretariat

Source: ANAO based on Council information

Relationship with the Department of Health and Ageing

1.13 An Order of Council in 1936 established the Council as part of the Health Portfolio. While the NHMRC Act established the Council as a body corporate in 1992, this Act also provided for a relationship between the Council and the Department of Health and Ageing (Health). Health provides staff and facilities required by the Council to perform its legislated functions. It also administers²⁵ the appropriation for health research, ethics and advice.

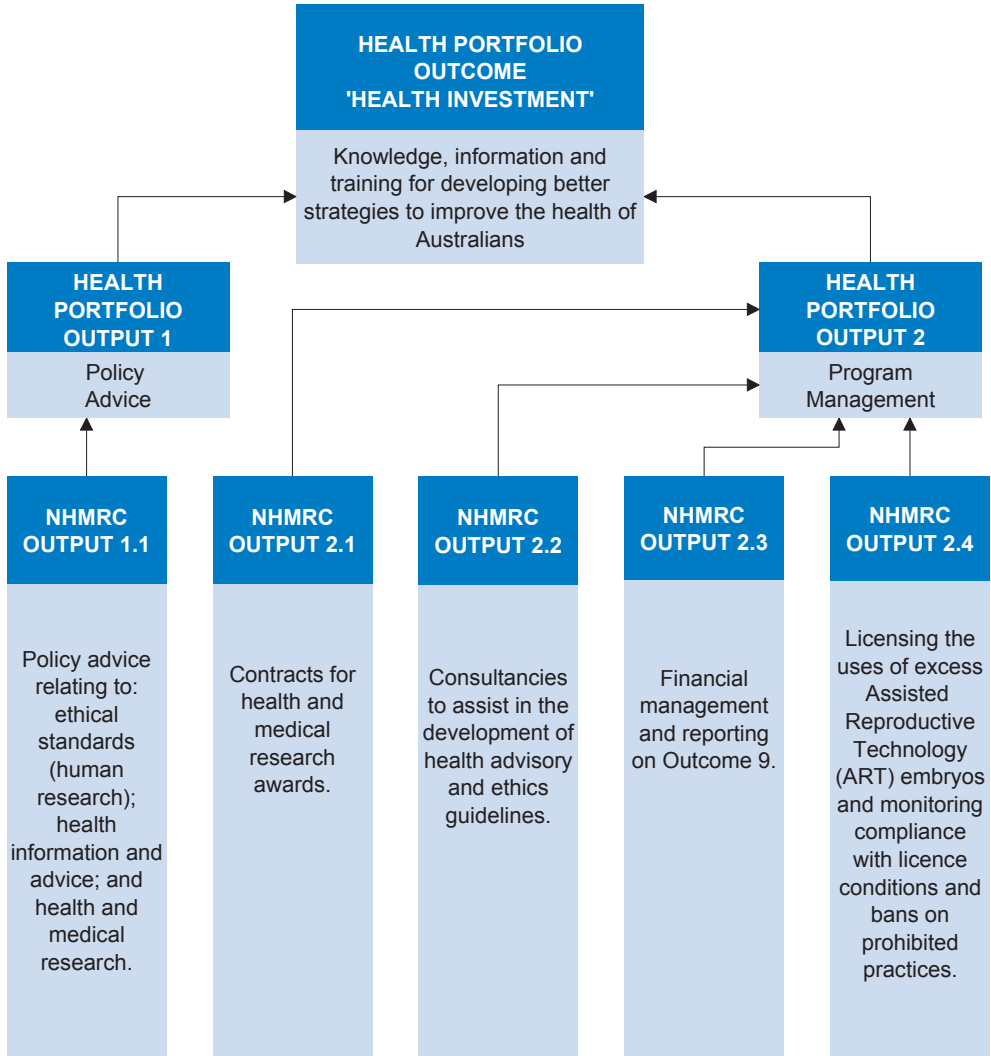
1.14 The Council together with Health—through the Health Services Improvement Division, Information and Communications Division and Portfolio Strategies Division—and the Australian Institute of Health and Welfare, contribute to the outcome of the Health Portfolio’s Outcome 9—*Health Investment*. While not identified separately in Health’s Portfolio Budget Statements (PBS), the ANAO has illustrated the Council’s outputs in support of Outcome 9 in Figure 1.2.

²⁵ Health holds appropriated funds for health research, ethics, advice and regulation, and prepares Portfolio Budget Statements and annual reports (including audited financial statements) outlining the purpose and use of appropriated funds.

1.15 The relationship between the Council and Health is described in further detail in Chapter 2.

Figure 1.2

Council outcome and outputs



Source: ANAO based on Health’s 2003–04 PBS

Council funding

1.16 As indicated earlier, the Council is a body corporate. It does not, however, receive any monies by way of an appropriation; it incurs no expenditure on its own behalf; and it has no assets and liabilities.

Commonwealth funding for the Council to perform its functions under the NHMRC Act is appropriated to, and administered by, Health. The department also administers other sources of funding on behalf of the Council,²⁶ for example gifts and bequests to the Council as provided for in the NHMRC Act.²⁷

1.17 Health's Secretary has delegated expenditure powers under the *Financial Management and Accountability Act 1997* (FMA Act) to the CEO to enable him to carry out his legislated role. Consequently, the CEO, supported by the Secretariat, is responsible to the Secretary for the efficient, effective and ethical use of Commonwealth resources under his control.²⁸ This entails responsibility for the proper use of administered²⁹ and departmental³⁰ appropriations allocated by the Secretary to enable the Council to perform its legislated functions. Figure 1.3 outlines the flow of funding.

²⁶ Day-to-day management of these funds is the responsibility of the Secretariat.

²⁷ S11(2)a.

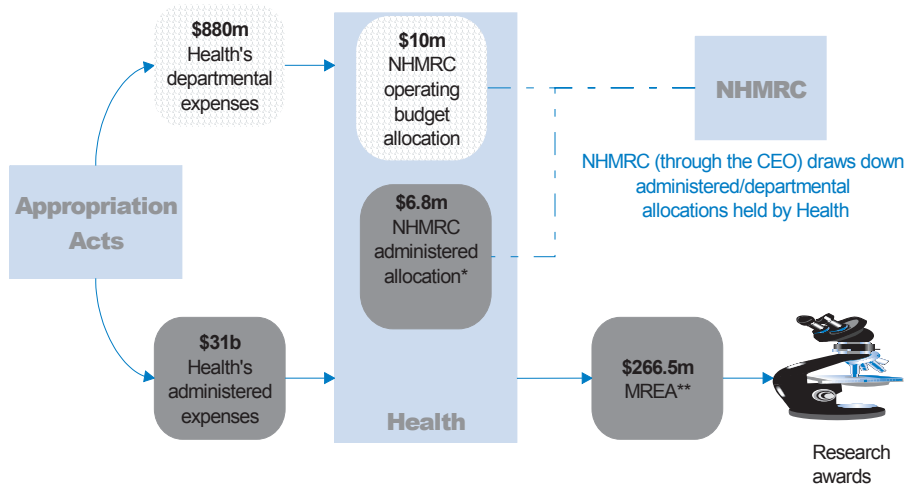
²⁸ The CEO is accountable for the following areas of expenditure:

- administered funding from the Medical Research Endowment Account (MREA);
- administered funding for committee program support;
- administered funding for committee expense support;
- administered funding for a general support fund; and
- departmental funding against an approved annual budget agreed with the Secretary.

²⁹ Administered items are those assets, liabilities, revenues and expenses controlled by the Government and managed or overseen by agencies or authorities on behalf of government.

³⁰ Departmental items are those assets, liabilities, revenues and expenses controlled by agencies or authorities and used in producing their outputs.

Figure 1.3
2002–03 funding flow



* Administered expenses relating to committee program support; committee expense support; the general support fund (which comprises the CEO's expenses, international travel, publications, communications, sponsorship and events, and performance management systems); medical research institutes; and departmental (Health) research capacity.

** The MREA is a special account established under the NHMRC Act. Payments are made from the MREA for medical research and public health research.

Source: ANAO based on Council and Health information

Departmental funding 2002–03

1.18 Financial information provided by the Council and Health indicated that the Council's departmental outputs budget for 2002–03 was \$10 million.³¹ This budget is managed by the Council and is used to meet salary, travel, office and information technology expenses of the Secretariat. It is not used to meet the direct costs attributable to the Council's Principal Committees and working committees, which are supported from administered funds.

1.19 The Council's departmental outputs budget does not include provision for facilities (services) – provided by Health – which are required by the Council to perform its functions. These facilities include: account management, corporate systems, accommodation, property management, personnel, Parliament/Cabinet/Ministerial, office services, and legal services. Health valued these facilities at approximately \$2.1 million for

³¹ The 2002–03 departmental outputs expenditure for Outcome 9—*Health Investment*—was \$37.8 million. This amount does not relate solely to the work of the NHMRC. It also includes funding for programs undertaken by Health in support of Outcome 9.

2002–03. Therefore, the total operating cost allocation for the Council in 2002–03 was \$12.1 million.

1.20 As outlined earlier, this amount does not include the direct costs attributable to the Council’s committees and general support. These costs totalled \$3.2 million in 2002–03. Together, these sums give a total cost of operating the Council, its committees and the Secretariat of \$15.3 million.

Administered funding 2002–03

1.21 Administered expenditure on health research, ethics and advice in 2002–03, as shown in Health’s 2002–03 *Annual Report*, was \$273.3 million, allocated as follows:

- \$266.5 million for health and medical research through the MREA; and
- \$6.8 million³² for committee program support;³³ committee expenses support;³⁴ general support costs;³⁵ medical research institutes;³⁶ and departmental (Health) research capacity.³⁷

Recent developments

1.22 The Health and Medical Research Strategic Review (Wills Review) was commissioned by the then Federal Minister for Health and Aged Care in March 1998. The focus of the Wills Review was on the future role of health and medical research in Australia up to the year 2010. It was also to recommend appropriate strategies for improving Australia’s health and medical research workforce. The final report, *The Virtuous Cycle: working together for health and medical research*³⁸ (the Wills Report), was released in May 1999. The report included 126 recommendations, with the

³² The budget for these items was \$17.5 million. This compares with estimated expenditure of \$19.6 million in 2003–04.

³³ These funds support commissioned research, contractor costs, public consultation expenses and printing costs.

³⁴ These funds support the meeting expenses for the various committees of the NHMRC.

³⁵ These funds support the CEO’s expenses, international travel, publications, communications, sponsorship and events, and performance management systems.

³⁶ These funds represent commitments made in 1999 for capital works to several medical research institutes.

³⁷ These funds are held by the department from the research appropriation to meet priorities identified by the Minister.

³⁸ Health and Medical Research Strategic Review Committee, 1999, *The Virtuous Cycle: working together for health and medical research*, Commonwealth of Australia, Canberra.

Government referring 56 of the recommendations to the Council for consideration and action.³⁹

1.23 In response to the Wills Review:

- in the 1999–2000 Budget, the Australian Government increased the amount of research funding through the Council by \$614 million over six years, more than doubling the administered budget for national health and medical research in Australia to more than \$400 million per annum by 2005–06;
- Parliament passed amendments to the NHMRC Act in 2000, which included a provision for a CEO of the Council with responsibility for the day-to-day activities of the Council; and
- the Council undertook significant functional and operational reforms to support the adoption the Wills Report’s recommendations.

Part II—Corporate governance and audit overview

Audit objective

1.24 The audit objective was to assess the effectiveness of the Council’s governance and administrative systems. In order to achieve this objective, the audit addressed three criteria to determine whether the Council had:

- identified its legislated responsibilities and monitored its legislative compliance;
- instituted a sound corporate governance framework to support the performance of its legislated functions; and
- established robust administrative systems to support the performance of its legislative functions.

Corporate governance

1.25 The ANAO has prepared a Better Practice Guide to deal with aspects of public sector governance. The Guide assists:

...public sector organisations to improve their governance framework, processes and practices. Good public sector governance is important to provide adequate accountability to its many stakeholders, including

³⁹ The remaining recommendations were referred to other Australian Government agencies, including the Strategic Review Implementation Committee that was established to consider a number of recommendations that required a whole-of-government approach.

taxpayers, and to encourage performance improvement while satisfying control and compliance requirements.⁴⁰

1.26 The ANAO used this Guide and international better practice materials to develop criteria to assess the effectiveness of the Council's corporate governance framework. The principles behind the criteria are summarised below.

1.27 Effective public sector governance requires leadership from the executive management of agencies and a strong commitment to quality control throughout the agency. Corporate governance is concerned with structures and processes for decision-making and the controls and ethical behaviour within organisations that support effective accountability for performance outcomes.

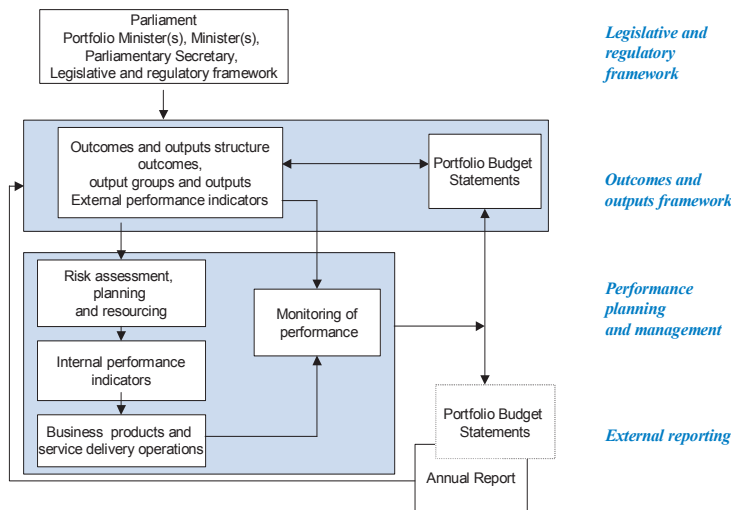
1.28 Good public-sector corporate governance exists when a public sector entity, in achieving its legislative and policy objectives, attains a culture or environment of disciplined, ethical and accountable stewardship of the resources entrusted to it.

1.29 The principles of good governance in public sector entities include:

- leadership;
- integrity;
- commitment;
- integration;
- accountability; and
- transparency.

1.30 Achieving better practice requires application of the principles of corporate governance. These principles and ensuing actions must be communicated throughout all levels of organisations and to all stakeholders to ensure they are well understood and accepted. The relationship between planning, management and the governance framework is depicted in Figure 1.4.

⁴⁰ ANAO, Better Practice Guide *Public Sector Governance Volume 1*, July 2003, p.iii.

Figure 1.4**Agency planning, management and governance framework**

Source: ANAO Better Practice Guide *Performance Information in Portfolio Budget Statements*, May 2002

Audit scope

1.31 The focus of the audit was on the Council's governance and administrative systems. The audit included a review of the links between the Council, its committees and administrative structures and links with Health. A key focus of this audit was on accountability.

1.32 The audit did not:

- assess the outcomes of the Council's support for health and medical research;
- assess the appropriateness of the Council's guidelines and information papers;
- comprehensively assess the Council's compliance with its statutory functions; or
- assess the Council's award selection and administration practices.

Audit methodology

1.33 In order to form an opinion against the audit objective, the ANAO undertook the following activities:

- studied relevant legislation;

- reviewed Council operational documents;
- attended Council sessions;
- observed Council meetings and staff forums;
- reviewed the Intranet and computer networks used by the Secretariat;
- interviewed selected Council members, including Principal Committee Chairs;
- interviewed the CEO;
- interviewed Secretariat staff;
- interviewed other officers from Health;
- surveyed Council members;
- reviewed the use of Council administrative systems;
- obtained information from Health; and
- interviewed key stakeholders.

1.34 The ANAO used prior performance audits and Australian and international better practice guides to develop the ‘yardsticks’ (audit criteria) for assessing governance and administrative systems within the Council.⁴¹

1.35 Fieldwork was conducted between February and May 2003 in Canberra.

⁴¹ Relevant ANAO audit reports and better practice guides used in developing this audit include:

- Performance Audit Report No.40, 2001–02, *Corporate Governance in the Australian Broadcasting Commission*, Australian Broadcasting Corporation.
- Performance Audit Report No.1, 1998–99, *Corporate Governance Framework*, Australian Electoral Commission.
- ANAO Better Practice Guide *Public Sector Governance*, July 2003.
- ANAO Better Practice Guide *Internal Budgeting*, February 2003.
- ANAO Better Practice Guide *Performance Information in Portfolio Budget Statements*, May 2002.
- ANAO Better Practice Guide *Principles and Better Practice Corporate Governance in Commonwealth Authorities and Companies*, May 1999.
- ANAO Better Practice Guide *Principles for Core Public Sector Corporate Governance*, February 1997.
- International Federation of Accountants, 2001, *Governance in the Public Sector: a governing body perspective*, New York.

1.36 The audit was conducted in accordance with ANAO Auditing Standards at a cost of \$360 000.

Previous coverage

1.37 The ANAO has not previously conducted a performance audit of the Council. A list of external and internal reviews relevant to this audit is provided at Appendix 4.

2. Council—Health Administrative Arrangements

This Chapter outlines the relationship between the Council and Health and reviews the administrative arrangements that govern this relationship.

Legislative framework

2.1 The administrative arrangements between the Council and Health are influenced by the following legislation.

National Health and Medical Research Council Act 1992

2.2 In 1992, the NHMRC Act introduced statutory links between the Council and Health, with specific sections of the Act allowing for arrangements between the two bodies for the provision of staff and facilities. It is under these provisions that the Council gains access to a wide range of resources, administrative systems and corporate services. In introducing the NHMRC Act, the Government stated that the legislated arrangements between Health and the Council were designed to provide the Council with the independence from the Government that the community expects having regard to its role and status, while also providing for its accountability to the public, the Commonwealth, and the States and Territories.

Financial Management and Accountability Act 1997

2.3 Although the Council is a body corporate under the NHMRC Act, the Act is silent on the Council holding funds. The Council's funding is currently appropriated to, and administered by, Health. Administrative support, including all financial functions for research awards, is provided under arrangements with Health. The Secretary is accountable for funds, including the MREA, to the Minister and to Parliament in accordance with the FMA Act.

Public Service Act 1999

2.4 The NHMRC Act provides that the staff of the Council must be comprised of persons engaged under the PS Act. As the Council is neither a statutory agency established by an Act of Parliament for the purposes of the PS Act nor established as an executive agency under the PS Act, it is unable to appoint staff. The NHMRC Act provides that the Council may make arrangements with the Secretary for the services of officers or employees of Health engaged under the PS Act to made available to the

Council. The Council uses this provision to access staff to enable it to perform its functions, with Health providing funding that is used to cover the costs of 128 officers⁴² and related operational costs.

Background to administrative arrangements

2.5 While the NHMRC Act provides for administrative arrangements between Health and the Council, it does not prescribe the form they should take. This has allowed flexibility in the design of arrangements.

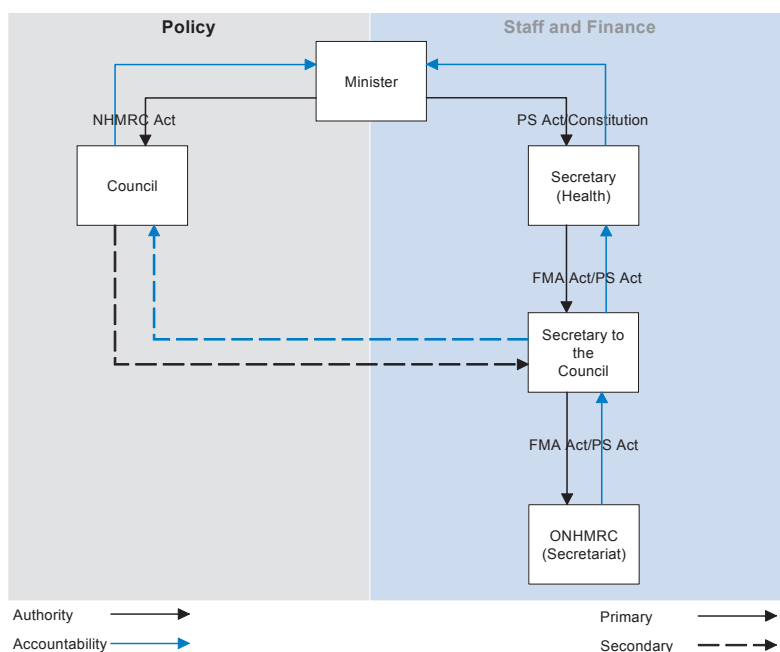
2.6 Until June 2000, Health's provision of staff, facilities and funding was coordinated through the Office of the National Health and Medical Research Council (ONHMRC). This was a departmental division headed by a First Assistant Secretary appointed by the Secretary. This First Assistant Secretary also held the statutory position of Secretary to the Council.

2.7 Under the NHMRC Act, the Secretary to the Council was the executive officer of the Council having responsibility for its day-to-day activities, as well as being a member of the Council. When introducing the NHMRC Act, the Government stated that the appointment of a departmental senior executive service officer to the position of Secretary to the Council would ensure appropriate links between the two agencies. The resulting lines of accountability and authority are depicted in Figure 2.1.

⁴² As at 31 December 2002.

Figure 2.1

Council authority and accountability model (before July 2000)



Source: ANAO based on Council information and a review of relevant legislation

2.8 Under this arrangement, Health maintained responsibility for staff, facilities and funding, while the Council was responsible for its advisory and recommendatory functions. The Council had limited influence over the way in which administrative support was provided, as the NHMRC Act did not enable the Council to direct the Secretary to the Council. This arrangement simplified statutory accountability obligations under the FMA Act and the PS Act, as the Secretary to the Council was a departmental officer appointed by, and reporting to, the Secretary (of the department).

2.9 In July 2000, Health separated day-to-day administrative support for the Council from its divisional structure to accommodate a legislative amendment in that year to create the position of CEO. This position was recommended in the 1999 Wills Report. The CEO, who commenced duty in 2001 and is also a member of the Council, has the same role and the same responsibilities as the previous Secretary to the Council, as well as other roles as envisaged by the Wills Report and determined in the advertisement for the position. The CEO's role is further defined through his performance agreement with the Chair of the Council. The CEO is not,

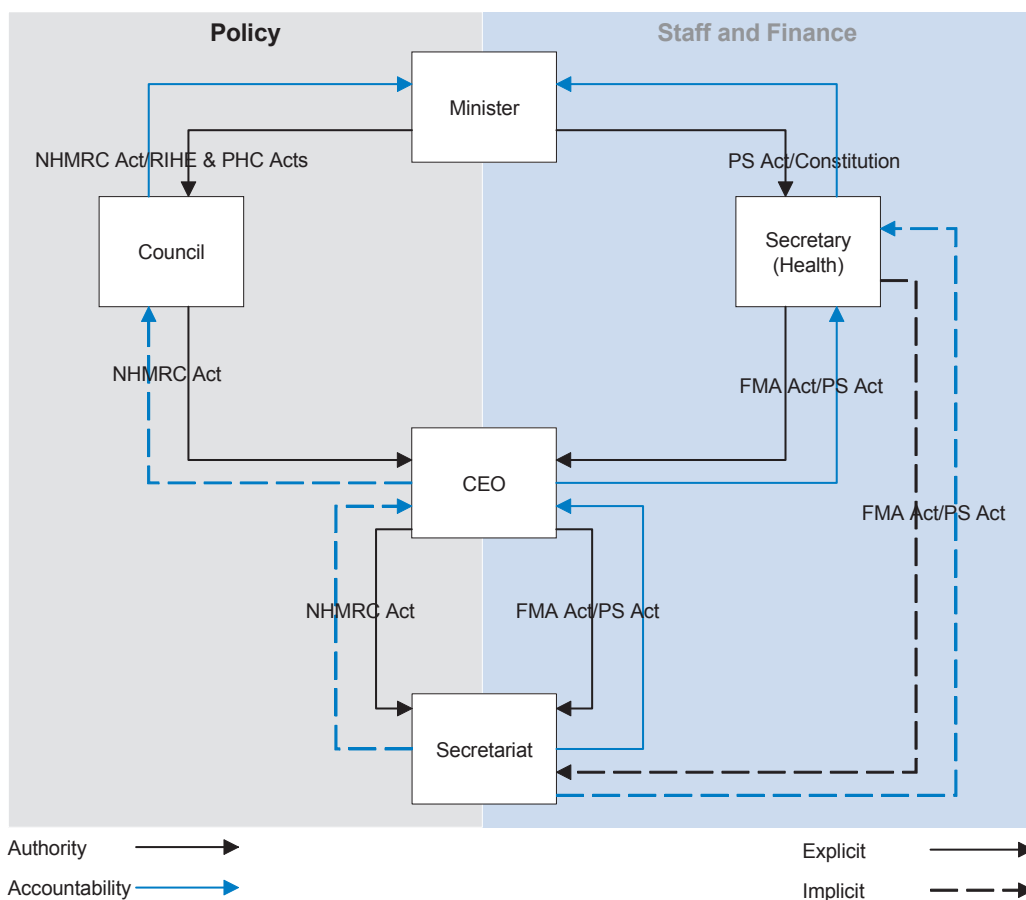
however, a departmental officer and is appointed by the Minister, not by the Secretary (of the department). Health commented in its *2000–01 Annual Report* that:

The Office of the NHMRC is no longer a division of the Department as it has its own Chief Executive Officer (although its staff belong to the Department).

2.10 The new arrangements involved a more complex accountability and authority model to support the position of CEO, while ensuring compliance with the FMA Act and PS Act. An MoU between the Council and Health was signed in March 2003, 33 months after the July 2000 separation of the Council’s Secretariat from Health’s division structure, as a means of managing the arrangements between the two agencies. The lines of accountability and authority resulting from the arrangements are depicted in Figure 2.2.

Figure 2.2

Council authority and accountability model (current)



Source: ANAO based on Council information and a review of relevant legislation

Impact on the Council’s role and functions

2.11 The Council’s role and its two supporting functions are defined in the NHMRC Act⁴³ and in two other Acts, the RIHE Act and PHC Act.⁴⁴

2.12 The current administrative arrangements necessitate significant and ongoing effort from both the Council and Health to make the arrangements work. They have, in some instances, also lead to tensions

⁴³ The NHMRC’s role is to pursue activities designed to raise the standard of health in Australia, foster the development of consistent health standards nationally, foster medical and public health research and training, and foster consideration of ethical issues relating to health.

⁴⁴ The functions of the NHMRC in relation to the PHC Act are specified in Section 26 and Section 41 of the RIHE Act, rather than in the PHC Act itself.

between the two agencies that require effort to resolve. Further, they limit the Council's implementation of one of its legislated functions. The relevant function is, subject to the direction of the Minister, that the Council has the general administration of the Act.⁴⁵ There are two limitations as follows:

- the Secretary determines the level of resources available to the Council for administration in the context of Health's overall budget, while the Parliament resolves the appropriation for health and medical research; and
- financial and administrative delegations to the CEO and the Secretariat are determined by the Secretary, rather than by the Council. Under the administrative arrangements, the Secretary has chosen to issue delegations under the FMA Act and the PS Act to give authority to the CEO to spend Commonwealth funds, and employ and manage staff engaged under the PS Act. However, the Secretary has not delegated authority to the CEO to engage officers at Senior Executive Service levels or negotiate terms of engagement.⁴⁶

2.13 These limitations and their consequences are discussed below.

Resourcing

2.14 The Government determines, and the Parliament appropriates, the Council's administered items budget.⁴⁷ The Council establishes strategic objectives for the administered items budget and is responsible for their achievement, while the Secretary determines the Council's operating budget⁴⁸ against departmental priorities. Health uses a similar approach to determining the Council's operating budget as it does for setting the budget of the department's divisions, although neither the Council nor its Secretariat is a departmental division. As a result of this arrangement, if Health experiences budgeting or financial constraints, these may translate to budgeting and financial constraints for the Council, as is the case for departmental divisions.

⁴⁵ NHMRC Act 1992, S7(2).

⁴⁶ The Secretariat currently has four centre managers at the Senior Executive Service level. These officers are appointed by the Secretary, with the Secretary also determining the conditions of service for these officers.

⁴⁷ This is for health and medical research and training, and for other work, such as monitoring compliance with the RIHE Act and with the PHC Act.

⁴⁸ In the Department of Finance and Administration's (Finance's) terms, the operating budget referred to here is for departmental items, such as for computer systems and staff salaries.

2.15 An example of tensions between the Council and Health relates to the resourcing of the Council's operations. The ANAO found that the Secretariat (representing the interests of the Council) and the department did not agree on the basis on which the Council's operating budget was determined following the separation of the ONHMRC from Health's divisional structure in 2000. The ANAO noted that the Memorandum of Understanding (MoU) between the Council and Health does not establish a process to determine the Council's operating budget.

2.16 The MoU provides that the Secretary will make available departmental funds to the CEO for the operational expenses of the Council for the duration of each triennium, with such funds quarantined from Health's internal budget. However, as at December 2003, Health had only agreed to an annual budget for the Council's operational expenses.

2.17 In the Australian Public Service, agency funding is provided annually, with three-year forward estimates. Health's funding is determined by Parliament in this manner. Therefore, the ANAO considers that Health should, in accordance with the MoU, work with the Council to develop an appropriate three-year indicative budget. This would provide the Council with greater certainty over the resources available to implement its strategic plan. It would also enable the Council to advise the Minister of the resources likely to be available to implement its strategy.

2.18 The ANAO acknowledges that changes in Australian Government policy and associated funding may result in changes to Health's appropriation. These changes may subsequently impact on the three-year funding allocated to the Council. The MoU, however, currently provides that the CEO and the Secretary agree to review the level of funding allocated for a triennium in the event of a major change in circumstances. The ANAO considers that this provision adequately addresses the risks to Health arising from policy changes.

2.19 Tensions over resourcing were also evident in the ANAO's interviews with Secretariat managers and staff, Council members, and external stakeholders, as well as in previous reviews. A common theme was that the Secretariat had more work than there were resources available to undertake. It was perceived by the Council's internal and external stakeholders that there was a large gap between the available operating budget (departmental items) and what was required from the Council, with the gap increasing over recent years, particularly as a result of the:

- implementation of new structures and functions in accordance with the 56 recommendations in the Wills Report that were referred to the Council for action;

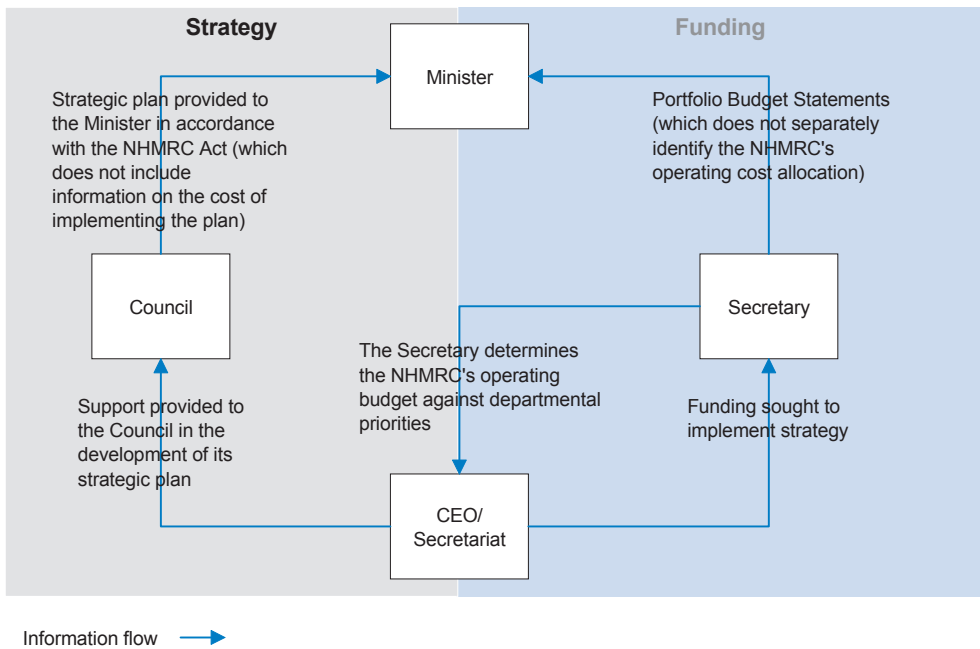
- doubling of administered funding; and
- acquisition of additional responsibilities under the RIHE Act and the PHC Act.

2.20 The separation of planning and funding responsibilities has contributed to the perceptions outlined above. The Council’s legislation specifies that the Council must provide the Minister with a three-year strategic plan by a certain date (30 June 2003 for the *Strategic Plan 2003–2006*). The Council has not provided the Minister with information on the cost of implementing the plan.

2.21 The department does, however, inform the Minister of the cost of implementing portfolio programs (which includes the Council) through the PBS. The PBS does not, however, separately identify the operating budget of the Council (this issue is addressed in further detail in Chapter 5). The ANAO considers that this arrangement, depicted in Figure 2.3, limits the utility of the information to inform decisions on the appropriateness of the strategic plan.

Figure 2.3

Flow of information to the Minister



Source: ANAO based on Council and Health information

2.22 For the *Strategic Plan 2003–2006*, departmental resources available to implement the plan were communicated by Health to the Council on 20 August 2003, after the plan was submitted to the Minister for approval on 28 June 2003, as required by the NHMRC Act. The NHMRC Act does not require Health to approve the Council’s strategic plan, even though funds to implement the plan are provided by the department. This arrangement increases the risk that objectives in the plan will not match the resources available to administer it. To address this risk, the Council and Health should work together during the development of the strategic plan so that informed decisions can be made about funding for the Council’s strategy within overall budget constraints.

2.23 In the 2000–03 triennium, where the Council deemed that resources were insufficient to deliver its strategic plan, it did not advise the Minister of the need to vary the strategic plan.⁴⁹ During the audit, the Secretariat advised ANAO that the Council will review its *Strategic Plan 2003–2006* in the context of Health’s advice on the resources it has made available to implement it. Any variation to the strategic plan requires the approval of the Minister, as provided for in the NHMRC Act.

2.24 The ANAO suggests that the Council include, with the submission of its strategic plan to the Minister, the cost of implementing the strategic plan. Information provided to the Minister should also indicate those aspects of the strategic plan that will not be implemented should operating funding provided by Health be reduced, or where the Council’s work program is increased through additional items being referred by the Minister.

2.25 The Council and the Secretary are working together to determine the best use of resources that Health makes available to the Council for its activities, such as for the assessment and allocation of health and medical research funding and for Secretariat support to the Council's committees. Evidence of cooperation between the Council and Health is in the MoU that was signed in March 2003.

2.26 In contrast to its arrangements with the Council, Health has different types of agreements with other bodies in the Health and Ageing Portfolio. For instance, it has an agreement with the Health Insurance Commission (the Outputs Pricing Agreement) in respect of the services provided by the Commission. These arrangements are for the provision of services by another body to Health, with Health providing funding for the

⁴⁹ Under the NHMRC Act, the Council may, from time to time during the period in respect of which a strategic plan is in force, consider whether a variation of the plan is necessary. The Council may do so on its own initiative or as a result of the Minister requesting the Council to give him or her a variation of the plan.

services in accordance with the agreement. However, in the relationship with the Council, Health is both the funds holder and the service provider. Therefore, the establishment of similar agreements between the Council and Health would be difficult.

2.27 Under the existing legislative framework and administrative arrangements, where the Council and the Secretary disagree on best use of resources for administration, resolution would be difficult.⁵⁰ That is because the Council and the Secretary base their authority in different legislation, which give both parties some control of resources. For instance, the Council's legislation states that the Council has the general administration of the Act, and that the Council has power to do all things necessary or convenient to be done in relation to the performance of its functions.⁵¹ The Secretary's legislation states that the Secretary must manage the affairs of the agency in a way that promotes proper use of the Commonwealth's resources for which the Secretary is responsible. Proper use means efficient, effective and ethical use.⁵²

Delegations

Chief Executive Officer

2.28 As outlined earlier, the CEO is responsible under the NHMRC Act for the day-to-day activities of the Council. To facilitate this responsibility, the Council has delegated powers to the CEO, with the CEO accountable to the Council for the discharge of these powers. Further, the amendments to the NHMRC Act in 2000 established a statutory line of authority between the CEO and the Council, with the CEO required to act in accordance with written policies and directions from the Council. The Council now has a much greater influence over the way in which administrative support is provided by the Secretariat.

2.29 The Secretary has chosen to issue financial and personnel delegations to the CEO in order to facilitate the operations of the Secretariat. As a result, the CEO is accountable to the Secretary under the FMA Act and PS Act for the proper use of resources made available by the department. Health's procedural rules regulate the exercise of the powers delegated by the Secretary. These rules provide that the CEO is not permitted to delegate powers relating to expenditure or personnel. They also provide that, where a delegate expects to be unavailable to make a decision (in circumstances where the delegated power of the CEO exceeds

⁵⁰ The MoU does, however, contain a dispute resolution clause.

⁵¹ NHMRC Act, S11.

⁵² FMA Act, S44.

that of Secretariat staff), arrangements must be made with another delegate (within Health).

2.30 As a consequence of these arrangements, the CEO does not have the powers normally possessed by Chief Executives of public sector agencies, for example, Chief Executives of FMA agencies have powers in their own right and can delegate these powers accordingly.⁵³ This arrangement can create problems where a decision is required to be made under both the FMA Act and the NHMRC Act. Departmental delegates do not have the powers conferred on the CEO by the NHMRC Act. Further, this Act does not provide for the CEO to delegate his powers.

2.31 The CEO is also accountable to the Council for his use of funding allocated for health and medical research in accordance with his statutory responsibilities. Consequently, there are dual lines of accountability, as well as overlapping accountabilities. These arrangements also increase the risk of problems occurring where the CEO considers that directions from the Council under the NHMRC Act are inconsistent with his obligations under the FMA Act or PS Act.

2.32 The NHMRC Act⁵⁴ also establishes a line of accountability between the CEO and the Minister, as the Minister appoints the CEO by written instrument. This accountability relates to the discharge of the CEO's contract of employment.

2.33 The existence of multiple lines of accountability increases the complexity of the CEO's role. For example, the Council requires the CEO to negotiate the provision of appropriate facilities and funding to support the Council in the performance of its statutory functions, while at the same time the Secretary expects the CEO to manage the work program of the Council to ensure that it operates within departmental requirements (for example, in accordance with Health's Chief Executive's Instructions) and its allocated budget. This situation requires the CEO to represent the interests of both the Council and Health in negotiations—essentially negotiating with himself.

2.34 The arrangements also increase the risk to the Secretary's ability to meet the requirements of the FMA Act,⁵⁵ as the Secretary relies on an officer, who is not an employee and whose primary line of accountability is to another body, to provide assurance on the proper use of resources.

⁵³ S53 of the FMA Act provides that a Chief Executive may delegate powers.

⁵⁴ S44B(1).

⁵⁵ FMA Act, S44.

The arrangements also limit the effectiveness of the CEO, as ongoing efforts are required to balance accountabilities.

2.35 While the CEO is accountable to the Council, the Secretary and the Minister, his performance agreement is with the Chair of the Council, with a sub-committee of the Council assessing his performance. Neither the Secretary nor the Minister is involved in this process. While this arrangement strengthens the line of accountability between the Council and the CEO, it limits the scope for the assessment to those aspects of the CEO's performance that the Council deems a priority. Further, the CEO receives no assessment of his discharge of important responsibilities (financial management and human resource management) from the officer to whom he is accountable.

2.36 The CEO and Secretariat managers require delegated powers from the Secretary to expend funds and direct Secretariat staff. If these powers were not delegated, the CEO's capacity to discharge his duties would be diminished. As a consequence, the Council's ability to perform its legislated functions would be adversely impacted as the Chair of the Council—the Council's representative—has no delegated powers from the Secretary and, therefore, is unable to perform financial tasks or direct Secretariat staff. This is also the case for the Chairs of the Council's committees (further information on accountability arrangements for the Council and its committees is provided in Chapter 3).

2.37 The Council does not have a Deputy CEO to act when the CEO is absent. The Wills Review, in recommending the appointment of a CEO to the Council, suggested that the existing First Assistant Secretary should continue to manage the administrative functions of the Secretariat and act as Secretary to the Council. It was further suggested that this position report to the CEO. The First Assistant Secretary position was not transferred to the Secretariat from Health as part of the separation of day-to-day administrative support in 2000.

2.38 The creation of the Licensing Committee under the RIHE Act has broadened the range of activities that the CEO must manage. This, coupled with the number of staff in the Secretariat (128), suggests that there may be a requirement for a permanent Deputy CEO to support the CEO in day-to-day management and to act during the CEO's absences. In comparison, the Australian Research Council (ARC)⁵⁶ with 56 staff, has a Deputy CEO.

2.39 The NHMRC Act—under Section 44F—provides that the Minister may appoint a person to act as the CEO during absences of the CEO. The

⁵⁶ The ARC performs a similar research funding function to the NHMRC.

Council had not, at the time of writing this report, sought a Ministerial appointment under this Section. An Acting CEO also requires delegated authority from the Secretary to perform this role.

2.40 In order to ensure continuity of business operations, the ANAO suggests that the Council recommend to the Minister the appointment of an Acting CEO when the CEO is on recreation or sick leave, or overseas. In the longer term, the ANAO suggests that the Council review its organisational structure to determine the appropriateness of appointing a Deputy CEO.

Secretariat

2.41 Under the NHMRC Act, departmental officers provided under arrangement to the Council are required to perform their functions or duties in accordance with the directions of the CEO. While Secretariat staff are required under the NHMRC Act to follow directions from the CEO, they are also departmental employees accountable to their employer, the Secretary. In addition, those officers delegated powers under the FMA Act and PS Act are accountable to the Secretary, not the Council, for the discharge of those powers.

2.42 These arrangements have created confusion among Secretariat staff and officers within the department over the status of the Secretariat and the responsibilities and accountabilities of Secretariat staff. For instance, is a Secretariat staff member negotiating resources for the Council accountable to the Council or the Secretary for the result of the negotiations? The ANAO found that Secretariat staff and officers within the department were unsure as to whether the Secretariat was part of Health or was separate from Health. This confusion is increased as a result of multiple lines of accountability. It is unclear from current arrangements whether the Secretariat's primary line of accountability is to the Secretary or to the Council.

2.43 Arrangements, established within the legislative framework that govern the operations of the Council, establish a role for the Council in the oversight of Secretariat support. Without this support, the Council and its committees would be unable to implement their work programs and consequently discharge their statutory obligations. The ANAO found that the Council, as part of its governance role (this issue is discussed further in Chapter 3), monitors the support provided by the Secretariat through the CEO and the Management Committee.

2.44 The NHMRC Act provides that the Council may make arrangements with the Secretary for the services of officers or employees of Health engaged under the PS Act to be made available to the Council. It

does not require Health to provide Secretariat support services to the Council. The department advised the ANAO that the Secretariat is not considered to be a division of Health, and that the CEO is responsible for the oversight of Secretariat staff. As part of the CEO's responsibility for day-to-day activities, the CEO determines the level of staffing required to support the Council and its committees, within the approved operating budget provided by Health.

Developments

2.45 The Council has publicly commented on the unusual features of its relationship with Health and the resulting impact on its operations. In its Review Report,⁵⁷ the Council stated:

Separation from the Department. The NHMRC is a statutory body that receives administrative support via the Department of Health and Ageing. This arrangement was intended to reinforce the close interrelationship between the NHMRC and the Department. However, following the appointment of the CEO in 2001, it has become apparent that the unusual organisational structure, split accountabilities and dual governance framework has not provided an efficient model of operation. A review of these arrangements should be undertaken during the next triennium [2003–2005].⁵⁸

2.46 Health advised the ANAO that it has commissioned a consultancy to examine and propose ways of clarifying, improving and making more consistent the legal, financial, accountability and administrative relationships between the department and various Portfolio agencies, including the Council. While the consultancy will examine the relationship between the Secretary and the Council and the Secretary and the CEO, it will not review internal management processes of the Council.

2.47 In addition to these proposed internal reviews, a major external review, the *Investment Review of Health and Medical Research*, is planned to be completed by March 2004. The Review will assess the impact of the implementation of the Government's response to the Wills Review on the progress of health and medical research in Australia. The Review will include an assessment of the Council's governance and management arrangements.

2.48 The Australian Government has also commissioned a review, the Uhrig Review, of corporate governance of statutory authorities and office

⁵⁷ National Health and Medical Research Council, 2003, *Review of the Implementation of the National Health and Medical Research Council's Strategic Plan 2000–2003*, Commonwealth of Australia, p.44.

⁵⁸ *ibid.*, p.44.

holders. While this review does not involve the Council, it was expected to provide commentary on structures for good governance, as well as the relationship between statutory authorities and office-holders and portfolio ministers, the Parliament and the public. The findings of the Uhrig Review, when the report of the review is released by the Government with any actions it decides to take, may inform the reviews currently planned for the Council.

Improving accountability

2.49 The ANAO considers that the core problem with current administrative arrangements between the Council and Health relates to the model of accountability and authority established for the Council. This model, while addressing requirements of the legislative framework, creates multiple lines of accountability for the CEO and overlapping accountabilities for the performance of the Council's functions between the Secretary and the Council.

2.50 As outlined above, the Council and Health are planning separate reviews, in addition to a major external review, to assess the governance structures under which the Council operates. The ANAO suggests that a major focus of these reviews should be on the development of an appropriate accountability and authority model that addresses the issues identified in this Chapter. Any redesign of the Council's governance framework should aim to establish simple administrative structures and clear lines of accountability.

2.51 There are many possible models. These range from the establishment of the Council as a Commonwealth authority with the power to hold funds and employ staff, through to a closer relationship with Health (this would be similar to previous arrangements where the ONHMRC was a division of the department—where governance is provided by Health's Executive with the functions of the Council limited to recommendatory and advisory roles). This is a policy issue outside the scope of this audit.

2.52 As part of this audit, the ANAO examined governance models established for bodies similar to the Council. The ARC is established as a statutory agency under the PS Act and it is a prescribed agency under the FMA Act, as well as having statutory responsibilities under the *Australian Research Council Act 2001*. The ARC has the power to hold funds in its own right and to appoint staff. The ARC's operating budget is appropriated by Parliament. The CEO is accountable to the ARC Board, which is in turn accountable to the Minister.

2.53 The ANAO recognises that most options to simplify administrative arrangements will, however, involve legislative amendment, which is a policy matter for the Government. As a consequence, the ANAO has not recommended the adoption of a specific model to address issues identified in this audit.

Summary

2.54 While the administrative arrangements established for the Council are consistent with the legislative framework established by Parliament, there are aspects of the arrangements, particularly relating to accountability, where the ANAO considers that further refinement is necessary for greater effectiveness.

2.55 The arrangements are cumbersome and do not facilitate sound administration. They have created uncertainty and ambiguity and, as a result, provide limited accountability. As well, they have led to tensions that have required significant and ongoing effort from both the Council and Health to resolve.

2.56 The Council and Health are continuing to refine the administrative arrangements that are within their control, with both the Council and Health planning reviews.

3. The Council and Its Committees

This Chapter discusses accountability arrangements for the Council and its committees, particularly the clarity of roles and responsibilities.

3.1 Accountability is a key principle underpinning sound corporate governance in the public sector, and has been defined in many ways. The following is a useful, clear definition:

...the process whereby public sector organisations and the individuals within them are responsible for their decisions and actions...and submit themselves to appropriate external scrutiny. It is achieved by all parties having a clear understanding of those responsibilities, and having clearly defined roles through a robust structure. In effect, accountability is the obligation to answer for responsibility conferred.⁵⁹

3.2 These requirements become more important in a complex operating environment. Hence a clear understanding and appreciation of roles and responsibilities within a governance framework are key elements of sound accountability.

3.3 The Council's structure is complex. The structure comprises:

- a statutory Council (currently 29 members) appointed by the Minister for Health and Ageing;
- three statutory committees⁶⁰ established by two Acts,⁶¹ each headed by a statutory office holder appointed by the Minister for Health and Ageing and, in one case, the Minister for Ageing;⁶²
- one committee⁶³ established by the Minister for Health and Ageing, whose head is appointed by that Minister. This is not a statutory committee;
- a CEO, who is a statutory office holder and also a member of the Council, appointed by the Minister for Health and Ageing; and

⁵⁹ Mulgan, Richard, *The processes of public accountability*, in Australian Journal of Public Administration, 56(1), pp.25–36, 1997 quoted in ANAO, Better Practice Guide *Public Sector Governance* Volume 1, July 2003, p.8.

⁶⁰ These are the Australian Health Ethics Committee, the Research Committee and the Licensing Committee.

⁶¹ These are the NHMRC Act and RIHE Act.

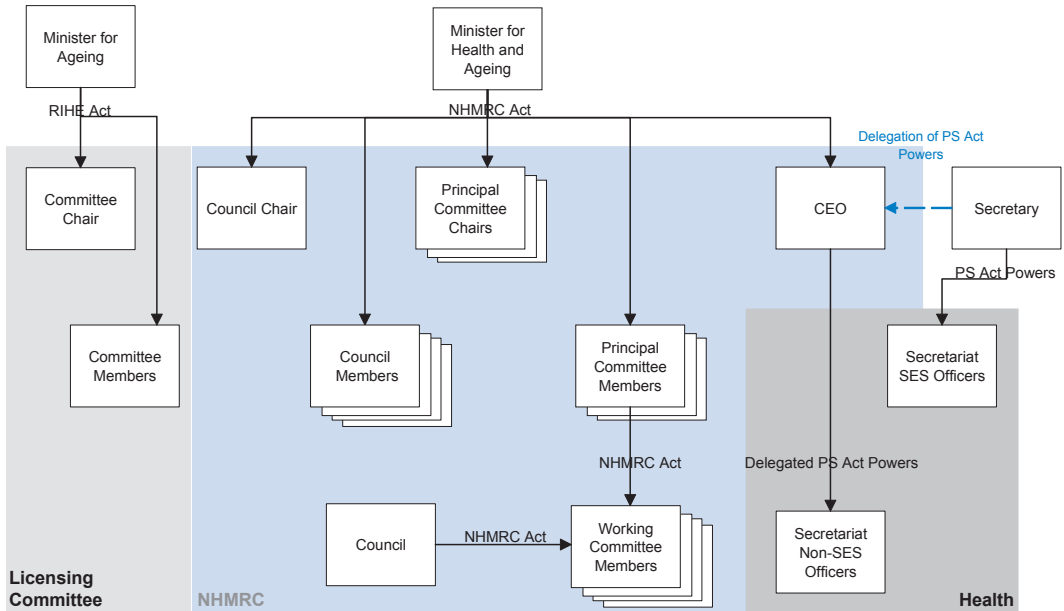
⁶² The Minister for Health and Ageing (Research Committee and Australian Health Ethics Committee) and the Minister for Ageing (Licensing Committee).

⁶³ This is the Health Advisory Committee.

- a Secretariat staffed by departmental officers, with senior executive service officers appointed by the Secretary and other officers appointed by the CEO.

3.4 Figure 3.1 illustrates lines of responsibility for NHMRC appointments.

Figure 3.1
Appointments



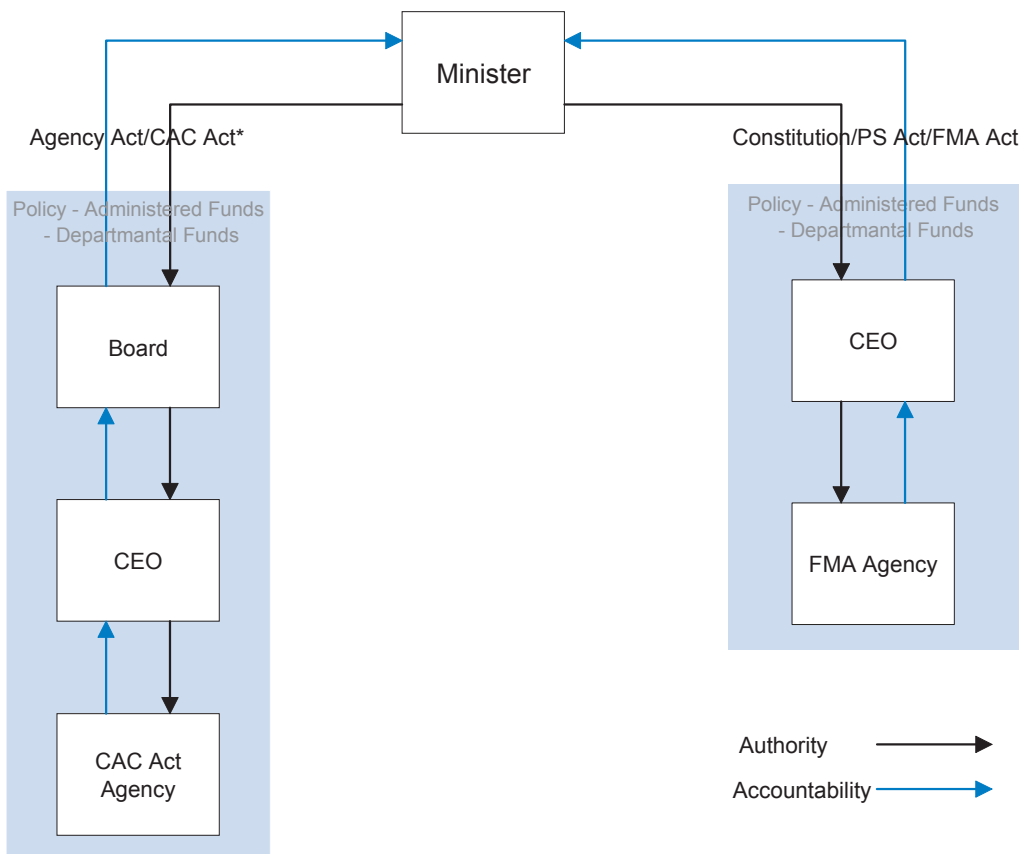
Source: ANAO based on Council and Health information

3.5 In its review of the roles, responsibilities and accountabilities of the Council and its committees, the ANAO first sought to identify an appropriate model of accountability from the public sector legal framework for governance.

3.6 The Australian Government has implemented legislative reforms over recent years to regulate the activities of the public sector, including directors, chief executives and their staff. The desired outcome of the reforms was to strengthen accountability and stewardship and improve the efficiency and effectiveness of the public sector, particularly following the devolution of authority from central agencies. Figure 3.2 illustrates typical accountability models for bodies established under the FMA Act and the *Commonwealth Authorities and Companies Act 1997* (CAC Act).

Figure 3.2

Typical accountability structures for CAC Act and FMA Act bodies



* CAC Act agencies generally operate within policy parameters influenced by the lead department in the Portfolio and approved by the Minister. Service level agreements between some CAC agencies and Portfolio departments may vary accountability arrangements.

Source: ANAO

3.7 The Council is established as a body corporate with a separate legal identity to the Commonwealth.⁶⁴ While the Council appears similarly structured to a Commonwealth authority, i.e. with a CEO reporting to a board (Council) which is accountable to the Minister, it is not a Commonwealth authority as it does not hold money on its own account. Overall, the Council’s governance structure represents a hybrid of the

⁶⁴ NHMRC Act, S6(2).

accountability models established by the FMA Act and the CAC Act.⁶⁵ Figure 2.2, in the previous Chapter, illustrates the Council's hybrid model. Multiple lines of accountability, inherent in this model, increase the complexity of administration and add to risks. This model also separates responsibility for the important functions of strategy development and administration.

3.8 The hybrid model also results in important differences between the Council and other public sector agencies. For example, if the Council were an FMA agency the CEO would:

- have authority under the FMA Act to authorise expenditure;
- be able to delegate powers; and
- only be accountable to the Minister or a Board, not to the Secretary of another organisation.

3.9 As the Council is outside the key legislation that provides the public sector legal framework for governance, the ANAO reviewed the NHMRC Act to determine whether it provides sufficient guidance to Council members on the discharge of their duties. The ANAO found that the Council is provided with only limited guidance by the NHMRC Act in the establishment of its governance structures and in determining appropriate roles and responsibilities for its members and its committees.

3.10 In order to form an opinion on the appropriateness of the Council's accountability arrangements, the ANAO examined the extent to which roles and responsibilities are clearly identified and articulated.

Roles and responsibilities

The Council

3.11 Consistent with the NHMRC Act, Council members are appointed by the Minister⁶⁶ and, as outlined earlier, are responsible for the general administration of the NHMRC Act and the performance of legislated

⁶⁵ The NHMRC is not:

- a Commonwealth authority under the CAC Act;
- an FMA Agency;
- a prescribed agency under the FMA Act;
- incorporated under the *Corporations Act 2001*;
- a statutory agency established by an Act of Parliament for the purposes of the PS Act; nor
- established as an executive agency under the PS Act.

⁶⁶ The Minister for Ageing appoints the Chair of the Licensing Committee, who is also a member of the Council.

functions. To support the performance of these functions, the Council has identified the following operational responsibilities for itself:

- ensure compliance with the NHMRC Act;
- develop and implement the Council's strategic plan;
- set and endorse priorities for itself and that of its Principal Committees;
- monitor the efficiency, focus, quality and impact of the work programs of its Principal Committees;
- monitor implementation of, and adapt as required, the Council's strategic plan throughout the triennium;
- oversee the evaluation of the Council's work program;
- prepare a report on the Council's implementation of its strategic plan; and
- provide annual reports to the Minister for Health and Ageing on all of the Council's activities.⁶⁷

3.12 The Council was established to bring together the Commonwealth, States and Territories, professional organisations and community groups to advise governments on health issues and funding for health and medical research. Its composition reflects this role, with the NHMRC Act providing for representation from 12 categories of stakeholders. The ANAO's survey of 2000–03 triennium Council members found that a number of members considered that their primary role was to represent the interests of their constituents. This is consistent with the Council's role as a forum for stakeholders. However, as mentioned earlier, the Council also has an important role in governance.

3.13 The NHMRC Act does not differentiate between the role and responsibilities of the Council as a body corporate, and the role and responsibilities of the governing body.⁶⁸ In contrast, the *Australian Research Council Act 2001* establishes the Board of the ARC separately from the organisation.

3.14 The Council has sought to clarify its governance role through the endorsement of a Council role statement,⁶⁹ which provides that:

⁶⁷ National Health and Medical Research Council, 2002, *The Inside Guide to the National Health and Medical Research Council for the 2000–2003 Triennium*, Canberra, pp.6–7.

⁶⁸ The Council currently comprises 29 members. However, this number may change depending on the number of Principal Committees.

⁶⁹ The complete role statement is provided at Appendix 5.

The members of the Council of the National Health and Medical Research Council form the governing body responsible for implementing the objects set out in the *National Health and Medical Research Council Act 1992* and ensuring the effective discharge of functions in accordance with the Act.

3.15 The Wills Review reported that, while the Council's size and composition had advantages in meeting its roles under the NHMRC Act, it was an unworkable number to provide effective governance.⁷⁰ Consistent with this was the view—expressed by Council members and Secretariat staff—that the Council's size, composition and legislative basis limit the effectiveness of the Council in performing this role.

3.16 In reflecting on its finding that the Council was 'too large and unwieldy', the Wills Review recommended the establishment of a 10-12 member Executive Board, with broad representation including 3-4 State and Territory representatives and an eminent, experienced chair. The Secretariat advised the ANAO that an Executive Board was not established as the Council's Executive Committee—which was already established—had a similar composition and performed a similar function. This committee comprised Principal Committee Chairs, the CEO, a number of Council members and Chair of the Council who was also the Chair of the Committee.

3.17 The NHMRC Act provides for the establishment of the Executive Committee by the Council to act on behalf of the Council as its 'executive organ'. The Council abolished the Executive Committee in 2002 due to concerns relating to overlapping responsibilities between the Council and the Executive Committee. The Council, subsequently, also established a Management Committee, which is discussed in further detail later in this Chapter.

3.18 The Council has reviewed its governance arrangements and explored options to improve accountability within existing legislated structures. A Council workshop conducted to review governance structures concluded that the strengthening of governance and professionalism of the Council should continue through:

- separating governance and management roles;
- strengthening of the staffing profile;
- developing an improved strategic and business planning focus; and

⁷⁰ Health and Medical Research Strategic Review Committee, 1999, *The Virtuous Cycle: working together for health and medical research*, Commonwealth of Australia, Canberra, p.173.

- more active engagement by Council members in appropriate committee work.

Management Committee

3.19 The Council established the Management Committee in 2002 in response to a recommendation arising from an operational review⁷¹ and the Council's intention to separate governance and management functions. The Management Committee comprises the Chair of each Principal Committee and Secretariat centre managers, and is essentially an Executive Board of Management.⁷²

3.20 The purposes of the Management Committee are to improve coordination and organisational alignment of the Council's business and to provide a means through which the CEO can discharge his governance responsibilities. However, Principal Committee Chairs are not accountable to the CEO. As a result, the participation of Principal Committee Chairs and the effective functioning of the Committee requires the good will of Committee members.

3.21 The Management Committee reports to the Council through the CEO. The Management Committee is an important component within the Council's governance structure. It provides a forum for Principal Committee Chairs and Secretariat centre managers to coordinate business activities and determine the allocation of resources. It is also a working committee of the Council, and as such, can be delegated statutory powers by the Council.

3.22 In addition to the Management Committee, the Secretariat also has an Office Executive Committee—comprising Secretariat centre managers and the CEO—which meets weekly.

Principal Committees and Principal Committee Chairs

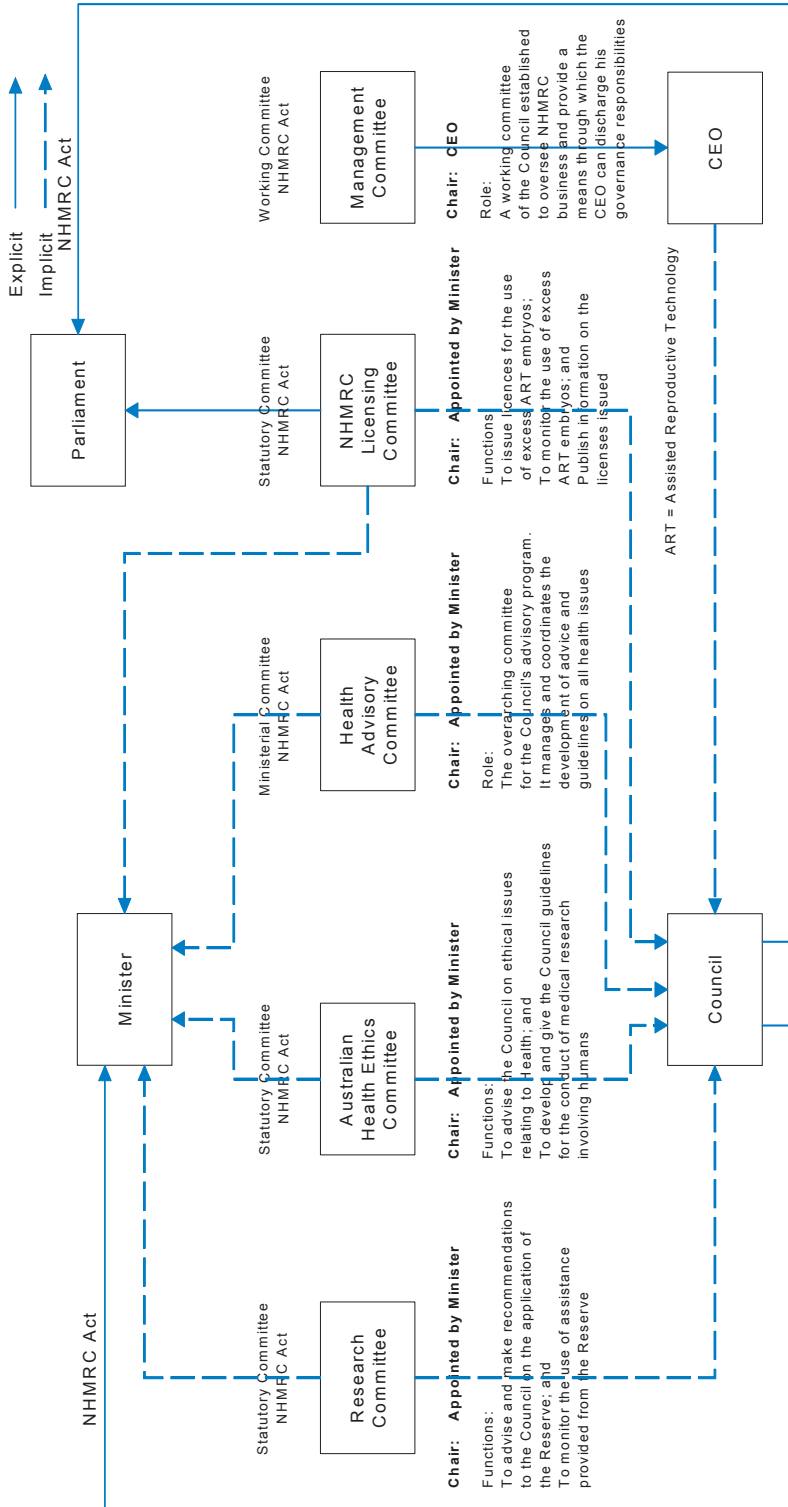
3.23 The statutory foundation on which the Principal Committees are established, and the Principal Committee Chairs are appointed, has a significant impact on governance arrangements within the Council.⁷³ The roles and accountabilities of the Council's committees are depicted in Figure 3.3.

⁷¹ In October 2001 the CEO commissioned a review of the structures, processes and systems employed by the Secretariat. An external consultant conducted the review.

⁷² The Management Committee does not comprise Council members who are not involved in Secretariat or Principal Committee oversight.

⁷³ Three of the four Principal Committees are established by statute. The Minister established the Health Advisory Committee, which is the fourth committee, and determined its role.

Figure 3.3
Roles and accountabilities for Council committees



Source: ANAO based on Council information and a review of relevant legislation

3.24 The NHMRC Act and the Research Involving Human Embryos Act establish the functions of the Research Committee, Australian Health Ethics Committee and the Licensing Committee. While the Council may determine the manner in which a Principal Committee carries out its functions, the Minister-appointed Chair is responsible for ensuring the performance of the legislated functions. The Council does not have the discretion to alter or add to the functions performed by Principal Committees.⁷⁴ Similarly, the Council's ability to direct Principal Committee Chairs is limited to the manner in which they are carrying out their legislated functions. The way in which the Council interacts with the Principal Committees is outlined in recently developed role statements. The Council's role statement provides that:

The Council recognises that the members of its Principal Committees have been independently appointed by the Commonwealth Minister for Health and Ageing, based on their technical knowledge and experience and the contribution they can make to the work of the Committee. As a result, Council aims to provide only broad direction and guidance to its Committees.⁷⁵

3.25 A strong theme evident from the ANAO's survey of 2000–03 triennium Council members, its interviews and its review of Council documentation, was that there has been a lack of clarity about the roles and responsibilities, and consequently about the accountability, of the Principal Committees, particularly in relation to the Council and the CEO. The ANAO observed a divergence of opinion between Council members, Secretariat staff and Principal Committee members as to an effective role, responsibility, accountability and reporting framework under which governance is enhanced and statutory compliance is assured.

3.26 There are a number of factors influencing accountability arrangements between the Council and the Principal Committees. These factors are discussed below.

3.27 The NHMRC Act imposes limits on the level of control that the Council has over its Principal Committees. This Act provides that the Council must issue guidelines for the conduct of medical research involving humans precisely as developed by AHEC. The Council does not have the discretion to alter or endorse these guidelines. The Council has also previously delegated⁷⁶ to the Research Committee, its authority to

⁷⁴ The Council can, however, provide advice to the Minister on the functions of its Principal Committees.

⁷⁵ Internal NHMRC document.

⁷⁶ The Council revoked this delegation for the 2003–2005 triennium.

advise the Minister on the application of the MREA and to recommend to the Commonwealth expenditure on:

- public health research and training; and
- medical research and training.

3.28 Under the NHMRC Act, the CEO's responsibilities include the allocation of Secretariat resources to support all four Principal Committees to implement their work programs. The CEO is accountable for the day-to-day management of the Council, including the proper use of Commonwealth resources. The Principal Committee Chairs are accountable to Council for the performance of their work programs, but have not been delegated authority to expend funds or direct the CEO or Secretariat staff. The Chairs are also accountable to the Minister for the performance of the Principal Committee's functions.⁷⁷ As a result, Chairs are accountable for activities over which they have limited influence.

3.29 The establishment of a new Council Principal Committee under the RIHE Act has further changed the role of the Council in relation to its Principal Committees. The RIHE Act created the Licensing Committee as a Principal Committee of the Council. It also specifies provisions of the NHMRC Act that do not apply to the Licensing Committee. While the RIHE Act provides that the Council must include details of the Licensing Committee's operations in its annual report, it also provides for the Licensing Committee to report directly to Parliament—not through the Council. In addition, the legislation confers greater powers on the Chair of the Licensing Committee than on other Principal Committee Chairs. For example, the RIHE Act provides that the Licensing Committee Chair may appoint inspectors, but does not require appointees to be engaged under the PS Act, as is required under the NHMRC Act. It further provides that the inspectors must comply with any directions of the Chair of the Licensing Committee. In contrast, Secretariat staff that provide support to the other Council Principal Committees are required to comply with directions from the CEO. The role of the CEO in relation to Secretariat support for the Licensing Committee is unclear.

3.30 The NHMRC Act provides that the 'Council or a Principal Committee may establish such working committees as it thinks necessary to help it carry out its functions, and may abolish such committees.'⁷⁸ Further, this Act provides that the 'Chairperson of a committee may enter

⁷⁷ These include monitoring the use of assistance provided from the MREA and the production of guidelines on health ethics and health advice.

⁷⁸ NHMRC Act, S39(1).

into arrangements for a person or persons to help the committee carry out its functions.⁷⁹ Working committee members and persons assisting working committees are entitled to allowances under the NHMRC Act. As a result of these provisions, the Council, Principal Committees and Chairpersons of working committees can enter into arrangements that could lead to a commitment of Commonwealth funds. However, as outlined earlier, neither the Chair of the Council, nor committee Chairs are Officials under the FMA Act and, therefore, have no expenditure powers or accountability under this Act. Problems could occur where the CEO and Secretariat staff do not consider that an arrangement entered into by a Chair constitutes the proper use of Commonwealth funds.

3.31 The Secretariat informed the ANAO that Council and committee members have been advised of the extent of their powers and that, in general, the Council and committees work through the Secretariat when establishing working committees and when making arrangements for assistance. As a result, Secretariat managers who have expenditure powers are involved in the commitment of expenditure. This arrangement, however, relies on the goodwill of those involved. The Council, in response to a draft of this report, advised the ANAO that its Management Committee approved in December 2003 a new policy and procedures for the operation of relevant sections of the NHMRC Act.

3.32 The creation of the Management Committee has improved the linkages between the Principal Committees and the Secretariat, and assists with managing workloads and work programs. The Council reported in its *Strategic Plan 2003–2006* that business plans are aggregated through the Management Committee, so that Council is assured that the resources provided to the Council are used in accordance with its strategic plan.

Developments

3.33 The Council has worked to clarify its roles and responsibilities, particularly in relation to the CEO, the Chair of Council and the Principal Committees, through the development and endorsement of role statements. This work was conducted to address issues identified in the Council's mid-triennium self-evaluation⁸⁰ relating to ambiguous roles and responsibilities.

⁷⁹ NHMRC Act, S40(1).

⁸⁰ The Council conducted a mid-triennium self-evaluation in 2001, which consisted of a survey of all Council members that covered the following areas: strategic planning; work programs; linkages between the Council and its Principal Committees; risk management; Council operations; stakeholders; communications strategies and public image; arrangements for the new Council/triennium; Council support; and financial management.

3.34 Implementation of a member induction program is addressing an area of particular concern for 2000–03 triennium Council members. Of the 25 Council members of that triennium who responded to the ANAO’s survey, 17 indicated that their induction provided by Health did not provide them with a well-developed understanding of their role and responsibilities. However, Council members considered that role clarity had improved over the course of the triennium. The issue of role clarity is being addressed by the Council through a comprehensive member induction program for the 2003–05 triennium (this issue is discussed in further detail in Chapter 4).

3.35 The Secretariat has sought to further clarify roles and responsibilities through the development of a governance and accountability diagram.⁸¹ This diagram, which is included at Appendix 6, illustrates the complex governance arrangements under which the Council operates.

3.36 Council members and stakeholders have commented on the need to review the NHMRC Act to clarify roles and responsibilities. The Council’s Review Report⁸² summarises these views as follows:

Reviewing the NHMRC Act. Several stakeholders (and the Council during the course of the triennium) have commented on the need to consider a review of certain aspects of the Act which currently limit the NHMRC’s effectiveness in discharging its responsibilities. Issues for possible consideration include reviewing the membership categories and size of Council, and further clarifying roles and responsibilities of the Council and its Principal Committees, the Chairs and the CEO.

3.37 The Council advised the ANAO that a meeting, which will bring together the Council and its Principal Committees to conduct an integrated strategic planning and review process, is scheduled for 17 March 2004.

3.38 The Council has foreshadowed in its *Strategic Plan 2003–2006* a review of the NHMRC Act to improve the clarity of roles and responsibilities. Objective 7 of the plan is *Improve governance and accountability*. A key strategy in support of this objective is:

Reviewing the operations of the NHMRC Act to ensure that the organisation has the highest standards of efficient governance to meet the objectives of an independent statutory organisation within the Health and Ageing portfolio.

⁸¹ This diagram related to the 2000–03 triennium.

⁸² National Health and Medical Research Council, 2003, *Review of the Implementation of the National Health and Medical Research Council’s Strategic Plan 2000–2003*, Commonwealth of Australia, p.44.

3.39 The Minister approved the *Strategic Plan 2003–2006* in July 2003.

Improving accountability

3.40 The ANAO notes the Council's planned review of the NHMRC Act, as reported above, and suggests that the review focus on the establishment of an appropriate model of accountability and authority. As outlined in Chapter 2, any redesign of accountability and authority arrangements should establish transparent structures and clear lines of accountability. The lines of accountability between the Council and its committees should be explicitly defined to avoid the risk of misinterpretation or misunderstanding.

3.41 As reported by the Wills Review, the Council's size, while supporting the Council in its role as a peak forum for stakeholders, is not appropriate to provide effective governance. However, if the Council was recast to act as a governing body, it could lose some of the qualities that contribute to its effectiveness as a stakeholder forum, and policy and advisory body. The ANAO considers that an appropriate approach to addressing this issue could be the establishment of a sub-committee of Council, similar to the Executive Board suggested by the Wills Review, with responsibility for specific aspects of financial and administrative control. A specific responsibility would be the monitoring of work programs and business plans, and overseeing the performance of executive management and the Management Committee.

3.42 This approach would preserve the strength of the current composition of the Council as a stakeholder forum, while strengthening the Council's capacity to oversight governance and administer its enabling legislation. The ANAO acknowledges that, in considering this and other approaches, a number of issues would need to be considered and resolved. For example, issues related to the potential overlap of responsibility between the full Council, its Management Committee and the proposed sub-committee (as outlined earlier, overlapping responsibilities contributed to the abolition of the Council's Executive Committee).

3.43 As stated in Chapter 2, the ANAO recognises that most options to clarify accountability arrangements will, however, involve the amendment of legislation. As a consequence, this is a matter for the Government to determine. Therefore, the ANAO has not recommended the adoption of a specific administrative model to address issues identified in this audit. The ANAO has, however, made one recommendation to the Council to improve governance arrangements within its existing legislative and administrative structures.

Summary

3.44 Overall, the Council's performance of its legislated functions is not based on a foundation of robust and clearly articulated roles and responsibilities. As a result, considerable time and resources are consumed in efforts to make the arrangements work. Continuing ambiguity and confusion over roles, responsibilities, accountabilities and authorities pose a significant risk to efficient and effective administration.

3.45 The Council has recognised the need for improved role clarity within the organisation and is working to clarify roles and responsibilities through the development and endorsement of role descriptions, the development of a governance and accountability diagram, workshops to review governance structures and the establishment of a member induction program. The majority of Council members considered that role clarity improved over the course of the 2000–03 triennium.

Recommendation No.1

3.46 The ANAO recommends that the Council, in order to clarify governance arrangements within existing legislation and administrative arrangements:

- assess the appropriateness of existing governance arrangements, particularly links between the Council, the Principal Committees, the Management Committee and the CEO, and amend as necessary;
- document and endorse a governance charter, that clearly describes the separation of functions of the Council, the Chair of Council, Principal Committees and the CEO;
- delegate powers where necessary and implement appropriate reporting against delegated powers; and
- regularly monitor compliance with, and evaluate the effectiveness of, endorsed structures.

NHMRC's response

3.47 The NHMRC:

- agrees in principle. The NHMRC is committed to ongoing review and strengthening of governance arrangements to enable the Council to operate more effectively and efficiently within current arrangements. However, the NHMRC recognises that its capacity to significantly progress this matter may be limited by the prevailing legislation and existing administrative arrangements;
- agrees in principle, as outlined in dot point one above;
- agrees in principle and undertakes to investigate appropriate delegations within the scope of the NHMRC Act. In relation to appropriate delegations under the Financial Management Accountability Act, the NHMRC undertakes to work with Health to implement relevant delegations; and
- agrees in principle, as outlined in dot point one above.

4. Legislated Responsibilities and Compliance Arrangements

This Chapter discusses how the Council identifies and communicates its legislative responsibilities and monitors legislative compliance.

Identifying and communicating legislated obligations

4.1 The Council must comply with its enabling legislation as well as a range of other Commonwealth legislation. The ANAO found that the Secretariat identified and documented responsibilities arising from the NHMRC Act in a Secretariat Handbook. The Handbook is structured around the provisions of the NHMRC Act and related regulations, and it provides detailed administrative procedures and templates (relating to legislative provisions) to guide the Secretariat in the performance of its responsibilities. The Handbook also provides details of the website where a complete copy of the NHMRC Act can be sourced, and procedures to be followed where interpretation or clarification of the NHMRC Act is required.

4.2 The Handbook was drafted in October 2000. The Secretariat did not, however, at that time implement a process to identify and document changes in responsibilities and business procedures. As a result, the 2000 Handbook was not regularly revised and was considered out-of-date at the time of fieldwork. In July 2003, the Secretariat completed the development of a Member's Handbook for new Council and Principal Committee members and a new Secretariat Handbook to replace the 2000 Secretariat Handbook. The Secretariat has now established a process and assigned responsibilities to ensure that the Handbooks are regularly revised.

4.3 The current Secretariat Handbook comprises the contents of the Member's Handbook with additional Secretariat-specific information. The Member's Handbook was developed to support induction processes for Council and Principal Committee members. The Handbooks include current information on statutory obligations, with reference to the Council's responsibilities under the RIHE Act and PHC Act.

4.4 The ANAO noted that both the Member's and Secretariat Handbooks provide an overview of administrative law applicable to the Council. Given that administrative law is subject to change, it is important that agencies have a process to identify changes to existing obligations or new obligations arising from applicable legislation. The Secretariat is yet to establish a process to monitor changes or additions to its administrative law obligations.

Monitoring legislative compliance

Responsibility for legislative compliance

4.5 The Council has defined its role in documents, such as *The Inside Guide to the National Health and Medical Research Council for the 2000–2003 Triennium*⁸³ (Inside Guide), where it states that, operationally, the Council seeks to ensure compliance with the Act.

Managing legislative compliance

4.6 The Council publicly reported, in its Review Report⁸⁴ – required to be produced by the Council under the NHMRC Act – that:

The Council *believes* [emphasis added] that it has fully complied with the provisions of the Act in exercising its functions.

4.7 The ANAO considers that the Council would be in a better position to report full compliance if it: established comprehensive monitoring and reporting of compliance obligations; improved the monitoring and management of delegations; and implemented a comprehensive induction program for Secretariat staff, which included training on their legislative responsibilities. These matters are discussed below.

Reporting against compliance obligations

4.8 In order to assess compliance with the NHMRC Act, the Council must make sure that information reported by the Secretariat and the Principal Committees provides sufficient detail to enable members to gain an assurance of compliance with the provisions of the NHMRC Act.

4.9 The Secretariat and Principal Committees present a range of information to the Council that details legislative obligations and provides insights into legislative compliance. The Secretariat has also informed the Council of some internal controls established to support legislative compliance. However, based on a review of Council minutes, interviews with 2000–03 triennium Council members and Secretariat staff, and the survey of 2000–03 triennium Council members, the ANAO considers that the information currently provided to the Council is not sufficiently detailed, or aligned to legislative obligations, to provide members with the required level of assurance. Examples of where further information is necessary relate particularly to reporting by the Principal Committees and

⁸³ National Health and Medical Research Council, 2002, *The Inside Guide to the National Health and Medical Research Council for the 2000–2003 Triennium*, Commonwealth of Australia, p.6.

⁸⁴ National Health and Medical Research Council, 2003, *Review of the Implementation of the National Health and Medical Research Council's Strategic Plan 2000–2003*, Commonwealth of Australia, p.40.

the Secretariat (through the CEO). Reporting to the Council predominantly relates to progress against work programs and does not, in general, address legislative obligations or controls established to facilitate compliance. Further, some Principal Committees do not provide written reports to the Council.

4.10 To address this compliance issue, the ANAO suggests that the Council review its enabling and related legislation and rank its compliance obligations. Appropriate criteria for monitoring and reporting should then be established for important obligations. The Council should then delegate the monitoring of other, less important, obligations to the CEO, and establish appropriate accountability arrangements to help ensure such monitoring is occurring.

Managing and monitoring delegations, directions and policies

4.11 The Council has delegated certain legislated powers to the CEO and to its committees under Section 83 of the NHMRC Act. The Council Secretary maintains a register of delegated powers. However, this information is not regularly provided to Council members or communicated to Secretariat staff. As a result, the Council's ability to effectively manage and monitor the performance of delegated functions is limited. It also makes it difficult for new Council members and Secretariat staff to easily determine delegated responsibilities. The ANAO suggests that the Secretariat include the register in the Member's and Secretariat Handbooks to facilitate the monitoring and management of delegations.

4.12 The NHMRC Act states that the CEO is required to comply with written policies and directions from the Council.⁸⁵ The Secretariat currently records actions arising from Council sessions in a table that is included with Council session papers. This is an appropriate means for the Council to ensure that the CEO complies with its policies and directions.

Awareness and understanding of legislated responsibilities

4.13 In order to effectively perform their legislated functions and monitor compliance with relevant legislation, Council members and Secretariat staff require a well-developed understanding of their legislated responsibilities. A comprehensive induction program is an important component in the development of this understanding. The ANAO's review of better practice⁸⁶ identified the importance of effective induction training to provide information on the public sector context in which an

⁸⁵ NHMRC Act, S44A(3).

⁸⁶ International Federation of Accountants, 2001, *Governance in the Public Sector: a governing body perspective*, New York, p.32 and 48.

organisation operates and on its specific operations and wider environment.

4.14 The audit identified that induction training was provided unevenly to members of the 2000–03 Council, but that the Secretariat has implemented a comprehensive induction program for Council and Principal Committee members for the 2003–05 triennium. This program comprises a series of workshops designed to provide members with information on their legal and governance responsibilities, in addition to information on administrative arrangements. The ANAO suggests that, in order to ensure that all Council members receive aggregate information on their role and responsibilities on the Council, the Secretariat provide members commencing during the triennium with a similar induction.

4.15 As described earlier in this report, Secretariat staff are provided by Health. As a result, staff allocated to the Council require:

- an induction into the activities of the Council to understand their role and responsibilities within the Secretariat; and
- an induction into the department to understand their role and responsibilities as a departmental officer.

4.16 The ANAO found that a number of Secretariat staff interviewed had not received a comprehensive induction into the activities of the Council. Interviews with a sample of recently appointed officers confirmed that this remains an issue. While Secretariat managers and officers acknowledged the absence of a comprehensive induction into the activities of the Council, some officers confirmed that they had attended a departmental induction program. This program provided information on departmental systems and processes, Chief Executive's Instructions and procedural rules. Attendance at Health's induction program is not, however, mandatory for departmental officers. As a result, Secretariat staff may not receive appropriate training and may therefore be unaware of their obligations as departmental officers. The ANAO suggests that, in order to provide Secretariat staff with an appropriate understanding of their role and responsibilities within the Secretariat and as departmental officers, the Council implement a comprehensive induction program for all staff. This program should incorporate relevant components from Health's induction program.

4.17 The Council has since advised the ANAO that it has developed some components of a comprehensive induction program, with training provided to Secretariat staff on the Council's enabling and related legislation in July 2003.

Risk management

4.18 The Council's risk register identifies four specific risks related to legislative compliance and 13 strategies designed to reduce these risks. The strategies include: Secretariat Handbook used and updated; procedures for expenditure available and compliance monitored; procedures documented; all staff made aware of relevant legislation; and staff training and supervision. As at May 2003, only three of the 13 strategies were in place. Further information on risk management within the Council is provided in Chapter 6.

Compliance issues

4.19 While the audit did not include comprehensive testing of the Council's compliance with its enabling legislation, the ANAO reviewed a sample of the Council's legislated responsibilities during the course of fieldwork. A compliance issue, relating to the Research Committee's statutory obligation to monitor the use of assistance provided from the MREA, is discussed in Chapter 5.

Summary

4.20 Overall, the ANAO considers that the Council has adequately identified obligations arising from the NHMRC Act. The identification and communication of legislated responsibilities, and supporting administrative processes in the Member's and Secretariat Handbooks, provide a reference tool for Secretariat staff and members.

4.21 While the Council and the Secretariat have established processes to monitor aspects of legislative compliance, the ANAO does not consider that these processes provide Council members with an appropriate level of assurance of compliance to enable them to effectively discharge their responsibilities. The Council's monitoring of legislative compliance would be strengthened if it: established comprehensive monitoring and reporting of compliance obligations; improved the monitoring and management of delegations; and implemented a comprehensive induction program for Secretariat staff.

5. Planning, Measuring and Reporting Performance

This Chapter discusses the Council's planning practices, monitoring processes and internal and external reporting.

Planning and internal budgeting

5.1 An important element of better practice governance structures and processes in public sector agencies is an effective planning framework. It provides a structure within which an organisation operates to achieve its objectives. An effective planning framework guides organisational activities and provides a basis for assessing organisational performance.⁸⁷ It is particularly important to ensure strategic and operational plans—down to, and including, individuals' performance plans and agreements—are aligned and mutually supportive. This reduces the scope for confused objectives or gaps in performance planning and monitoring.⁸⁸

5.2 In its review of the Council's planning systems and procedures, the ANAO looked for an overarching planning framework that summarised the organisation's planning methodology, key plans, their purposes, planning timeframes, planning responsibilities and accountabilities, and an outline of the Council's budgeting processes. Further, the ANAO expected to find a set of planning documents and statements that were hierarchically and logically structured, integrated, consistent, uncomplicated and clear, which facilitated effective and efficient management of the Council.

5.3 The Secretariat developed and documented a Business Planning Framework for its 2002–03 planning activities. The framework illustrated the planning structure and established target dates for the completion of specific planning tasks. However, the Secretariat did not comply with its timeframe.

5.4 The Council has not adopted this framework for 2003–04, nor has it developed a replacement framework. This can be partly explained by the uncertainty created through participation in Health's business planning initiative, which involved a major redesign of planning procedures (this issue is further explained later in this Chapter). The absence of a

⁸⁷ Performance Audit Report No.1, 1998–99, *Corporate Governance Framework*, Australian Electoral Commission, p.35.

⁸⁸ ANAO Better Practice Guide *Public Sector Governance*, July 2003, p.24.

framework limits the ability of CEO and Secretariat managers to coordinate planning activities and monitor the progress of planning tasks. It also limits the Council's capacity to communicate its planning processes to internal and external stakeholders.

Strategic and operational plans

5.5 At the time of fieldwork, the Council's planning documents comprised: a *Strategic Plan 2000–2003*; *Draft Strategic Plan 2003–2006*; *NHMRC Secretariat Business Plan 2002–2003*; Principal Committee Triennium Work Programs; section business plans for 2002–03; and Performance Development Scheme performance agreements.

5.6 The Council is required, under the NHMRC Act,⁸⁹ to develop, and prepare in writing, a three-year strategic plan. The plan is to include the Council's assessment of major national health issues that are likely to arise during the period and the manner in which the Council proposes to perform its functions in addressing those issues. The strategic plan must also contain a national strategy for medical research and public health research. The Council's *Strategic Plan 2000–2003* and *Strategic Plan 2003–2006* address these statutory obligations.

5.7 Without a robust strategic and operational planning framework, the ANAO would expect to find problems relating to alignment, integration and consistency of plans. The ANAO's review of the Council's plans found a number of problems, including limited integration of plans with gaps between them, limited performance measures, and minimal financial information in business plans.

Internal budgeting

5.8 The Auditor-General of Australia has stated that:

Well developed and implemented budgeting processes are critical to providing a sound basis for controlling activity levels and for effectively monitoring and managing financial performance. In turn, effective budgeting processes can be a key driver in the successful delivery of an organisation's outputs (services).⁹⁰

5.9 Internal budgeting has been the subject of ongoing scrutiny within the Council. The Secretariat reported to the Council in October 2002 that significant variances between actual expenditure and budgets were not only due to delays in program implementation, but were also the result of

⁸⁹ NHMRC Act, Part 3-Division 3.

⁹⁰ ANAO Better Practice Guide *Internal Budgeting*, February 2003, p.iii.

accounting and reporting deficiencies. The Secretariat proposed a comprehensive review of budgeting to address identified deficiencies.

5.10 In regard to 2002–03 budgeting, the Council did not integrate its budgeting processes with its planning processes. The Council had not established a policy to govern the development and endorsement of internal budgets, and did not record on official files the basis on which internal budgets were developed. The ANAO was advised that the Office Executive Committee endorsed internal budgets, but Secretariat staff were unable to provide endorsed internal budgets for the Council’s administrative centres.

5.11 As a result, the foundation on which internal budgets were based is unclear. This limited the transparency of the Council’s budgeting process. It also increased the risk of an inconsistency between planned activities and available funding. The establishment of an internal budgeting policy, and integration of performance planning and budgeting, would enable the Council to better estimate and allocate its resources. It would also:

- place the Council in a better position to negotiate its resource needs with Health; and
- facilitate a review of outcomes against budgets with a view to identifying deficiencies and addressing them.

Planning and budgeting developments

5.12 Health commenced a business planning and budgeting initiative in early 2003. The aim of the initiative was to standardise planning processes across all Health divisions for the 2003–04 planning year. The resulting plans would then be used to align divisional priorities with department-wide priorities and allocate resources.

5.13 The initiative originally focused on Health’s divisions and State offices. The Secretariat sought to participate in the initiative, as the information gathered was to provide the basis of departmental resource allocations. The Council’s 2003–04 business plans were developed in the context of the Council’s strategic plan for the 2003–05 triennium and prepared using the guidelines established by the department, with Health determining the Council’s 2003–04 budget against these plans. The Council’s adoption of revised planning and budgeting processes under the initiative has improved the rigour, content, alignment and timeliness of business planning and budgeting within the organisation. Integrating strategic plans and work programs with the revised business planning and budgeting processes, through a strategic and business planning framework, would further strengthen planning within the Council.

5.14 As outlined earlier, the Council has advised the ANAO that it has scheduled an NHMRC Planning Workshop for 17 March 2004. The aim of the workshop is to establish appropriate planning processes for the Council and its Principal Committees for the 2003–05 triennium in the context of Health’s budgeting and planning processes.

Measuring performance

5.15 The ANAO considers that well governed organisations incorporate into governance structures and processes, a structured and regular system of performance monitoring. This system should be aligned with the organisation’s outcome and outputs, and generate information that is appropriate for both external accountability requirements and internal performance management needs.⁹¹

5.16 The Council is required to demonstrate to the Minister and to Parliament the performance of its legislated functions and is accountable for its use of Commonwealth resources. The primary means of demonstrating agency performance to external stakeholders is against measures established in the PBS.

5.17 The establishment of measures and targets in strategic and business plans and the subsequent monitoring of actual performance against these plans by agencies, informs internal stakeholders of achievements against planned objectives.

5.18 In addition to its accountability requirements as a statutory body, the Council is expected under the budget process to demonstrate the increased value to the Australian community derived from the Government’s 1999 decision to double funding for health and medical research over six years. The Wills Report suggested that the increased public investment in health and medical research be contingent on demonstrable returns on this investment. As outlined in Chapter 2, the Minister has commissioned a review to assess the impact of the implementation of the Government’s response to the Wills Review on the progress of health and medical research in Australia. The Council has developed a Performance Measurement Framework (PMF) to inform this review process and to monitor achievements against its strategic objectives.

5.19 The ANAO’s review of the Council’s performance monitoring systems focused on the integration and alignment of these systems, and

⁹¹ ANAO Better Practice Guide *Public Sector Governance*, July 2003, p.24.

the appropriateness of the systems in meeting internal performance management needs and external reporting requirements.

Performance Measurement Framework

5.20 A key theme of the Wills Review related to the development of an evaluation framework to quantify the outcomes of the Council's investment in health and medical research. This issue was referred to the Review Committee for consideration.

5.21 As a result of workshops conducted, and later work by Commonwealth officials and representatives of the Council and other relevant organisations, a Research Outcome Evaluation Model (ROEM) was developed to monitor, evaluate and report Council research activities. The model was included in the Council's *Strategic Plan 2000–2003* as the means of assessing the Council's achievement of its strategic objectives.

5.22 The Secretariat subsequently developed a PMF—endorsed by the Council in March 2002—which subsumes the ROEM. The PMF includes research, advice and ethics measures. The framework does not, as yet, accommodate responsibilities acquired from the RIHE Act and PHC Act.

5.23 The PMF comprises 37 performance measures,⁹² a number of which were inherited from the ROEM. The Council reported that the measures are presented in relation to its objectives. However, the ANAO found that the measures were not clearly aligned to the objectives established under the *Strategic Plan 2000–2003*, and some strategic objectives were not directly addressed by the PMF measures. This limited the utility of the PMF to demonstrate performance against the Council's strategic objectives.

5.24 The PMF was developed, in part, to monitor progress against the Council's strategic plan. Data collection commenced in 2002 following Council endorsement of the PMF. Thus, progress reports to Council against the PMF were not provided during the 2000–03 triennium. The Council was, however, provided with regular progress reports on data collection activities.

5.25 The frequency of collection of a large proportion of the 37 measures is at two to three year intervals. While this is appropriate for assessing the long term impact on health and medical research, it limits the usefulness of the PMF for annual or short term monitoring of the Council's achievements against its strategic objectives. It also limits the incorporation of these measures into annual Council business plans, on which the

⁹² These measures are provided on the NHMRC's web site at <www.nhmrc.gov.au/research/performa.pdf>.

organisation can assess its operational performance. Secretariat managers are not currently using the PMF measures to assess the performance of administrative centres.

5.26 Other ANAO work has emphasised the importance of agencies determining targets, ideally as quantifiable performance levels or changes of level to be attained at a future date.⁹³ While the PMF establishes performance measures it does not include targets that clearly specify performance changes by a defined date.

5.27 The Secretariat advised the ANAO of the complexities of developing targets for health and medical research, particularly as the Council's role is recommendatory or advisory in nature. The Council does not conduct research or implement guidelines. It provides 'information, support, drivers, incentives and advice for third parties to take-up'. The ANAO suggests that the Council, within its PMF, differentiate between those elements that it can control and those elements that it can only influence. Targets should then be established for elements that the Council can control, for example, the total number of guidelines, information papers and other documents produced, with trend information collected and published for those elements that it can only influence.

5.28 The Council has experienced difficulty in collecting appropriate data against a number of performance measures in the PMF. The PMF relies heavily on externally generated data. These data can be costly and time consuming to collect. The Secretariat reported to the Council that some areas of the framework were not pursued in the current performance cycle due to their complexity, relative value, or the total resource cost involved in collecting the data. Depending on the extent of measures affected, this limits the Council's ability to effectively assess its performance.

5.29 Data collection difficulties have also been reported by organisations with similar functions to the Council. The ARC stated, in its *2001-02 Annual Report*, that there are many gaps in the ARC performance scorecard, since many of its Key Performance Indicators require specific studies or surveys to be conducted to yield the relevant data.

5.30 The ANAO recognises that the development of appropriate measures to demonstrate achievement of outcomes from health and medical research is complex. The outcomes from the Council's activities are generally long term, and as such, it is difficult to develop appropriate measures to support regular, short term reporting of achievements. It is

⁹³ ANAO Better Practice Guide *Performance Information in Portfolio Budget Statements*, May 2002, p.25.

also difficult to quantify the full impact of the Council's activities on the health and medical research sector in Australia, and in turn the impact on the health and well-being of the community. In addition, the wide range of activities undertaken by the Council requires a broad set of performance measures. In responding to these difficulties, the Council has invested significant resources to develop and refine its PMF.

5.31 The Council has estimated the cost of developing its PMF, but it did not determine an annual budget for the ongoing collection of data against the PMF as part of its planning processes. The ANAO considers that the Council should have factored annual collection and analysis costs into its PMF planning phase to ensure that sufficient resources were available for ongoing monitoring and reporting against the framework.

5.32 The issues outlined above point to the importance of developing a long term information plan. The Council has not developed and implemented a long term information plan to guide its data identification and collection activities. The ANAO suggests that the Council establish a long term information plan to:

- coordinate its data identification, collection and analysis activities;
- establish an appropriate budget for these activities;
- monitor the progress of these activities; and
- communicate its information strategies to stakeholders.

Portfolio Budget Statements

5.33 The foundation for agency accountability and transparency is performance information presented initially in the PBS.⁹⁴ The Council is required to contribute to Health's PBS. This contribution is one of the Council's primary means of accountability to Parliament for its administration of resources. In Health's PBS 2003-04, under Outcome 9, the Council has four performance indicators to measure achievements against the outcome. These indicators are provided in Table 5.1.

⁹⁴ ANAO Better Practice Guide *Performance Information in Portfolio Budget Statements*, May 2002, p.1.

Table 5.1
Council Outcome 9 performance indicators

Indicator 8. World class knowledge creation and translation into policy and practice	
<p><i>Targets:</i></p> <p>a. Growth in the proportion of funds allocated for priority driven research and awards of greater size, scope and duration.</p> <p>b. Increase in the level of protected intellectual property and participation of commercial partners in the NHMRC supported research.</p>	<p><i>Information source/reporting frequency:</i></p> <p>a. Annual expenditure data from research management information systems.</p> <p>b. Survey of administering institutions every two years.</p>
Indicator 9. Production of high quality, evidence based health advice and information	
<p><i>Target:</i></p> <p>Production and dissemination of evidence based guidelines, regulatory recommendations and health advice and information across a range of contemporary health issues and concerns relevant to the needs of stakeholders.</p>	<p><i>Information source/reporting frequency:</i></p> <p>Range of health advice documents from publications database/Website.</p> <p>Stakeholder surveys each triennium.</p>
Indicator 10. An effective system of human research ethics review	
<p><i>Targets:</i></p> <p>a. 100% compliance by Human Research Ethics Committees (HREC) with the <i>National Statement on Ethical Conduct In Research Involving Humans</i>.</p> <p>b. Ethical guidelines and advice are responsive and useful to researchers, HRECs and members of the public.</p>	<p><i>Information source/reporting frequency:</i></p> <p>a. Annual compliance reports from Human Research Ethics Committees.</p> <p>b. Stakeholder survey each triennium.</p>
Indicator 11. Regulation of the ban on human cloning and licensing of embryo research	
<p><i>Targets:</i></p> <p>a. Introduction of nationally consistent legislation into Parliament in all States and Territories.</p> <p>b. 100% compliance with the requirements of the <i>Prohibition of Human Cloning Act 2002</i> and the <i>Research Involving Human Embryos Act 2002</i>.</p>	<p><i>Information source/reporting frequency:</i></p> <p>a. Advice from State and Territory Health Departments regarding introduction of nationally consistent legislation into their Parliaments.</p> <p>b. Six-monthly compliance reporting to Parliament by the NHMRC.</p>

Source: Health's 2003–04 Portfolio Budget Statements

5.34 Health's PBS also establishes one performance measure for administered items and five measures, under two output groups, for

departmental and agency outputs (information on these measures is included in Chapter 1, Figure 1.2). The ANAO found that, while Health is complying with relevant guidelines, it currently combines output performance information for the Council and the department in its PBS. As a result, it is difficult to identify Council-specific performance information. In contrast, the ANAO noted that the Therapeutic Goods Administration (TGA)—which is a unit within Health—has its departmental and agency outputs performance information identified separately from the department.

5.35 The ANAO also found that Health’s PBS does not separate the financial information relating to the Council from that of Health. As a result, it is not possible for stakeholders to identify the Council’s departmental expenses from those of Health. This limits the accountability of the Council for its use of Commonwealth funds to implement its programs. It also limits stakeholders’ ability to effectively assess the cost of administering Australia’s health and medical research activities and compare the efficiency of the Council with bodies performing similar functions in Australia and overseas. In contrast, the TGA has its departmental items budget identified separately from the department.

5.36 PBSs are presented to Parliament by Australian Government departments and agencies to inform Senators and Members of Parliament of the proposed allocation of resources to achieve government outcomes. Agencies are required to provide sufficient information, explanation and justification in their PBSs to enable Parliament to understand the purpose of each outcome in the proposed appropriations in Appropriation Bills (Numbers 1 and 2).⁹⁵ Health’s PBS does not currently provide information on the use of administered items funding appropriated for health research, ethics and advice for purposes other than research award funding through the MREA.

5.37 As outlined in Chapter 1, administered items funding, estimated at \$19.6 million in 2003–04, is used for committee support (including committee travel), committee programs, general support and other purposes. This amount includes an estimated \$5 million to support research capacity within Health. While Health separates the \$19.6 million in its PBS from funding transferred to the MREA, it does not explain the purpose for which this funding is used. In order to improve accountability to Parliament for the use of Commonwealth funds, the ANAO suggests that Health include an additional note to its ‘Resource Summary for

⁹⁵ ANAO Better Practice Guide *Performance Information in Portfolio Budget Statements*, May 2002, p.1.

Outcome 9' table to explain the use of health research, advice and ethics administered items funding that is not allocated to the MREA.

5.38 The ANAO considers that performance information included in the PBS should be developed within the same framework as the performance information used for ongoing management, with one system used to meet both internal and external performance information requirements.⁹⁶ The ANAO found that the Council's performance measures established in Health's PBS are not clearly aligned to the PMF or internal operational performance measures. As a result, data collection and analysis activities are duplicated. Further, ongoing monitoring against the PMF does not provide Secretariat managers with information on the Council's performance against PBS measures or operational performance measures. Consequently, data collection and analysis against PBS measures is a separate task, conducted annually in order to meet Health's reporting obligations.

Monitoring performance against plans

5.39 The Council held two strategic planning workshops during the 2000–03 triennium to review progress against the strategic plan and consider improvements to the operations and structures of the Council and its Principal Committees. However, the Council had not established a process to regularly monitor its achievements against the objectives established in the *Strategic Plan 2000–2003*. Of the 25 2000–03 triennium Council members who responded to the ANAO's survey, 13 disagreed or were unsure whether the Council regularly monitors and assesses its performance against strategic and operational plans/work programs.

5.40 Principal Committee Chairs and Secretariat managers indicated that committees monitored progress against their work programs on a regular basis. The ANAO's review of committee minutes and reports supported this assertion.

5.41 As at 31 May 2003, the Secretariat had not established a consistent and routine process to monitor actual performance against plans. The ANAO could find no evidence to demonstrate that the Secretariat routinely collected and analysed performance data to support such monitoring. The monitoring of progress against established plans was generally irregular and informal. This may have been partly due to limitations of performance measures included in the plans. In addition, gaps in the planning hierarchy, for example the absence of centre (branch)

⁹⁶ *ibid.*, p.5.

level plans, made it difficult to effectively monitor the achievement of operational objectives.

Acquittal of research awards

5.42 As outlined in Chapter 4, Section 35(2)(b) of the NHMRC Act provides that the Research Committee is to monitor the use of assistance provided from the MREA. In May 2002, Health's Audit and Fraud Control (AFC) Branch reported on problems within the Council relating to the acquittal of research funding awards and subsequent action by the Council to address these problems. In its report, the AFC Branch found that the Council, under previous administrative arrangements when support for the Council was provided by a departmental division, had accumulated a backlog of approximately 11 000 award acquittal statements between 1991 and 1997. A further acquittal backlog developed while efforts were underway to address the 1991-97 backlog. It also found that the Council, through its committees and its Secretariat, had taken no steps during this time to identify and assess the outputs delivered under funding agreements. The ANAO's review of Council minutes found that this issue was first reported to the Council in August 2002. The ANAO also found that, once the acquittal backlog was brought to the attention of Health's Audit Committee, it closely monitored the actions taken by the Secretariat to address the backlog.

5.43 Acquittals represent a fundamental control over Commonwealth funds. The accumulation of an acquittals backlog and the lack of assessment of award outputs represented a serious deficiency in the Council's previous monitoring and evaluation systems when the Secretariat was part of Health.

5.44 In response to the above audit findings, the Secretariat advised Health's Audit Committee in September 2003 of its progress in addressing the acquittal backlog and strengthening its award management processes. The Council stated that it had processed:

- 100 per cent of the 1991-97 acquittal statements (10 707 statements acquitted); and
- 75 per cent of post-1997 acquittal statements (5790 out of 7684). The remaining 25 per cent relate to approximately \$80 million in award funding.

5.45 The Council also advised Health of revised procedures as part of an assurance framework within which the Council, through the CEO and the Secretariat, will manage its health and medical research funding programs. The Council is also reviewing its processes to manage the assessment of

progress reports required under recently introduced Deeds of Agreement for research funding. Under existing arrangements, Secretariat staff review the content of progress reports. Where problems are identified, the reports are forwarded to the Project Grants Committee for review. The Scientific Grant Review Panels—which are working committees of the Research Committee—will be responsible for the review of progress reports under proposed process amendments.

Reporting performance

External reports

Health's annual report

5.46 Agency annual reports are the primary vehicle for reporting program performance, particularly effectiveness, to the Parliament and the public. Performance information included in annual reports must relate to the outcome and outputs structure established in the relevant PBS.

5.47 Health's annual report, in contrast to the Council's calendar year annual report, is against a financial year. This difference in reporting periods increases the:

- complexity of the Council's reporting processes;
- resources required to prepare the reports; and
- difficulty faced by stakeholders in assessing the Council's performance.

5.48 As is the case with the PBS measures, Health's annual report combines the Council's performance information for departmental outputs with that of the department. In addition, Health does not separately identify the Council's operating budget in the 'Financial Resources Summary' in its annual report. While Health is complying with the requirements for preparation of annual reports, the absence of Council-specific information limits the accountability of Council for its use of Commonwealth funds.

5.49 The ANAO found that, while Health's annual report provides information on variances between the budget and actual expenditure for health research, advice and ethics, it does not provide sufficient information to explain the significant level of uncommitted funding. For example, in 2000-01, \$56 million was uncommitted, with \$34 million uncommitted in 2001-02 and \$71 million in 2002-03. While Health's reporting of uncommitted funds is accurate and in accordance with reporting guidelines, the absence of explanatory information may mislead

stakeholders. The Secretariat advised the ANAO that, while some administered funds are not committed in a 'technical accounting sense' and are reported as uncommitted in Health's annual report, they are 'committed' in that they are either set aside:

- to pay grants that have been awarded (for up to 5 years), but where the processing of the grant has not yet reached a stage that formally 'commits' the Commonwealth to expenditure;
- to pay for new grants that are currently being applied for; or
- for new award schemes that are in development.

The Council's annual report

5.50 The NHMRC Act provides that the Council must give to the Minister,⁹⁷ as soon as practicable after the end of each calendar year, a written report of its operations during that year. The NHMRC Act also specifies nine items for inclusion in the report. The Council's *2001 Annual Report* (which was the current annual report at the time of fieldwork) and *2002 Annual Report* (which was a draft version at the time fieldwork was conducted)⁹⁸ included information against each of the nine legislated requirements. The ANAO noted that the NHMRC has worked to improve the layout and content of its annual report over recent years.

5.51 As outlined previously, the Council's annual report does not include financial statements, nor does it report on the financial resources used by the Council to administer its programs. Financial information relating to the Council's performance of its functions is included in Health's annual report under Outcome 9, as the administration and other support for the Council is appropriated to Health.

5.52 The Council's 2001 and 2002 annual reports do not report against performance measures established in Health's PBS and are yet to report against the PMF due to the recency of its endorsement by the Council (March 2002). Further, the Council's annual reports do not explicitly report performance against the objectives established in its strategic plan. The annual reports do, however, provide extensive narrative information on the activities of the Principal Committees.

5.53 The Council's *2001 Annual Report* was dated 28 June 2002, six months following the completion of the year to which it applied. The *2002 Annual Report* was also produced in similar timeframe. The Council

⁹⁷ The Minister must cause a copy of the report to be laid before each House of the Parliament within 15 sitting days of that House after the Minister receives the report.

⁹⁸ The NHMRC's *2002 Annual Report* was provided to the Minister on 15 July 2003.

advised the ANAO that resource constraints and systems problems within the Secretariat limited the capacity of the organisation to produce its annual report in a shorter timeframe. The requirements established by the Department of Prime Minister and Cabinet specify that annual reports are to be laid before each House of Parliament on or before 31 October in the year in which the report is given. This provides Australian Government agencies four months in which to finalise and publish their annual reports. The Council is not, however, bound by these requirements due to its legislative basis.⁹⁹ The ANAO suggests that, in order to improve accountability to external stakeholders, the Council prepare and publish its annual report within the timeframe prescribed in the Department of Prime Minister and Cabinet's requirements.

Other external reports

5.54 The NHMRC Act provides that the Council is required to prepare and give to the Minister, not later than six months before the end of the strategic plan, a written review evaluating the Council's success in implementing its strategic plan. In compliance with this statutory obligation, the Council prepared and provided to the Minister in December 2002 its Review Report.¹⁰⁰ The Review Report is structured around the objectives established in the *Strategic Plan 2000–2003*. The Review Report provides a narrative discussion of the Council's achievements against its objectives, including examples of key achievements. However, it does not address non-achievement of objectives.

5.55 The Review Report did not include data collected against the PMF. The ANAO considers that the absence of quantitative data in the Review Report limited its usefulness. The Council stated in the Review Report that it would prepare a separate quantitative report addressing the key performance indicators at the end of the 2000–03 triennium. The Council's *Performance Measurement Report 2000–2003*¹⁰¹ was released in December 2003.

⁹⁹ The requirements apply to annual reports for departments of state pursuant to subsection 63(2) and for Executive Agencies pursuant to subsection 70(2) of the PS Act. As a matter of policy, they also apply to prescribed agencies under section 5 of the FMA Act.

¹⁰⁰ National Health and Medical Research Council, 2003, *Review of the Implementation of the National Health and Medical Research Council's Strategic Plan 2000–2003*, Commonwealth of Australia.

¹⁰¹ National Health and Medical Research Council, 2003, *Performance Measurement Report 2000–2003*, Commonwealth of Australia.

Improving accountability through external reporting

5.56 As outlined above, the performance of the Council is reported primarily in three external reports. However, these reports have different purposes, contain different information, relate to different time periods, and in some cases are prepared by different agencies. While these reports are prepared in accordance with applicable guidelines and requirements, important information on the Council's performance is not publicly reported, for example, the operating costs of the Council.

5.57 The current reporting arrangements do not enable external stakeholders, particularly Parliament, to identify performance information and departmental expenses relating to the work of the Council. Further, stakeholders' ability to effectively assess the Council's performance in administering Australia's health and medical research activities and compare the efficiency of the Council with bodies performing similar functions in Australia and overseas is also limited.

5.58 To further improve its accountability to external stakeholders, the ANAO suggests that the Council, and Health where applicable, review external reports to ensure effective and efficient reporting of the Council's performance. The ANAO further suggests that the Council include in its annual report summary information on funding used to support the Council, its committees and its Secretariat. This information should include the cost of administering the Council's award portfolio as a percentage of the total cost of awards. This would assist stakeholders to assess the Council's effectiveness and efficiency, while allowing the Council to expand on financial information reported in Health's annual report and account for its use of Commonwealth funds.

Internal reports

Council reporting

5.59 There are a number of standing agenda items for Council sessions that establish reporting obligations on the Secretariat and the committees. These include the CEO's report, finance report and Principal Committee reports. However, regular reporting on achievements against strategic and business plans was not provided to the Council during the 2000-03 triennium. The ANAO found reports provided to the Council varied in detail and format, particularly those by the Principal Committees. A number of Council members did not consider that performance information provided to Council met their needs and enabled them to discharge their duties.

5.60 While acknowledging a history of problematic financial reporting, Council members considered that the quality of financial reporting had

improved over the 2000–03 triennium. The ANAO’s review of financial reports prepared for the Council found that the content and detail of financial reporting had improved significantly over this period. The Council now receives information on departmental and administered items (both MREA and other), with information on actual expenditure against budgets and explanations of variances. The Secretariat has worked to ensure that the Council and its committees are provided with appropriate financial reports. In addition, the Secretariat has provided detailed information to Council members to further their understanding of financial management within Commonwealth accountability structures. This information has been incorporated into the Council member induction program for the 2003–05 triennium.

Management reporting

5.61 The ANAO did not find evidence of regular, written reports on achievements against plans. This may be partly due to the lack of a process to monitor performance against plans, as outlined earlier. The ANAO suggests that the Secretariat ensure regular, written reports are produced detailing achievements against planned objectives. This would enable it to effectively monitor activities to support the achievement of objectives and take timely action to address areas of non-achievement.

5.62 The Council’s Centre for Corporate Operations provides printed monthly financial reports to section managers, centre managers and the CEO. There are two types of reports provided:

- reports generated and printed directly from Health’s Financial Management Information System (FMIS); and
- a summary report prepared on a spreadsheet, based on information generated from the FMIS and financial reports provided by Health.

5.63 The ANAO found problems with the reports generated directly from the FMIS, for example in their utility. These problems are described in Chapter 6. The department advised the ANAO that it is currently reviewing its financial reporting. The summary report prepared by the Secretariat did not clearly report on the Council’s financial performance.

Summary

5.64 The Council is working to improve its planning, measuring and reporting functions and has made significant progress over recent years. However, the ANAO has concluded that further work is required across these three functions to improve administration within the Council.

5.65 The Council's planning and budgeting processes are not robust, with an absence of an integrated strategic and business planning framework to coordinate the Council's planning processes, problems with business plans, and weaknesses in documentation of internal budgeting. Planning and budgeting processes are currently being strengthened through participation in Health's business planning and budgeting initiative. Improvements to date would be further enhanced through the development of a Council strategic and business planning framework that incorporates an annual business planning and budgeting cycle.

5.66 The Council is working toward, but is yet to establish, effective performance monitoring processes to support the performance of its legislated functions. While the Council has developed performance monitoring tools, there is limited integration of these tools and problems relating to performance measures. The development of appropriate performance information for health and medical research is complex. However, the Council has acknowledged the importance of sound performance monitoring and is endeavouring to improve its monitoring and evaluation processes. This is being done primarily through the ongoing development and refinement of its PMF.

5.67 The Council's operational reporting¹⁰² requires further strengthening to facilitate effective performance management, monitoring and evaluation. The effectiveness of internal operational reports is limited due to quality issues in management reporting and the absence of regular reporting against endorsed business plans. The effectiveness of the Council's external reports in allowing stakeholders to monitor and evaluate the Council's performance is limited due to the:

- absence of clear reporting against an agreed framework of performance information; and
- lack of Council-specific and sufficient performance and financial information in Health's annual report. This last point in particular makes it difficult for Parliament and the Government to assess the relative efficiency of the Council's operations.

5.68 The Secretariat has improved the content and timeliness of internal performance reporting, particularly financial reporting, to the Council and its committees. The Secretariat has also provided Council members with detailed information on the Commonwealth's financial accountability arrangements.

¹⁰² In 2003–04, the ANAO plans to conduct a performance audit of Financial Management in Health. This audit will include an examination of the utility of financial reports to managers and the use made by managers of financial reports.

5.69 Overall, the current reporting arrangements make it difficult for Parliament and the Government to determine the Council's efficiency and effectiveness.

Recommendation No.2

5.70 The ANAO recommends that the Council, in order to strengthen planning and budgeting, develop, establish and use an integrated business planning and budgeting framework. The framework should identify the relationships between various plans; establish appropriate timeframes; identify planning responsibilities and accountabilities; and describe the internal budgeting process.

NHMRC's response

5.71 The NHMRC agrees and undertakes to implement an appropriate planning and budgeting framework, within the context of its 2003–06 Strategic Plan and Health's Business Planning Framework.

Recommendation No.3

5.72 The ANAO recommends that the Council, in order to simplify and strengthen performance measurement:

- review its Performance Measurement Framework measures to develop intermediate outcome measures where appropriate, to ensure that they adequately facilitate regular, balanced performance reporting on outcomes; and
- align its Performance Measurement Framework measures, its Portfolio Budget Statement measures, and operational measures.

NHMRC's response

5.73 The NHMRC:

- agrees in principle, subject to general agreement on the validity and acceptance of measures; and
- agrees and undertakes to work with Health to enable alignment of the NHMRC's PMF with Health's Portfolio Budget Statements and other operational measures.

Recommendation No.4

5.74 The ANAO recommends that Health, in order to improve accountability to external stakeholders, separately identify the Council's:

- performance information within the 'Performance Information for Departmental and Agency Outputs' table in its Portfolio Budget Statements;
- departmental items budget within the 'Resource Summary' for Outcome 9, in its Portfolio Budget Statements;
- performance information within the 'Performance Information for Departmental Outputs', under Outcome 9 in its annual report; and
- departmental items budget within the 'Financial Resources Summary', under Outcome 9 in its annual report.

Health's response

5.75 The Department of Health and Ageing agrees with the above recommendation and will work collaboratively with the NHMRC to implement the recommendation.

6. Administrative Systems and Aspects of Internal Controls

This Chapter discusses the Council's administrative systems and aspects of its internal controls.

Review of administrative systems

6.1 Administrative systems support an organisation in achieving its objectives. In order to review the soundness of administrative systems used by the Council, the ANAO assessed whether the Council had:

- reviewed its business practices to identify and rank its administrative system needs;
- established systems to meet these needs or was in the process of establishing systems against its priorities;
- determined appropriate performance levels and measures for the systems it uses; and
- routinely monitored the performance of administrative systems it uses.

6.2 This audit focussed on the systems used by the Council for information management, financial management, human resource management, and records management.

6.3 Administrative systems currently used by the Council comprise systems for which the Council is responsible (information management) and those systems provided by Health (financial management, human resource management and records management). The NHMRC Act provides that the Council may make arrangements with the Secretary for the provision of facilities to the Council that are necessary for the Council to perform its functions or to exercise its powers. The MoU governs Health's provision of facilities to the Council.

6.4 In principle, the MoU provides that the Council can effectively 'cash out' facilities provided by Health in order to arrange alternative services. However, in practice the Council's use of departmental systems assists in providing assurance to the Secretary of the proper use of resources under the Council's stewardship. Further, the Council would also have to convince the Secretary that alternative systems represent value for money as the Secretary is the decision-maker under the FMA Act. As a result, the Council advised that its options to change service providers are limited.

6.5 The ANAO reviewed the MoU to determine whether the Council and Health had established arrangements to ensure its efficient and effective operation, particularly the assignment of a liaison officer within each agency to oversee and coordinate arrangements. The establishment of these arrangements in the MoU is important due to the complex nature of the relationship between the Council and Health and the limited guidance provided by the NHMRC Act. While the MoU provides for dispute resolution arrangements and strategic communication between the two parties, it does not establish principles to govern day-to-day oversight and coordination. This limits the agencies' ability to effectively manage the provision of services under the MoU and assess the overall effectiveness of the agreement. It also limits central coordination.

6.6 In negotiations between the Council and Health, the appropriate officer to represent Health is the officer responsible to the Secretary for the proper use of the resources allocated to the Council. As noted in Chapter 2, this officer is the CEO, who is also the officer who would be expected to represent the Council. This arrangement has contributed to the ANAO's conclusion that the administrative arrangements under which the Council operates do not facilitate sound administration.

Analysis of needs

6.7 The Council recently reviewed its business operations and developed standards against which the performance of its redeveloped information management system will be monitored. The Council has not, however, undertaken a similar review for its other administrative systems, including its financial management, human resource management and records management systems. As a result, the Council is unable to affirm the adequacy or cost effectiveness of administrative systems, including those provided by Health, which are discussed in more detail later in this Chapter.

6.8 The Council is a relatively small agency linked with a large department. Therefore, its ability to influence the design of departmental systems it uses is limited. The Council would be in a stronger position to negotiate with Health for appropriate services or the 'cashing out' of applicable services if it:

- clearly identified its administrative systems needs;
 - demonstrated a clear link between its system requirements and the efficient and effective performance of its functions;
 - demonstrated improved value for money from alternative systems;
- and

- quantified the risks associated with any system that did not meet its needs (including the risk to the CEO's ability to demonstrate to the Secretary the proper use of Commonwealth resources).

6.9 The Secretariat advised the ANAO that Secretariat staff actively participate in Health working groups and committees to assist in the development of new systems that will have an impact on the Council's operations.

Council systems

Research Management Information System (RMIS)

6.10 RMIS is a database initially developed by Health between 1998 and 2000. The Council is now responsible for RMIS. However, the system runs on Health's IT platform, with maintenance of the system provided by Health's information technology service provider. It is used to collate, process and make payments for some health and medical research awards. The Council has approximately 100 different award types through which it recommends the distribution of health and medical research funding each year. RMIS processes all Project Grant¹⁰³ applications, which constitute approximately one third of all Council award applications. RMIS only provides basic administration and payment support for other types of Council awards. Secretariat staff have established separate Access and Excel databases to compensate for the limitations of RMIS. This replication of data increases the risk of data inconsistency.

6.11 The ANAO found that RMIS does not provide Secretariat staff with adequate support in the administration of the Council's health and medical research funding programs. The limitations of RMIS adversely impact the production of timely and useful performance information. The ANAO was advised that, until recently, adequate performance information on awards was not available to relevant committees.

6.12 The Council has recently completed phase one of a redevelopment of RMIS. The Council conducted an extensive planning phase so that it could incorporate Council-wide needs into the redeveloped system. The outcome of the first phase of the redevelopment was a Business Requirements Definition Document.

6.13 The Council only secured funding from Health for phase one of the RMIS redevelopment. This is because Health is developing its own Grant Entitlement Management System for use across Health (including the Council). Health advised the Council that this system will meet the

¹⁰³ This is an NHMRC defined term.

majority of the Council's Business Requirements Definition goals. Where there is a variance, development of solutions for these business requirements will become a Health responsibility, funded centrally, and subject to the normal departmental business justification processes.

Systems provided by Health

Financial Management Information System (FMIS)

6.14 The Council uses Health's FMIS. It is important that any system used by the Council for financial management integrates with that used by Health, as the department is accountable for funds appropriated for the purpose of health research, ethics and advice. Further, the Secretary is responsible under the FMA Act for the proper use of the resources allocated to the Council.

6.15 Health's FMIS was designed to meet the needs of a large, complex and multi-disciplinary department. Health needs a sophisticated system capable of handling very large volumes of transactions. Its FMIS has been configured to meet these needs. In contrast to Health, the Council is a small agency with discrete system needs. All payments relating to Council funding agreements are processed by RMIS. The Council primarily uses Health's FMIS to monitor and report against its \$12.1 million operating budget and to capture aggregate award (research grant) payment data. The Council advised the ANAO that a small to medium size standard accounting package could meet its requirements and would be more cost-effective. However, as outlined earlier, the Council has not conducted a comprehensive review to quantify its FMIS needs.

6.16 The ANAO found that the reports generated from Health's FMIS did not adequately support Secretariat managers. The ANAO examined the reports used and discussed these reports with Secretariat staff, who considered that the reports generated directly from the system did not provide detailed financial information to all levels of the Secretariat. The ANAO was advised that financial reports are prepared at the branch/section level, and not at the project level, which made it difficult for Secretariat staff to monitor project expenditure. As outlined in Chapter 5, Health informed the ANAO that it is currently reviewing its financial reporting. The ANAO suggests that the Council work with Health on its review of financial reporting to improve the quality, clarity, utility and level of financial reporting to facilitate the proper use of Commonwealth funds.

Human resource management system

6.17 The Council uses Health's human resource management system. This system is integrated with Health's financial management system and is used to submit and approve staff leave and access other applications and information electronically. In 2002, the Council was involved in Health's Financial Service Reform initiative. This initiative reviewed, amongst other things, the human resource management system. Secretariat staff advised the ANAO that the system now supports the Council's human resource management needs more appropriately.

Records management

6.18 The department (and therefore the Council) has separate records management systems to register, manage and retrieve official:

- hard copy records; and
- electronic records.

6.19 Secretariat staff can create, request and search for files using the departmental Intranet, which is integrated with these systems. However, the Council does not use Health's electronic records system as the Secretariat stores these records on its computer network under shared drives.

6.20 The ANAO reviewed the Council's use of Health's records management system and its records management practices, and found that records management was not undertaken in accordance with better practice or with Health's Chief Executive's Instructions (CEIs). For example, important business decisions, consultations, communications and transactions are not recorded on official records management files.

6.21 The Secretariat is using supplementary systems to manage its records, which as outlined earlier, can lead to data inconsistencies. The ANAO found evidence of data inconsistencies between these supplementary systems and Health's records management system, partly because of insufficient data reconciliations. The Secretariat has not allocated central responsibility for the oversight of record management practices and compliance with relevant policies and procedures. The ANAO suggests that the Secretariat ensure that its record keeping processes and practices facilitate compliance with applicable legislation and the CEIs, and work with Health¹⁰⁴ to ensure that they are aligned to

¹⁰⁴ The Secretariat operates under a number of Health's policies and procedures, including those related to records management.

better practice, particularly the *Australian Standard for Records Management* (AS4390) and the *International Standard for Records Management* (ISO 15489).

Performance levels for systems

6.22 Agencies need to establish and monitor performance levels and measures for administrative systems to ensure that they are operating and meeting their objectives in an efficient, effective and ethical manner.

6.23 The ANAO examined whether the Council has established appropriate performance levels and measures for the administrative systems it uses and whether these measures are monitored. Until March 2003, arrangements for Health's provision of administrative systems to the Council were not clearly specified. In March 2003, the MoU between the Council and Health established the conditions under which Health provides administrative systems and support to the Council. The MoU commits Health to provide the Council with the same services, according to the same quality and timeliness standards, as those provided to Health's divisions. The department has not, however, provided details of these standards to the Council, nor has the Council sought them.

6.24 The Council advised that it currently receives only basic performance information from Health. This has limited the Council's capacity to monitor the appropriateness of the services provided by Health. Further, as outlined above, the Council has not established performance levels or measures for the current version of RMIS, nor has it sought performance standards from Health as provided for in the MoU or information on system performance. Consequently, the Council does not monitor the performance of the administrative systems it uses against agreed performance levels and measures. Without appropriate information on system performance, the Council's ability to assess the effectiveness and efficiency of the systems it uses is limited.

Internal controls

6.25 A control is a process, implemented by the governing body of an agency, senior management and other employees, designed to provide reasonable assurance that risks are managed to ensure the achievement of the agency's objectives.¹⁰⁵

6.26 A number of controls governing the Council's activities, particularly those relating to expenditure, are the responsibility of Health. A wide-ranging audit of these controls would involve an audit of Health,

¹⁰⁵ ANAO Better Practice Guide *Controlling Performance and Outcomes: Better Practice Guide to Effective Control*, December 1997, p.3.

which is outside the scope of this audit. This audit focused on control policies and procedures over which the Council exercises influence. These are:

- risk management;
- fraud control;
- policies and procedures; and
- internal assurance.

Risk management

6.27 All agencies, regardless of size or nature, encounter some form of risk that can adversely impact the achievement of their objectives. While some risks encourage innovation and better performance, uncontrolled risks can lead to adverse exposure or loss and prevent an agency from meeting its goals and objectives efficiently and effectively.¹⁰⁶ As such, managing risk is a major component of an effective control structure. It involves the identification, analysis, assessment and ranking of risks that need to be treated by control activities.

6.28 In February 2003, the Council finalised the development of a *National Health and Medical Research Council Secretariat Register of Risks 2002–03* (Risk Register). The Risk Register addresses both Council and Secretariat risks. The Council delegated the oversight of risk management to the Management Committee, with reports to Council each six months. Risk management is a standing item on the Management Committee agenda.

6.29 The Council has not, however, trained Secretariat staff in risk management techniques and their application within the Council, nor does the Council have a documented risk management policy to guide staff. As a result, Secretariat staff's understanding of risk management and its applicability to their work was limited.

6.30 The ANAO's review of the Risk Register found that, as at May 2003, of the 259 risk management strategies identified, 55 per cent have been implemented. Further, of the 64 identified risks, only 10 have had all strategies implemented. The Secretariat is also yet to implement a process to track and monitor the implementation and operation of risk management strategies.

¹⁰⁶ *ibid.*, pp.11–12.

6.31 The Secretariat has since advised the ANAO that, as at December 2003, there remain 11 'unacceptable' risks, of the 65 risks that have been identified. Of the 275 mitigation actions identified, 207 (i.e. 75 per cent) have been implemented.

Fraud control

6.32 No system of internal control can provide total protection against fraudulent behaviour. Nevertheless, the risks of fraud can be reduced by making all participants in the governance process – members of governing bodies, employees, auditors and other stakeholders – fully aware of what is expected of them.

6.33 Health's Fraud Control Plan governs fraud control arrangements within the Secretariat. A number of Secretariat managers and staff interviewed by the ANAO were unaware of the Fraud Control Plan. The limited awareness of fraud control arrangements increases the risk that Secretariat staff will not prevent or detect fraudulent activity and take appropriate action.

Council policies and procedures

6.34 The Council has not documented a number of important policies and procedures. These include budgeting, planning and risk management policies. The limited documentation of policies and procedures introduces unplanned variation into the Council's business processes.

6.35 Further, the Council does not consolidate the limited number of policies and procedures that have been documented into a policy manual/folder or Intranet site for the benefit of Secretariat staff. The ANAO found that a number of Secretariat staff did not have ready access to policy and procedural information. The documentation of policy and procedures, and the consolidation of these materials, would complement the work conducted by the Council to document – in handbooks – procedures relating to the Council's statutory obligations.

Internal assurance

6.36 To effectively perform its governance role, the Council must know whether its internal controls are effective. Health also has an interest in the effectiveness of the Council's controls because of the Secretary's FMA responsibilities. This joint interest is further strengthened, as a number of controls are shared between the two agencies.

6.37 In the public sector, audit committees and internal auditors assist governing bodies to gain an appropriate level of assurance on the effectiveness of internal controls. The Council does not, however, have an

audit committee to oversee its system of control, nor does it have an internal assurance function to test the controls environment. Under current administrative arrangements with the department, the Council relies on Health's Audit and Fraud Control (AFC) Branch for internal assurance services, as provided for in the MoU.

6.38 The AFC Branch reports to Health's Audit Committee and works to a program approved by this committee. In developing its audit program, the committee determines the level of internal assurance services available in the context of department-wide priorities.¹⁰⁷ These arrangements provide the Council with access to internal assurance services, as well as facilitating the discharge of the Secretary's FMA responsibilities.

6.39 The ANAO has concluded, however, that in light of internal control weaknesses identified earlier in this report, the arrangements require further refinement. In particular, the ANAO considers that there is a need to improve role clarity and articulate the responsibilities of both the Council and Health's Audit Committee. The ANAO considers that the existing arrangements present an increased risk that weaknesses in internal controls will not be identified, nor acted upon by either the Council or the department.

6.40 The ANAO acknowledges that efforts to improve the oversight of internal controls must balance the requirement for appropriate assurances under the FMA Act, with the required degree of independence for the Council's operations. One way to do this would be to establish a sub-committee of the Council with responsibility for internal assurance. This committee could oversight risk management within the Council and liaise with Health's Audit Committee to: clarify roles and responsibilities; develop a targeted internal assurance program; and establish an agreed annual budget for internal assurance services. This role could form part of the responsibilities of the governance sub-committee suggested by the ANAO under Chapter 2.

Summary

6.41 While the Council has established administrative systems to support the performance of its functions, the ANAO concluded that the appropriateness of these systems would be improved if the Council reviewed its administrative system needs, and established and monitored performance measures for these systems.

¹⁰⁷ In developing its Audit Program, the committee provides departmental divisions and applicable Portfolio agencies (including the Council) the opportunity to identify internal audit opportunities for inclusion in the program.

6.42 The establishment of a risk register and the delegation of responsibility for the management of risk, have strengthened the Council's internal controls. The Council, through the CEO, should now consolidate these initial actions by developing a risk management policy and providing Secretariat staff with appropriate training in risk management.

6.43 Improving the documentation and management of policy and procedural information, greater awareness of fraud control arrangements and the establishment of appropriate internal assurance arrangements would further strengthen the Council's internal controls.

Recommendation No.5

6.44 The ANAO recommends that the Council, in order to improve the soundness of its administrative systems:

- identify the type, composition and source of administrative systems needed to support its legislated functions;
- identify the costs and benefits of existing systems in comparison with alternative systems;
- identify appropriate service standards for established systems;
- monitor standards to ensure that systems are operating efficiently and effectively and are meeting identified needs; and
- regularly meet with an appropriate departmental officer with responsibility for oversight of the Memorandum of Understanding to ensure that it is functioning properly and that services are provided in accordance with defined standards.

NHMRC's response

6.45 The NHMRC:

- agrees;
- agrees in principle subject to agreement with Health on the use of alternative systems;
- agrees;
- agrees; and
- agrees.

Recommendation No.6

6.46 The ANAO recommends that the Council, through the CEO, develop its internal control processes by:

- establishing a risk management policy and implementing processes to monitor compliance with the policy;
- providing training to Secretariat staff on risk management and fraud control arrangements;
- documenting policies and procedures and consolidating these materials to facilitate monitoring and management; and
- arranging appropriate internal assurance facilities commensurate with the Council's governance role.

NHMRC's response

6.47 The NHMRC:

- agrees and will continue to develop and implement appropriate policies and procedures;
 - agrees and will provide appropriate training to Secretariat staff on risk management and fraud control arrangements;
 - agrees and will continue to document and promulgate policies and procedures to facilitate monitoring and management; and
 - agrees in principle and undertakes to work with Health in establishing higher levels of audit scrutiny commensurate with the Council's governance role.
-

Canberra ACT
20 February 2004



Oliver Winder
Acting Auditor-General

Appendices

Appendix 1: NHMRC Response to the Audit

1. The National Health and Medical Research Council (NHMRC) welcomes the ANAO's report on Governance of the NHMRC. In general, the NHMRC accepts the findings of the report relating to the governance arrangements of the Council and its relationship with the Department of Health and Ageing (Health). The NHMRC has either already implemented or is planning to implement the majority of recommendations in this report.
2. Much of the information obtained during the ANAO's fieldwork relates to the governance arrangements and operation of the Council and its Principal Committees during the 2000 to 2003 triennium. During that triennium and since, the NHMRC has implemented and supported a range of initiatives to improve its governance and administration within the context of its legislative framework and administrative arrangements with Health. These initiatives are outlined in the NHMRC's annual reports, the report on the implementation of the NHMRC's 2000-2003 Strategic Plan and the 2003-2006 Strategic Plan. The ANAO has recognised many of these initiatives.
3. The NHMRC also recognises that further work needs to be undertaken in partnership with Health to effect further improvements in governance, planning, budgeting and administrative support. Consideration of these issues may need to take account of the Government's response to this report from the ANAO, the outcomes of the current *Investment Review of Health and Medical Research*, and the outcomes of the current review of statutory bodies within the Health Portfolio being undertaken by Health.
4. The NHMRC is in broad agreement with the ANAO's analysis of the administrative relationship between the NHMRC and Health (paragraphs 2.14-2.25) [now paragraphs 2.14-2.27] and accepts in principle the ANAO's advice (paragraphs 2.19-2.22) [now paragraphs 2.20-2.24] that it should directly advise the Minister on the resources required to implement its Strategic Plan. The NHMRC will raise these matters with the Minister and Health in the context of the Government's response to the reviews referred to in paragraph 3.
5. The NHMRC accepts the ANAO's advice in principle regarding the desirability of appointing a Deputy Chief Executive Officer (CEO) or an Acting CEO during absences of the CEO (paragraphs 2.33-2.36) [now paragraphs 2.37-2.40]. The NHMRC is currently developing a draft Acting CEO policy and in January 2004 the Minister agreed to the appointment of an Acting CEO during the CEO's absence on business overseas. The

NHMRC will consider this further in the context of the Government's response to the reviews referred to in paragraph 3.

6. With respect to the suggestion that Council develop policies and procedures to govern the commitment of Commonwealth funds through Sections 39 and 40 of the NHMRC Act (paragraph 3.30) [now paragraph 3.31], a new policy and procedures for the operation of Sections 39 and 40 were approved by Management Committee in December 2003.

7. The NHMRC accepts that links between planning, budgeting and performance measurement during the 2000–2003 triennium required improvement (paragraphs 5.5–5.13). This has been achieved since the start of the 2003–2005 triennium with the development of the 2003–2006 Strategic Plan, Principal Committee Plans and associated budgets, within the constraints imposed by governing legislation and administrative arrangements with Health. The NHMRC Secretariat has also improved the recording of decisions and actions arising from internal management meetings.

8. The ANAO found, during its fieldwork, that Council did not determine an annual budget for ongoing collection of data against the Performance Measurement Framework (PMF) (paragraph 5.31). The resources required to maintain the Council's on-going performance measurement functions have been included in the internal allocation of resources provided by Health for 2003–04.

9. In relation to the ANAO finding (paragraph 5.32) that Council has not developed a long-term information plan, the NHMRC is committed to the development of a comprehensive information plan that covers immediate operational issues as well as outcome measures. The NHMRC's 2003–06 Strategic Plan and 2003–04 Business Plan reflect a changing focus for the organisation towards value-adding analysis of outcomes in research, provision of advice, and the impact of ethical issues on health outcomes. However, the NHMRC's ability to meet this objective will be dependent on improved information systems.

10. The ANAO observed that Council is responsible for its Research Management Information System (RMIS), while other administrative systems are provided by Health (paragraph 6.3). As a statutory agency with no resources of its own the Council has limited control over RMIS. RMIS was developed in the 1990s when the NHMRC Secretariat was a Division of Health. The current Secretariat determines the requirements for maintenance of RMIS, which is provided by Health on its IT platform, subject to its contractual arrangements for IT support. In relation to redevelopment of RMIS and Health's own Grant Entitlement Management

System (GEMS) (paragraphs 6.10-6.13), the scope and delivery of Health's GEMS project has not yet been finalised.

11. In relation to other administrative systems, the NHMRC agrees with the ANAO's advice in principle (paragraphs 6.22-6.24) and will endeavour to pursue appropriate performance standards through the MoU with Health.

12. The report found that internal controls over which the Council exercises responsibility require strengthening (paragraphs 6.24-6.39) [now paragraphs 6.25-6.40]. Council has referred risk management as a standing agenda item for Management Committee, which will assess the risk assessment advice provided by Principal Committees and report back to Council. The Secretariat now routinely documents policies and procedures, and integrates these with the Members and Secretariat Handbooks. While the NHMRC will consider the ANAO's suggestion that Council establish a subcommittee with responsibility for internal assurance, the Secretariat will continue to work with Health's Audit and Fraud Control Branch in relation to risk management and fraud control procedures.

Appendix 2: Enabling and Related Legislation

The Council has primary responsibility for the following three Acts:

National Health and Medical Research Council Act 1992

The NHMRC Act establishes the Council. This Act establishes the Council as a body corporate with perpetual succession, which has a seal and can sue and be sued. It also outlines the functions of the Council, which are:

1. 'The functions of the Council are:
 - (a) to inquire into, issue guidelines on, and advise the community on, matters relating to:
 - the improvement of health; and
 - the prevention, diagnosis and treatment of disease; and
 - the provision of health care; and
 - public health research and medical research; and
 - ethical issues relating to health; and
 - (b) to advise, and make recommendations to, the Commonwealth, the States and Territories on the matters referred to in paragraph (a); and
 - (c) to make recommendations to the Commonwealth on expenditure:
 - on public health research and training; and
 - on medical research and training;including recommendations on the application of the Reserve [MREA]; and
 - (d) any functions incidental to any of the foregoing.
2. Subject to the direction of the Minister, the Council has the general administration of this Act.¹⁰⁸

This Act also outlines the powers and duties of the Council, the constitution and meetings of the Council, the committees of Council, the role of the CEO, Secretariat staff, consultants and work arrangements of the Council, the application of the MREA and the functions of the Commissioner of Complaints.

¹⁰⁸ NHMRC Act, S7.

Research Involving Human Embryos Act 2002

The RIHE Act establishes the regulation of certain uses involving excess ART embryos. It outlines relevant offences, the role of the Licensing Committee of the Council, the licensing system, reporting and confidentiality and the review of provisions. The RIHE Act also outlines monitoring powers and Commonwealth/State arrangements.

Prohibition of Human Cloning Act 2002

The objective of the PHC Act is to address concerns, including ethical concerns about scientific developments in relation to human reproduction and the utilisation of human embryos by prohibiting certain practices, such as human cloning.

Appendix 3: Principal Committees

Australian Health Ethics Committee

AHEC advises the Council on ethical issues relating to health and develops guidelines for the conduct of medical research involving humans. In addition, the previous Minister for Health and Aged Care exercised his power under the Act to expand AHEC's functions to include promoting community debate on health ethics issues, monitoring the work of HRECs and monitoring and advising on international developments in health ethics.

Health Advisory Committee

HAC manages and coordinates health advice on a range of issues, including communicable diseases, environmental health, illness prevention and health promotion. HAC's role is to translate the findings of research into policy and practice and to advise the community on health and health issues.

Licensing Committee

The Licensing Committee oversees the regulatory framework described by the RIHE Act and PHC Act and is responsible for monitoring compliance with both acts.

Research Committee

The Research Committee's primary role is to build and support an effective Australian health and medical research sector and to fund research that will provide quality knowledge to improve the health of the Australian people.

Appendix 4: External and Internal Reviews

External reviews

Previous external reviews relevant to this audit include:

- *Enabling the Virtuous Cycle: Implementation Committee Report*, Health and Medical Research Strategic Review Implementation Committee, 2000;
- *The Virtuous Cycle: working together for health and medical research*, Health and Medical Research Strategic Review Committee, 1999; and
- *External Review of the National Health and Medical Research Council—Report to the Minister for Health*, Dr John Bienenstock, 1993.

Internal reviews

Previous internal reviews relevant to this audit include:

- *Investing in Australia's health—Review of the implementation of the National Health and Medical Research Council's Strategic Plan 2000–2003*, NHMRC, 2002;
- *Health and Medical Research Strategic Review*, National Health and Medical Research Council Implementation of the Government's Response, Final Report, NHMRC, 2000; and
- *Report of the 1996 Evaluation of NHMRC*, Department of Health and Family Services, 1996.

Appendix 5: Council Role Statement

'The members of the Council of the NHMRC form the governing body responsible for implementing the objects set out in the *National Health and Medical Research Council Act 1992* and ensuring the effective discharge of its functions in accordance with the Act. These roles include:

- **Strategic planning and review**—initiating and setting direction, endorsing the Strategic Plan, appraising Committee workplans, and review progress
- **Risk management**—developing principles and acceptable risk levels, monitoring risks and scanning the broader environment, and directing mitigating action
- **Policy setting and directions**—considering emergent issues relevant to the business of Council, debating policy options and material changes in policy direction
- **Statutory functions**—assuring and endorsing Principal Committee outputs, delegating powers under the Act, and nominating representatives to external agencies
- **Business management**¹⁰⁹—approving business plans, resource allocations and performance monitoring plans recommended by the CEO and monitoring progress
- **Stakeholder management**—establishing and maintaining rapport with governments and key ministers (State and Federal), seeking and appraising feedback from practitioners, research bodies, educational institutions and the community

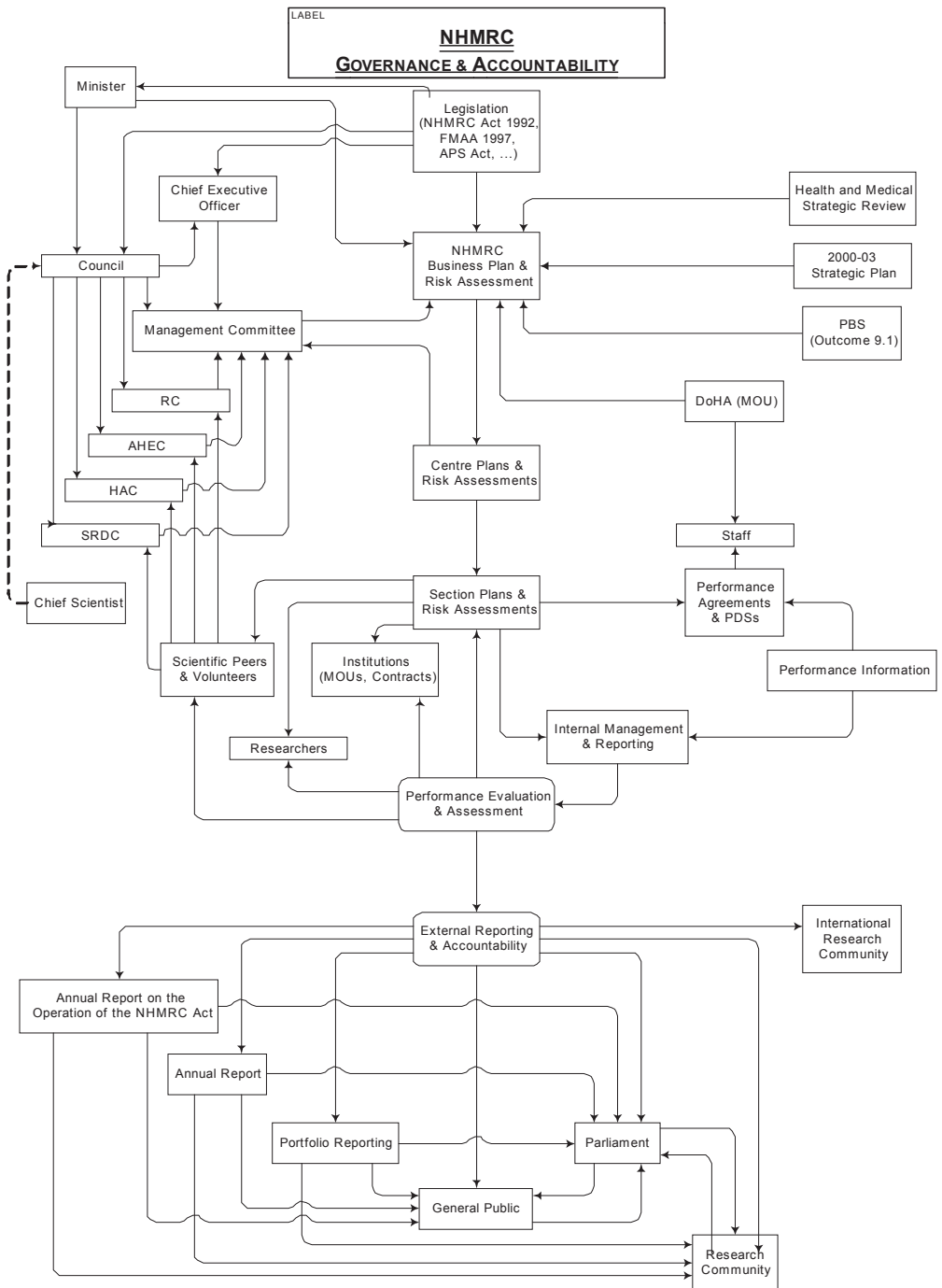
The Council recognises that the members of its Principal Committees have been independently appointed by the Commonwealth Minister for Health and Ageing, based on their technical knowledge and experience and the contribution they can make to the work of the Committee. As a result, Council aims to provide only broad direction and guidance to its Committees by:

¹⁰⁹ The Council receives no monies and incurs no expenditure in its own right. Administration and support, including all financial functions for research awards, are provided under arrangements with the department. The Secretary of the department is ultimately accountable for funds, including the Medical Research Endowment Account (MREA), to the Minister and to Parliament in accordance with the FMA Act. The Secretary has delegated powers for the administration of these funds to the CEO of the Council (an Official under Section 5 of the FMA Act) and staff of the NHMRC. Where the CEO performs financial tasks, they are being performed for the Department.

- approving Committee workplans, consistent with the directions set through the strategic planning process at the commencement of each triennium;
- reviewing progress of committee workplans through the performance measurement framework;
- seeking early engagement on emerging policy issues, the development of new programs and/or material changes in current program objectives or design;
- endorsing health advisory or ethical guidelines, publications and the release of major new program materials (in accordance with an assurance framework established with the Committees); and
- approving Committee budgets and resource allocation proposals.¹¹⁰

¹¹⁰ Internal NHMRC document.

Appendix 6: 2000–03 Triennium Accountability and Governance Diagram



Source: NHMRC

Acronyms for accountability and governance diagram:

AHEC	Australian Health Ethics Committee
DoHA	Department of Health and Ageing
FMA Act	<i>Financial Management and Accountability Act 1997</i>
HAC	Health Advisory Committee
MREA	Medical Research Endowment Account
Minister	Minister for Health and Ageing
MoU	Memorandum of Understanding
NHMRC	National Health and Medical Research Council
NHMRC Act	<i>National Health and Medical Research Council Act 1992</i>
PBS	Portfolio Budget Statements
PDS	Performance Development Scheme
PS Act	<i>Public Service Act 1999</i>
RC	Research Committee
SRDC	Strategic Research and Development Committee

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