

annual report

2015-16



I·C·A·C

INDEPENDENT COMMISSION
AGAINST CORRUPTION

NEW SOUTH WALES

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ISSN 1033-9973

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This report was produced in print and electronic formats for a total cost of \$2,361 (including GST). The report is available on the ICAC website www.icac.nsw.gov.au.

I·C·A·C

INDEPENDENT COMMISSION
AGAINST CORRUPTION
NEW SOUTH WALES

The Hon Don Harwin MLC
President
Legislative Council
Parliament House
Sydney NSW 2000

The Hon Shelley Hancock MLA
Speaker
Legislative Assembly
Parliament House
Sydney NSW 2000

Mr President
Madam Speaker

I am pleased to furnish to you the Commission's annual report for the year ended 30 June 2016. The report has been prepared in accordance with the requirements of the *Independent Commission Against Corruption Act 1988* and the *Annual Reports (Departments) Act 1985*.

Pursuant to s 78(2) of the ICAC Act, I recommend that this report be made public immediately.

This recommendation allows either presiding officer of the Houses of Parliament to make the report public whether or not Parliament is in session.

Yours faithfully



The Hon Megan Latham
Commissioner

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Commissioner's foreword

The NSW Independent Commission Against Corruption has dealt with a challenging year in 2015–16, particularly with regard to its jurisdiction. For the first four months of the reporting period, the scope of the Commission's jurisdiction was in doubt, which impacted on the Commission's level and breadth of activity.

The Commission was faced with a number of litigation matters, including a challenge to the validity of the *Independent Commission Against Corruption Amendment (Validation) Act 2015*, which was enacted in May 2015. That Act validated the Commission's actions before 15 April 2015, which relied upon corrupt conduct, including conduct that adversely affected the efficacy of the exercise of official functions. This challenge was determined in the Commission's favour in September 2015.

Doubt as to the scope and purpose of the Commission's jurisdiction was also resolved that month, with the enactment of the *Independent Commission Against Corruption Amendment Act 2015*.

This legislation implemented the recommendations of the Independent Panel, constituted by the Hon Murray Gleeson AC QC and Bruce McClintock SC. Despite the fact that the Commission's jurisdiction to investigate corrupt conduct remains largely unchanged, but for some welcome expansion to categories of corrupt conduct (s 8(2A)), there was a perception that the Commission could only investigate serious corrupt conduct. The Commission took steps to correct this misapprehension, including conducting a number of information sessions for public sector agencies in February 2016. It would appear that the confusion between the Commission's jurisdiction to investigate and its jurisdiction to make corrupt conduct findings at the end of an investigation may be in part responsible for a reduction of complaints from 3,146 last year to 2,436 this year.

The detail of the litigation that focused on the Commission's jurisdiction, along with a number of other litigation matters that occurred during the year, is set out later in this report. The vast majority of these matters were resolved in the Commission's favour.

However, the combination of these challenges has imposed a significant demand on the human resources of the Commission. Commission officers have responded with characteristic commitment and resilience by contributing to six public inquiries over 48 days and four investigation reports



leading to 21 serious corrupt conduct findings. The Commission commenced 10 full investigations this year; four fewer than last year, which reflects the interruption to the Commission's functions brought about by the uncertainty over jurisdiction. Corruption prevention officers also conducted 175 anti-corruption presentations and training workshops, reaching approximately 4,700 people, and responded to 94 requests for corruption prevention advice.

The most recent community attitudes survey, conducted in late 2015, reinforces once again that the public of NSW perceive the Commission as a desirable and necessary agent in exposing, investigating and preventing corruption. The Commission's effectiveness is closely allied to its public inquiries, a position endorsed by the Independent Panel in its July 2015 report. The Commission is committed to maintaining the faith and confidence placed in it by the public in the years to come.

More challenges lie ahead. Over the next financial year, the Commission will be operating at staffing levels similar to those in 2006 as a result of funding cuts and efficiency savings imposed by the NSW Government. There will inevitably be some reduction in the Commission's capacity to respond to complaints of corrupt conduct as quickly as we would like and there may be a corresponding reduction in the number of full investigations carried out in a given year. However, the quality of the Commission's work will continue to improve public administration in this state.

The Hon Megan Latham
Commissioner

Chapter 1: Overview

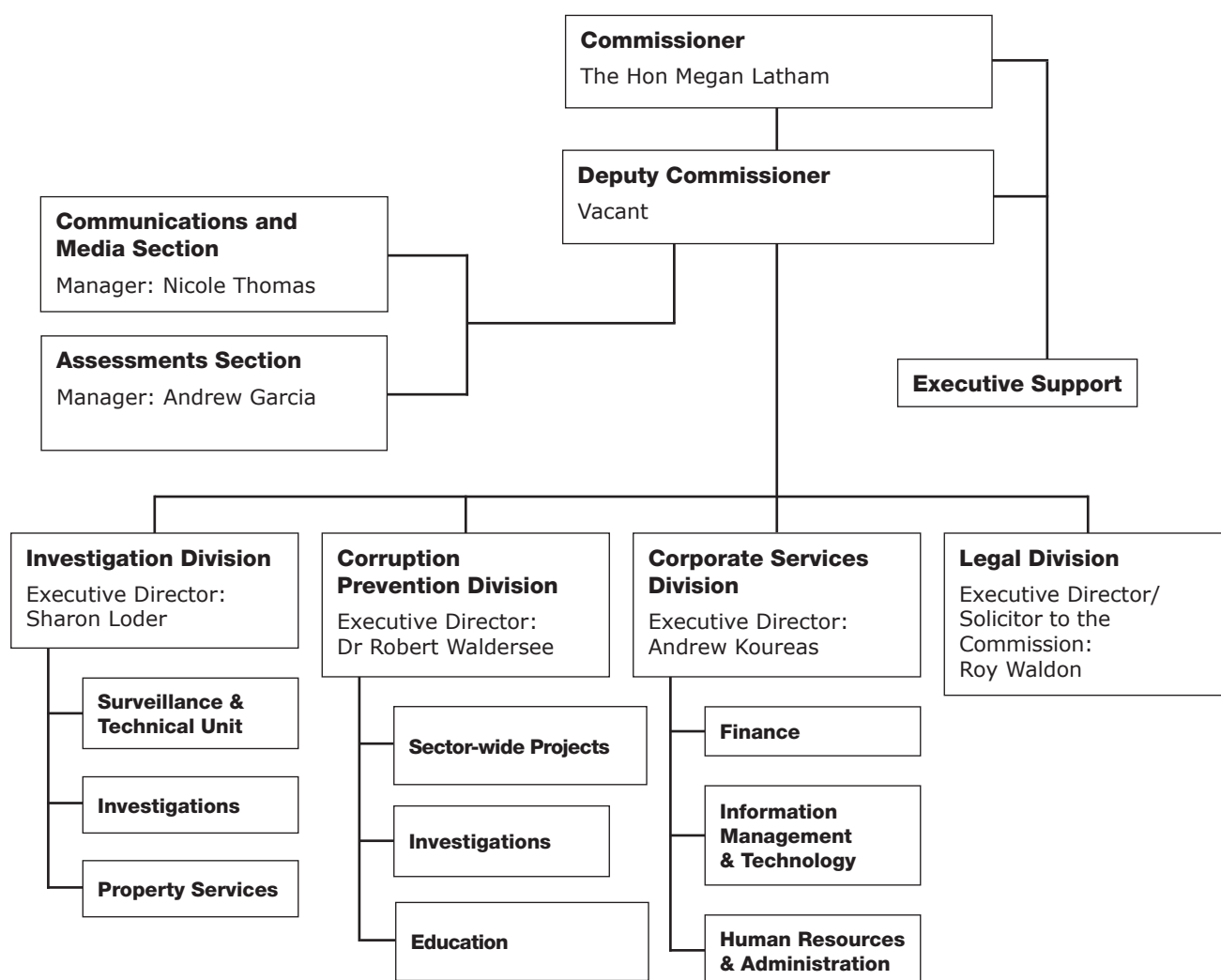
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Our mission is to combat corruption and improve the integrity of the NSW public sector.

The NSW Independent Commission Against Corruption (“the Commission”) was established as an independent and accountable body by the *Independent Commission Against Corruption Act 1988* (“the ICAC Act”) in response to community concern about the integrity of public administration in the state. The principal objectives of the Commission are:

- investigating, exposing and preventing corruption
- educating public authorities, public officials and members of the public about corruption and its detrimental effects.

Organisational chart*



*As at 30 June 2016.



Structure of the ICAC

The Commission is led by the Commissioner, whose role is to oversee the Commission's work and to ensure that it meets the objectives of, and complies with the requirements set out in, the ICAC Act and all other relevant legislation.

Under delegation from the Commissioner, the Deputy Commissioner is responsible for day-to-day oversight of staff and operations, and for providing high level operational and strategic advice to the Commissioner, and guidance to executive staff.

The roles of the Commission's functional areas are described below.

Executive Section

The Executive Section includes the Commissioner and Deputy Commissioner, plus executive support staff whose role is to supply administrative and paralegal support (the latter shared with the Legal Division) to the Commissioner and Deputy Commissioner. It also provides secretariat services to executive management groups, and provides reception and switchboard services. In the reporting period, the section had an average of 4.5 full-time equivalent (FTE) staff.

Assessments Section

The Assessments Section is the first point of contact for complaints and reports made to the Commission. Assessments receives and registers all complaints, reports (whether from external agencies or internally generated) about alleged corrupt conduct, general enquiries and feedback. It also manages and reviews matters that the Commission refers for investigation by public sector agencies under s 53 and s 54 of the ICAC Act.

The Manager of the Assessments Section is Andrew Garcia, who commenced with the Commission on 16 November 2015. From 30 June 2015, former deputy manager Peter Thorne acted in the role until he left the Commission on 21 August 2015. Heidrun Blackwood then acted in the interim. In the reporting period, the section had an average of 12.7 FTE staff.

Investigation Division

The Investigation Division comprises three areas: the investigations section, the surveillance and technical unit, and property services. The investigations section consists of the preliminary investigation team and three operational investigation teams. Personnel within this section include investigators, forensic accountants, intelligence analysts and support staff. The division's surveillance and technical unit supports the Commission's investigations with surveillance, forensic and

technical personnel. Property services manages the registration and security of evidence items obtained by the Commission. The Commission takes a multidisciplinary approach to its investigation function. Investigative teams include staff, such as lawyers and corruption prevention officers, from other divisions.

Sharon Loder is the Executive Director of the Investigation Division. In the reporting period, the division had an average of 48.2 FTE staff.

Corruption Prevention Division

The Corruption Prevention Division carries out the corruption prevention and educative functions described under the ICAC Act. The principal functions include examining the laws, practices and procedures of public authorities and public officials, while also educating, advising and assisting public authorities and the community on ways in which corrupt conduct may be eliminated.

The *Independent Commission Against Corruption Amendment Act 2015* (“the Amendment Act”), which commenced operation on 28 September 2015, enhanced the Commission’s advisory, educational and preventative functions under the new s 13(1)(e) – s 13(1)(j) to include examining and providing advice about ways in which the integrity and good repute of public administration can be promoted.

Dr Robert Waldersee is the Executive Director of the Corruption Prevention Division. In the reporting period, the division had an average of 17 FTE staff.

Legal Division

The Legal Division assists the Commission to perform its principal functions and to exercise its statutory powers in a lawful, effective, ethical and accountable manner by providing high quality, accurate and timely legal services. To achieve this, a lawyer is assigned to the preliminary investigation team and each investigation.

Commission lawyers assist in the planning and conduct of all investigations and provide advice, as required, to other sections of the Commission. They may also act as counsel in compulsory examinations.

Commission lawyers prepare briefs for, and instruct counsel at, public inquiries. They also assist with the preparation of investigation reports, oversee the preparation of briefs of evidence for submission to the Director of Public Prosecutions (DPP) and liaise with DPP lawyers in relation to answering requisitions for further evidence and the conduct of any prosecutions.

Roy Waldon is the Executive Director of the Legal Division and Solicitor to the Commission. In the reporting period, the division had an average of 10.7 FTE staff.

Corporate Services Division

The Corporate Services Division is a business partner with the operational divisions of the Commission, and is responsible for providing support services to enable the Commission to undertake its statutory functions. It provides human resources, administrative, security, facilities, financial, and information management and technology services.

The division also manages other functions, including recruitment, payroll, risk management and procurement, and provides significant corporate support services to the Health Care Complaints Commission through a shared services agreement.

Andrew Koureas is the Executive Director of the Corporate Services Division. In the reporting period, the division had an average of 17.6 FTE staff.

Communications and Media Section

The Communications and Media Section manages the Commission’s internal and external communications functions with various interested parties, including the media, other agencies and ICAC staff via media liaison, publications and resources, corporate identity and branding, and the ICAC’s internet and intranet sites.

Nicole Thomas is the Manager of the Communications and Media Section. In the reporting period, the section had an average of 3.6 FTE staff.

During 2015–16, the Commission:

- received and managed 2,436 matters and took on average 23 days to assess and close a matter, which is a 4% improvement on the average 24 days it took to deal with the 3,146 matters received in 2014–15
- commenced 41 new preliminary investigations and 10 new operations
- completed 43 preliminary investigations and 15 operations
- completed 86% of preliminary investigations within the target 120 days
- conducted six public inquiries over 48 days, and 65 compulsory examinations over 47 days
- completed and furnished four investigation reports to Parliament
- made 21 serious corrupt conduct findings against nine people, and recommended that the advice of the Director of Public Prosecutions be sought with respect to the prosecution of six people for various offences
- delivered 175 anti-corruption presentations and training workshops across the state, reaching approximately 4,700 people face-to-face
- responded to 94 requests for corruption prevention advice
- published the results of the 2015 community attitudes survey, which reported the highest level of community perception in 22 years that the Commission reduces corruption and found that 93% of respondents indicated the Commission is a good thing for the people of NSW
- co-hosted the 5th Australian Public Sector Anti-Corruption Conference, which attracted 498 attendees
- published two editions of the *Corruption Matters* e-newsletter, which reached 712 subscribers by June 2016, with readers located in Australia and overseas
- recorded 513,521 external visitor sessions to the ICAC website
- conducted information sessions for NSW public sector executives to explain the provisions of the *Independent Commission Against Corruption Amendment Act 2015*
- was found to have met statutory obligations in the two records inspections conducted by the NSW Ombudsman; Commission recordkeeping was found to be compliant in the one records inspection conducted by the Commonwealth Ombudsman
- recorded 511 staff attendances at training sessions, equating to an average of 4.5 training sessions per staff member
- commenced the development of a new fit-for-purpose case management application.

What we do

The Commission investigates allegations of corrupt conduct in and affecting the NSW public sector, and drives programs and initiatives to minimise the occurrence of such conduct in the state. The Commission's overarching aims are to protect the public interest, prevent breaches of public trust, and guide the conduct of public officials.

The Commission receives and analyses complaints from members of the public and public officials, and reports made by the principal officers of public sector agencies and ministers of the Crown. It has extensive powers of investigation and may conduct hearings to obtain evidence of, and to expose, serious corruption and systemic corruption. The Commission can make findings of serious corrupt conduct, may make recommendations for disciplinary action and is able to obtain the advice of the DPP with respect to prosecution of individuals.

The Commission works to minimise corruption by providing advice and guidance via information, resources and training to public sector agencies to address existing or potential corruption problems. It assists organisations to identify and deal with significant corruption risks, conducts research to identify and help remedy specific areas of corruption risk, and also provides advice and guidance to the wider community about corruption and how to report it.

The Commission is a public authority but is independent of the government of the day. It is accountable to the people of NSW through the NSW Parliament.

The Commission's *Strategic Plan 2015–2019* sets out four key result areas for 2015–16:

- exposing corruption
- preventing corruption
- accountability
- our organisation.

Each division and section develops and works to an individual annual business plan aligned with the Commission's strategic plan. During the year, each division and section reported quarterly to the Executive Management Group against its operational business plan.

The following sections specify the Commission's objectives for each result area. More detailed information and results for each key result area are provided in the chapters that follow.

Exposing corruption

The objectives in the *Strategic Plan 2015–2019* for exposing corruption are to:

- detect and investigate corrupt conduct
- identify any methods of work, practices or procedures that allow, encourage or cause the occurrence of corrupt conduct
- ensure a best practice approach for all investigations

- enhance complaint-handling processes
- maintain strategic alliances to optimise investigative and preventative outcomes.

A detailed description of Commission activities and results relating to this key result area is outlined in Chapter 2 (Assessing matters) and Chapter 3 (Investigating corruption). Table 1 sets out the key quantitative results for workload, work activity and performance for this key result area in 2015–16.

Table 1: Key quantitative results for corruption exposure activities

| Measure | Target* | 2015–16 | 2014–15 | 2013–14 |
|--|---------|---------|---------|---------|
| Matters received | n/a | 2,436 | 3,146 | 3,386 |
| Average time to deal with matters (days) in Assessments Section | 68 | 23 | 24 | 28 |
| Preliminary investigations commenced | n/a | 41 | 42 | 43 |
| Full investigations commenced | n/a | 10 | 14 | 10 |
| Percentage of full investigations completed within 16 months | >80% | 60%** | 73% | 71%*** |
| Number of public inquiries | n/a | 6 | 7 | 9 |
| Number of public inquiry days | n/a | 48 | 64 | 84 |
| Number of compulsory examinations | n/a | 65 | 127 | 203 |
| Number of persons subject to serious corrupt conduct findings | n/a | 9 | 17 | 41 |
| Number of investigation reports to Parliament | n/a | 4 | 5 | 12 |
| Percentage of investigation reports completed within the ICAC's target | 80% | 25% | 75% | 42% |
| Number of persons prosecuted arising from investigations | n/a | 12 | 8 | 11 |
| Number of persons against whom disciplinary action commenced arising from investigations | n/a | 0 | 1 | 3 |

* For measures that reflect incoming work or activity beyond the control of the Commission, targets are not set and not applicable (n/a) appears in the column.

** This figure is a result of changes to the Commission's jurisdiction, resources engaged in dealing with an increasing number of civil actions, and assisting the Office of the Director of Public Prosecutions with the preparation for, or conduct of, significant criminal prosecutions arising from the Commission's investigations.

*** This figure concerns the percentage of full investigations completed within 12 months. The figure that has been reported since 2014–15 is for a 16-month period, which incorporates both the preliminary investigation phase and the operation phase.

Preventing corruption

The objectives in the *Strategic Plan 2015–2019* for preventing corruption are to:

- encourage government to address corruption risks of state-wide significance and public concern
- ensure public authorities revise practices or procedures to reduce the risk of corrupt conduct occurring
- raise awareness in identified communities of inappropriate behaviour and encourage reporting of corrupt conduct.

A detailed description of Commission activities and results for this key result area is outlined in Chapter 4 (Preventing corruption). Table 2 sets out the key quantitative results for workload, work activity and performance for this key performance area in 2015–16.

Accountability

The objectives in the *Strategic Plan 2015–2019* for accountability are to:

- provide timely, accurate and relevant reporting to the Inspector of the ICAC and the Parliamentary Committee on the ICAC
- ensure our work complies with all relevant laws and procedures
- report publicly about the work of the Commission.

A detailed description of Commission activities and results for this key result area is outlined in Chapter 5 (Compliance and accountability). Table 3 sets out the key quantitative results for accountability activities in 2015–16.

Table 2: Key quantitative results for corruption prevention activities

| Measure | Target | 2015–16 | 2014–15 | 2013–14 |
|--|--------|---------|---------|---------|
| Requests for corruption prevention advice | n/a | 94 | 134 | 102 |
| Detailed corruption prevention advice responses | n/a | 12 | 23 | 8 |
| Corruption prevention advice relating to complaints and reports of corrupt conduct | n/a | 2 | 1 | 4 |
| Rural and regional outreach visits | 2 | 2 | 2 | 3 |
| Training sessions delivered | 40 | 107 | 85 | 90 |
| Corruption prevention recommendations in investigation reports published during the period | n/a | 14 | 6 | 38 |
| Percentage of corruption prevention recommendations in investigation reports addressed as at 30 June | 80% | 90% | 97% | 94% |
| Percentage of public inquiries that resulted in the making of corruption prevention recommendations | 90% | 75% | 50% | 33% |
| Number of prevention reports published | 3 | 1 | 3 | 3 |

Table 3: Key quantitative results for accountability activities

| Measure | 2015–16 | 2014–15 | 2013–14 |
|---|---------|---------|---------|
| Parliamentary Committee on the ICAC meetings | 3 | 1 | 1 |
| NSW/Commonwealth Ombudsman inspections of telecommunications intercepts and accesses, surveillance devices and controlled operation records | 3 | 4 | 4 |
| Number of reports/responses provided to the Inspector of the ICAC | 54 | 29 | 1 |
| Number of audits conducted by the Inspector of the ICAC | 0 | 0 | 0 |
| Number of assumed identity audits | 1 | 1 | 1 |

Our organisation

The objectives in the *Strategic Plan 2015–2019* for our organisation are to:

- continue to develop as a learning organisation that embraces a culture of continuous improvement, excellence and sharing of knowledge
- provide a safe, equitable, productive and satisfying workplace
- be a lead agency in our governance and corporate infrastructure
- monitor our performance to ensure work quality and effective resource management.

A detailed description of Commission activities and results for this key result area is outlined in Chapter 6 (Our organisation).

Financial overview

Statement of Comprehensive Income

The Commission has achieved a Net Result of (\$2.807 million), which was \$1.13 million above budget. This significant variation is primarily due to the receipt of a second half-yearly grant of \$500,000 from the NSW Department of Premier and Cabinet and higher than budget expenditure for legal, consultancy, redundancy and contractor expenses.

Table 4: Operating Result 2015–16

| | \$'000 |
|------------------|---------|
| Expenses | 26,906 |
| Revenue | 24,104 |
| Loss on Disposal | (5) |
| Net result | (2,807) |

Table 5: Financial Position 2015–16

| | \$'000 |
|-------------|--------|
| Assets | 10,542 |
| Liabilities | 7,087 |
| Net Assets | 3,455 |

Revenue

The main source of revenue is recurrent appropriations (\$19.638 million compared to \$20.804 million in 2014–15). Capital appropriations received were \$0.58 million compared to \$6.274 million for the previous year. The Department of Premier

and Cabinet provided a grant of \$1.34 million, compared to \$1.6 million in the previous year. NSW Treasury also provided a grant of \$1.28 million to fund redundancies following the 2016–17 budget allocation. Other revenue includes fees from the provision of shared services, interest from investments and acceptance by the Crown Entity of employee benefits and other liabilities.

Expenses

Total expenses were \$26.906 million, an increase of \$1.197 million or 4.6% from the previous year. Employee-related expenses were \$18.724 million, an increase of \$1.564 million compared to last year, largely due to the impact of the redundancy program and actuarial adjustments to the extended leave balances. Other operating expenses were \$5.529 million, a decrease of \$1.02 million from the previous year, primarily due to a reduction to legal and transcript expenditure.

Assets

Assets decreased by \$2.134 million (16.8%) due largely to the full-year depreciation impact for leasehold improvements and computer equipment following the completion of the fit-out and information and communications technology projects during the previous year.

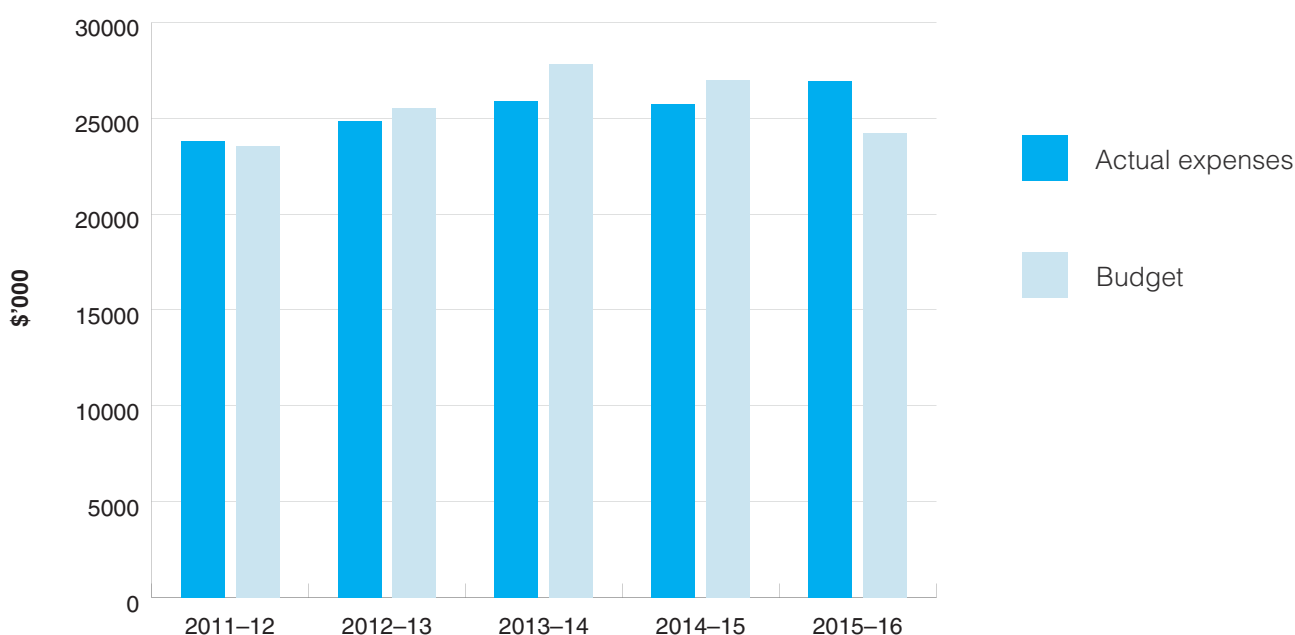
Liabilities

Liabilities increased by \$0.673 million due largely to the redundancy program provision being moderated by a reduction to the lease incentive provision.

Net Equity

Accumulated funds decreased by \$2.807 million reflecting the Commission's operating result.

Figure 1: Total expenditure budget and actuals





Chapter 2: Assessing matters

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All complaints and reports within the Commission's jurisdiction are reported to the Assessment Panel, which is made up of members of the Commission's senior executive. The panel's role is to make decisions about how each matter should proceed. A matter is not reported to the Assessment Panel if it is assessed as being an enquiry only, is outside the Commission's jurisdiction or classified as feedback. Such matters are managed within the Commission's Assessments Section.

The Commission can also take action on an "own initiative" basis. In these situations, the Assessment Panel considers recommendations within an internally generated report outlining reasons for commencing an investigation. These reports may be based on information from various sources, including information that is in the public domain or that emerges from the analysis of complaints received from the public or via reports from public sector agencies.

Performance in 2015–16

In 2015–16, the Commission received and managed a total of 2,436 matters. This figure represents a 23% decrease from the previous year (3,146 matters). In the reporting period, the average time taken to assess and close a matter was 23 days, a 4% improvement on the previous year's average of 24 days.

Achieving turnaround targets

The Assessments Section has targets for turnaround times at key stages during the complaint assessment process. Table 6 provides a number of these targets, and achievements during the reporting period. While the average number of days to re-report a matter to the Assessment Panel upon receipt of a s 54 report exceeded the target, this was largely due to the Commission liaising directly with a public authority in one matter to clarify the approach and outcome

of its investigation before the matter was to be reconsidered by the Assessment Panel.

Profile of matters received

In the reporting period, the majority of the 2,436 matters that were received and assessed by the Commission came from two sources:

- members of the public making complaints under s 10 of the ICAC Act (s 10 complaints), representing 27% of all matters
- principal officers of NSW public sector agencies and ministers, who each have a duty to report suspected corrupt conduct under s 11 of the ICAC Act (s 11 reports), representing 25% of all matters.

Table 7 shows all matters received in 2015–16 by category, compared with the previous two years.

In 2015–16, the Commission received 656 s 10 complaints; a 31% decrease on the number received in 2014–15 (947). While this fluctuation between the two reporting periods appears significant, the longer term (10-year) trend indicates a slight increase in the number of s 10 complaints received by the Commission.

The Commission also received 605 s 11 reports, compared with 641 in the previous year. This represents a decrease of 6%, following a decrease of 5% between the 2014–15 and 2013–14 reporting periods. While there has been a slight downward trend in the reports received by the Commission between these periods, the longer term (10-year) trend also indicates a very slight increase.

In 2015–16, public sector employees lodging complaints to the Commission under the *Public Interest Disclosure Act 1994* ("the PID Act") comprised 9% (220) of matters received. This is the lowest figure reported in the protected disclosures category since 2007–08.

Table 6: Some internal targets and achievements of the Assessments Section in 2015–16

| Measure | Target | Achievement |
|--|--------|-------------|
| Average days to present a "straightforward" matter to the Assessment Panel from date of receipt | 21 | 16 |
| Average days to present a "moderate–complex" matter to the Assessment Panel from date of receipt | 42 | 38 |
| Average days to re-report a matter to the Assessment Panel upon receipt of a s 54 report | 28 | 53 |

Table 7: Matters received by category in 2015–16, compared to the previous two years

| Category | 2015–16 | | 2014–15 | | 2013–14 | |
|----------------------------|--------------|-----|--------------|-----|--------------|-----|
| Complaint (s 10) | 656 | 27% | 947 | 30% | 1,043 | 31% |
| Report (s 11) | 605 | 25% | 641 | 20% | 674 | 20% |
| Enquiry | 385 | 16% | 448 | 14% | 449 | 13% |
| Outside jurisdiction | 282 | 12% | 394 | 13% | 410 | 12% |
| Public interest disclosure | 220 | 9% | 255 | 8% | 295 | 9% |
| Information | 217 | 9% | 342 | 11% | 362 | 11% |
| Feedback | 56 | 2% | 92 | 3% | 118 | 3% |
| Dissemination | 10 | <1% | 16 | 1% | 25 | 1% |
| Intelligence report | 2 | <1% | 4 | <1% | 3 | <1% |
| Own initiative (s 20) | 2 | <1% | 7 | <1% | 6 | <1% |
| Referral (s 13) | 1 | <1% | 0 | 0% | 1 | <1% |
| Total | 2,436 | | 3,146 | | 3,386 | |

Compared to 2014–15, there was a decrease in all categories of matters reported to the Commission in 2015–16, with one exception (s 13 referrals received). This may be attributed to the lower number of high-profile public inquiries conducted by the Commission during 2015–16.

The Commission strives to be accessible to those who submit complaints and reports. It provides a number of methods for members of the public and public sector employees to contact the Commission, including in writing, by telephone or email, in person or online via a complaints form on the Commission's website at www.icac.nsw.gov.au. Principal officers of public authorities generally submit s 11 reports in writing, including email. If there is some urgency attached to the matter, a principal officer can report a s 11 matter by telephone.

In 2015–16, the methods used most frequently by complainants to contact the Commission were telephone (31%), email (23%) and letter (19%), as shown in Table 8.

Table 8: Methods of initial contact for all matters received in 2015–16

| Method | Number of matters received | % of matters received |
|--------------|----------------------------|-----------------------|
| Telephone | 765 | 31% |
| Email | 559 | 23% |
| Letter | 466 | 19% |
| ICAC website | 363 | 15% |
| Schedule | 250 | 10% |
| Visit | 26 | 1% |
| Other | 7 | <1% |

Anonymous complaints

The Commission accepts anonymous complaints. It appreciates that, in some instances, people are fearful of reprisal action and prefer to remain anonymous. Where people contacting the Commission by telephone wish to remain anonymous, the Commission provides advice about the various protections afforded under the ICAC Act and/or the PID Act.

In 2015–16, 22% of complaints from members of the public (143 matters) were made anonymously. This represents a 27% decrease on the previous



Case study: Bargain property

In 2015, the Commission received a complaint alleging corrupt conduct by public official/s in the sale of a property owned by a NSW public authority. The auctioneer acting for the NSW public authority notified potential purchasers that an auction for the sale of the property would take place on a nominated date. The complainant advised the auction date was changed at the last minute to the day before the date previously nominated. The property was then sold during the auction for a very low sale price.

In order to better assess the allegations and the likelihood of whether corrupt conduct had occurred, the Commission made enquiries around the circumstances of the sale. The public authority examined the matter and advised the auctioneer made an error and notified interested purchasers of the wrong auction date. The date of the auction had previously been published in the *Gazette*, as required by legislation, and could not be changed. As soon as the error was identified, the auctioneer contacted registered parties and advised them of the correct auction date.

The public authority confirmed the property was sold to a purchaser not personally known to the relevant public officials. The public authority was satisfied that the sale was conducted in accordance with its policies and legislation.

In light of the information provided by the public authority, there was no indication that a public official had acted corruptly in the sale of the property. The Commission determined to take no further action in this matter.

period, although the overall proportion has remained about the same (21% of complaints in 2014–15). Of the matters classified as public interest disclosures (PIDs), 35% were made anonymously (76 matters), a 5% decrease in volume compared to 2014–15.

There are several challenges in receiving and assessing anonymous complaints. For instance, the Commission is unable to clarify the particulars of the information and notify the complainant of the outcome. Where a matter has been classified as a PID, there is the added risk that any enquiries or action taken by the Commission may inadvertently reveal the identity of the person who made the PID. To mitigate such risks, where a PID is made anonymously, any action such as the making of assessment enquiries or conducting a preliminary investigation will occur only with the approval of the Deputy Commissioner or Commissioner. In deciding whether to approve such actions, the Commission weighs the risks of exposing the discloser's identity against the public interest in having the allegations further explored.

Complaints from the public

Under s 10 of the ICAC Act, any person may make a complaint to the Commission about a matter that concerns or may concern corrupt conduct as defined in the ICAC Act. Complaints made by public sector employees and contractors to public authorities that do not meet the criteria set out in the PID Act, and therefore cannot be classified as PIDs, are also classified as s 10 complaints.

Many matters reported to the Commission by members of the general public are not made the subject of a formal Commission investigation, either because the matters raised are speculative or because the Commission takes the view that there is no real likelihood that corrupt conduct has occurred. Further, the Commission is required under its legislation to focus its attention on serious corrupt conduct or systemic corrupt conduct.

The Commission may refer allegations to a NSW public sector agency that is the subject of a complaint for its information, often for the agency to address a perception on the part of the complainant of unfairness or wrongdoing. It is the Commission's experience that perceptions of wrongdoing are often borne of poor communication or consultation, or a lack of consistency or transparency on the part of agencies. Such a referral also allows the agency to conduct its own enquiries and report back to the

Commission in the event that it finds any evidence indicative of corrupt conduct.

The case study on page 16 is an example of a potentially serious matter but where, following enquiries by the Commission, the Commission determined there was no real likelihood that corrupt conduct had occurred.

Table 9 shows the different government sectors about which allegations of corrupt conduct were made under s 10 in 2015–16.

Table 9: Complaints from the public in 2015–16, showing allegations in the top five government sectors

| Sector | Section 10 complaints | % s 10 complaints |
|-----------------------------------|-----------------------|-------------------|
| Local government | 295 | 45% |
| Government and financial services | 62 | 9% |
| Law and justice | 50 | 8% |
| Health | 44 | 7% |
| Community and human services | 41 | 6% |

As in previous years, the sector most frequently complained about in 2015–16 was local government, with s 10 complaints relating to this sector accounting for 45% of the total volume received. The Commission notes, however, the large number of local councils in NSW, and that over-representation of local government in the complaints statistics may be due to the high level of people's interaction with local government and the personal interest many take in the decisions of their local council.

The five most frequent workplace functions about which the Commission received complaints from the public, as well as the five most frequent types of corrupt conduct alleged, are shown in tables 10 and 11 respectively.

Table 10: Complaints from the public in 2015–16, showing the five most frequent types of workplace functions mentioned

| Workplace function | Section 10 complaints | % of s 10 complaints |
|--|-----------------------|----------------------|
| Development applications and land rezoning | 179 | 27% |
| Reporting, investigation, sentencing and enforcement | 179 | 27% |
| Human resources and staff administration | 104 | 16% |
| Procurement, disposal and partnerships | 98 | 15% |
| Allocation of funds, materials and services | 68 | 10% |

Note: The proportion of s 10 complaints mentioning these workplace functions have remained relatively consistent and are comparable with those reported in 2014–15.

Table 11: Complaints from the public in 2015–16, showing the five most frequent types of corrupt conduct alleged

| Types of corrupt conduct | Section 10 complaints | % of s 10 complaints |
|---|-----------------------|----------------------|
| Partiality | 217 | 33% |
| Failure to perform required actions | 172 | 26% |
| Improper use of records or information | 170 | 26% |
| Personal interests | 149 | 23% |
| Improper use or acquisition of funds or resources | 84 | 13% |

Compared to 2014–15, there has been a slight increase in the proportion of allegations about two types of corrupt conduct – “failure to perform required actions” and “improper use of records or information” (both up from 21%). Also, “improper use or acquisition of funds or resources” is now the fifth most prevalent type of corrupt conduct reported, replacing “corrupt conduct related to investigations or proceedings”.

Appendix 1 provides a full breakdown of the workplace functions and types of conduct about which the Commission received s 10 complaints.

Public interest disclosures

NSW public sector employees or contractors who report allegations of corrupt conduct about a NSW public sector agency or official may, provided they meet certain criteria, be entitled to protection under the PID Act. Under the PID Act, it is an offence to take reprisal action against someone because that person has made a PID or is believed to have made a PID.

In 2015–16, the Commission classified 220 matters as PIDs (matters that were both complaints under s 10 of the ICAC Act and also met the criteria in the PID Act). In addition, of the s 11 matters reported, 40 met the criteria for PIDs.

During the reporting period, there were 280 PIDs finalised, a decrease of 10% on the number reported during 2014–15. The majority of PIDs received related to corrupt conduct; however, there were a number of PIDs relating to maladministration. Where appropriate, these misdirected PIDs were referred to the relevant investigating agency under s 25 of the PID Act.

Table 12 shows the number of allegations in the top five categories by government sector for PIDs received during the year. As with s 10 complaints, the largest number of allegations in this category concerned local government (36%, a slight increase from 2014–15).

Table 12: PID allegations by government sector in 2015–16

| Sector | PIDs | % of PIDs |
|---------------------------------|------|-----------|
| Local government | 79 | 36% |
| Health | 24 | 11% |
| Transport, ports and waterways | 20 | 9% |
| Education (except universities) | 13 | 6% |
| Custodial services* | 11 | 5% |

* The “custodial services” government sector was in equal fifth place for the number of PIDs received with the “community and human services” and “Aboriginal affairs and services” government sectors.

Table 13: Types of conduct reported as PIDs in 2015–16

| Types of conduct reported as PIDs | Number reported | % reported |
|--|-----------------|------------|
| Partiality | 101 | 46% |
| Personal interests | 70 | 32% |
| Failure to perform required actions | 53 | 24% |
| Improper use of records or information | 49 | 22% |
| Improper use or acquisitions of funds or resources | 36 | 16% |

Note: These figures have remained relatively static and are comparable with those reported in 2014–15.

Prior to making any enquiries about PID allegations, the Commission seeks written authority from the complainant for his or her identity to be disclosed during any such enquiries. When consent is not given, the Commission may, under s 22 of the PID Act, disclose confidential information if it is considered necessary to investigate a matter effectively or if it is in the public interest to do so. This will occur only with the approval of the Deputy Commissioner or Commissioner.

PIDs are received by the Commission from all levels of the NSW public sector. According to the provisions of the PID Act, both the agency and the officer making the complaint are responsible for ensuring that confidentiality is maintained.

Even if the allegations made are not substantiated, they may highlight system or process deficiencies, which the agency concerned can address. Where this occurs, it can minimise corruption risks and eliminate perceptions of corruption.

The case study on page 19 is an example of a matter where a PID made to the Commission showed a potentially corrupt recruitment process, fraud and misuse of public resources by public officials.

In 2015–16, the most frequent workplace function reported by way of PIDs was “human resources and staff administration”, comprising 48% of allegations (down from 51% in the previous year), followed by “reporting, investigation, sentencing and enforcement” with 25% (up from 19% the previous year) and “procurement, disposal and partnerships” with 21% (also up from 18% the previous year).

Appendix 1 provides a full list of the workplace functions and types of conduct about which the Commission received PIDs. Appendix 2 provides further information on PIDs made by public officials and the types of allegations made in PIDs.

The Commission has a policy on its intranet site relating to PIDs by its staff, and has a number of links on its website relating to such disclosures and the protections afforded to public officials under the PID Act. This information is provided to new Commission staff during their induction phase.

Reports from public sector agencies and ministers

Section 11 of the ICAC Act requires principal officers of NSW public sector agencies to report matters to the Commission where they hold a reasonable suspicion that corrupt conduct has occurred or may occur. Principal officers include secretaries and chief executives of state government agencies, and general managers of local councils. NSW ministers have a duty to report suspected corrupt conduct either to the Commission or to the head of an agency responsible to the minister.

Principal officers and ministers are encouraged to report suspicions of corrupt conduct promptly, as delays can impair the Commission's ability to detect and expose corrupt activity. A prompt report means that witnesses' recollections are fresh and there is less likelihood of evidence being compromised or lost.

When assessing a s 11 report, it assists the Commission for the head of an agency to advise on a proposed course of action, in the event that the Commission determines not to take action itself. In many instances, even if the matter is not sufficiently serious for the Commission to conduct an investigation, the Commission will ask the agency to advise it of any disciplinary or remedial outcomes. Such information can inform trend analysis and the Commission's corruption prevention work generally, as well as enable the Commission to track disciplinary outcomes in relation to individual public sector employees.

It is helpful for the Commission to be advised whether an agency is treating a s 11 matter as a PID. If the matter is a PID, responsibilities under the PID Act, such as confidentiality and keeping the discloser notified, are passed on to the Commission.



Case study: Fraud and friends

In 2016, the Commission received an anonymous PID that alleged a NSW public official was fraudulently recording the hours they worked and was improperly using the public authority's resources through extensive use of the internet at work. The disclosure also alleged another public official had a conflict of interest in two recruitment processes, where the positions had been offered to the official's friends.

The Commission conducted preliminary enquiries into the matter. They revealed that the alleged fraud had been previously investigated, resulting in the public official being counselled and repaying the hours improperly claimed. An audit of the public official's internet use was conducted in response to the Commission's enquiries, finding it to be excessive and not in accordance with policy. The public official was counselled in relation to this use and required to read the relevant policies.

The public authority reviewed the two recruitment processes referred to in the disclosure and identified deficiencies in the process followed. The public authority did not identify bias or favouritism towards the successful applicants. The public official was counselled around recruitment processes to ensure they follow the correct procedures in the future.

Having regard to the extent of the public officials' misconduct and the action taken by the public authority, the Commission decided to take no further action in this matter.

The case study on page 21 is an example of a matter where the head of an agency reported a matter under s 11 involving allegations of an employee misappropriating public money.

Table 14 shows the number of times allegations concerned a particular sector. The “transport, ports and waterways” sector ranked the highest, representing 22% of allegations made in s 11 reports. “Custodial services” is now the fifth highest sector to which s 11 reports relate, replacing “community and human services”.

Table 14: Section 11 reports received in 2015–16, showing the five most frequently reported government sectors

| Sector | Section 11 reports | % of s 11 reports |
|---------------------------------|--------------------|-------------------|
| Transport, ports and waterways | 136 | 22% |
| Local government | 120 | 20% |
| Education (except universities) | 95 | 16% |
| Health | 75 | 12% |
| Custodial services | 35 | 6% |

In relation to the workplace functions involved in the allegations reported, most s 11 reports concerned “human resources and staff administration”, comprising 44% (264) of s 11 reports received. This figure is relatively consistent with the previous year. This was followed by “procurement, disposal and partnerships”, which accounted for 15% (88).

With regard to conduct types, “improper use of records or information” was the most frequently reported, with 35% (214). This represents a reduced proportion from the previous year (40% in 2014–15). It was followed by “improper use or acquisition of funds or resources” at 31% (187), which is relatively consistent with the previous year. “Personal interests” represented 20% (124) of the allegations reported to the Commission (also up from the figure of 15% in 2014–15).

Appendix 1 provides a full list of the workplace functions and types of conduct about which the Commission received s 11 reports.

The assessment process

The Commission's Assessments Section is responsible for conducting the initial assessment of a complaint or information to determine what action, if any, the Commission will take. Many complainants who report matters to the Commission have expectations that their concerns will be investigated by the Commission, and managing those expectations is a key part of its role. When the Commission decides not to investigate a matter, staff explain to the complainant the reason or reasons for this decision.

Staff analyse all matters received, taking into account:

- whether or not corrupt conduct is involved
- whether the matter is serious and/or systemic, including factors such as the seniority of public officials involved, the nature of the impugned conduct, whether it is isolated or widespread, and the potential monetary value
- whether there is a viable line of enquiry to pursue
- what information has been provided or could be obtained
- whether existing information supports the allegations
- any risks to persons or public money in the Commission acting or not acting
- any prior or current related matters.

Staff also consider whether there are trends across a particular sector or within a particular agency. Consideration is also given to whether there are appropriate systems in place for the agency involved to minimise opportunities for corruption. Complaints and reports that highlight corruption risk areas and trends are drawn to the attention of the Corruption Prevention Division to enable the Commission to target its work in this area (see Chapter 4).

Some of the allegations that the Commission receives may not be suitable for investigation by the Commission, even if true, because they are relatively minor. Under s 12A of the ICAC Act, the Commission is required to focus its attention and resources on serious corrupt conduct and systemic corrupt conduct, as far as practicable. In addition, a large number of complaints that the Commission receives are speculative in nature and lacking specific information tending to disclose a likelihood that corrupt conduct has occurred. These matters are usually closed.

When the allegations relate to minor misconduct, they may be referred to another agency; usually the agency that is the subject of the allegations. In 2015–16, 192 matters were referred on this basis, down from 198 in the previous year.

All matters, except those that are merely enquiries, feedback or involve conduct that is outside the Commission's jurisdiction, are reported to the Assessment Panel. The Assessment Panel comprises the manager of the Assessments Section (who acts as the panel convenor), the Commissioner, Deputy Commissioner, and the executive directors of the Commission's Investigation Division, Legal Division and Corruption Prevention Division. The panel is governed by a charter, which provides that it meets electronically twice a week, and is responsible for determining what action, if any, should be taken on every matter received. If a matter is complex or needs further enquiries before an appropriate course of action can be determined, it may be reported to the Assessment Panel on several occasions.

Reports submitted to the Assessment Panel include the allegations, supporting information, the outcome of any enquiries, an initial assessment of the matter, and recommendations for further action.

For each matter, the Assessment Panel considers whether it presents opportunities for identifying serious corrupt conduct or systemic corrupt conduct, whether it is being (or could be) adequately handled by another agency and, even if corrupt conduct is not apparent, whether an agency's systems and controls put the organisation at risk of corruption. After considering a matter, the Assessment Panel makes one of five decisions, as follows.

1. Refer to another agency or take no action

A number of the matters the Commission receives can be appropriately referred to other oversight bodies, such as the NSW Ombudsman or the NSW Office of Local Government. Some disciplinary or administrative matters can be appropriately referred to the agency concerned, while others may have already been adequately dealt with by the reporting agency.

Many matters do not meet the definition of corrupt conduct in the ICAC Act, and therefore do not warrant further action by the Commission.

In 2015–16, there were 1,741 decisions made by the Assessment Panel to either close a matter or refer it elsewhere after closure, compared to 2,356 last year.



Case study: Covering the tracks

In 2015, a NSW public authority reported allegations against a public official of misappropriating public money. It was alleged that the public official stole money and deleted the electronic records in an attempt to conceal the theft. In reporting the matter, the public authority proposed that it conduct an investigation into the issue.

The Commission considered that, as the public authority was well placed to undertake an investigation, it should proceed with the investigation proposed and advise the Commission of the outcome.

The public official stated that the money was being stored at their house on the public authority's behalf, an arrangement endorsed by the official's supervisor. The public official also stated that the records of transactions were deleted due to a flaw in the electronic system. However, the public authority's investigation found that the public official mismanaged the money and was dishonest in their assertions.

The money was recovered, the public official was summarily dismissed, and the matter was referred to the NSW Police Force. The public authority also determined to conduct an internal audit to identify improvements to its electronic system and reduce the risk of future incidents occurring or going undetected.

The Commission determined that the public authority had dealt with the matter appropriately and that no further action was required.

2. Request an investigation be conducted by another agency and the outcome reported back in writing to the Commission

Under s 53 and s 54 of the ICAC Act, the Commission has the power to require that an agency or an appropriate oversight body conduct an investigation and report its findings to the Commission. This power is usually reserved for relatively serious matters and allows the Commission to oversee the investigation, including reviewing the investigation plan and progress reports. The Commission can determine the scope of the investigation and, in consultation with the agency, will agree upon a timeframe for its completion.

The Commission refers matters under s 53 and s 54 only if it considers that the agency will be able to investigate the matter, following consultation with the agency. The Commission will not make a referral if it considers the agency might be compromised or lacks the capacity to conduct the investigation and adequately report on it. Under the ICAC Act, the Commission has powers to deal with investigations or reports by agencies that it considers unsatisfactory.

In 2015–16, 13 matters were the subject of referrals under s 53 and s 54 of the ICAC Act. This figure is relatively consistent with the 11 referrals made during 2014–15.

In the reporting period, the Commission made 46 requests for investigation reports from agencies, which is consistent with the 47 during the previous year. This occurs when the agency has reported a matter under s 11 and has either already commenced an investigation or is preparing to embark on one.

Once assessed, the Assessment Panel reviews the outcomes of matters referred to agencies under s 53 and s 54 of the ICAC Act.

The case study on page 23 is an example of a referral under s 53 and s 54 to a NSW public sector agency to conduct an investigation into allegations of corrupt conduct. It also highlights that agency's improvements to its processes and systems to reduce the risk of corruption in the future.

3. Conduct assessment enquiries

If the Assessment Panel decides there is insufficient information to determine an appropriate course of action, assessment enquiries – usually with the agency that is the subject of the allegations – will be conducted by the Commission and the matter re-reported to the panel. Assessment enquiries may involve contacting parties for more information, carrying out research, property or business searches, and obtaining and considering relevant policy and/or procedural documents to determine whether there are procedural deficiencies.

In 2015–16, there were 79 matters in which assessment enquiries were undertaken, which is a reduction from the figure of 128 reported in 2014–15. This decline may be attributable to the fewer number of matters received by the Commission in 2015–16 as compared with 2014–15.

Depending on the outcome of these assessment enquiries, the Commission may decide not to pursue the matter further or to refer it to another agency. In some cases, assessment enquiries may lead to an investigation.

Where enquiries have been conducted and the Commission determines not to pursue the matter further, the material obtained can enable the Commission to provide more detailed reasons to complainants as to why a matter is not being pursued.

4. Provide corruption prevention analysis and/or advice

If a matter appears to involve mainly systemic issues rather than specific instances of corrupt conduct or the corrupt conduct has been dealt with but wider problems appear to exist, corruption prevention officers may evaluate the situation and give advice to the agency concerned. This may involve advice on enhancing an agency's capacity to minimise the risk of corruption, and on how to prevent the problem from happening again.

In 2015–16, there were two matters referred by the Assessment Panel to corruption prevention officers for analysis and/or advice, which is slightly down from the five matters referred in 2014–15.

5. Undertake an investigation

If a matter is serious and likely to need the Commission's special powers to investigate, such as requiring the production of documents or information, executing a search warrant or conducting covert operations, the Commission will usually investigate the matter itself (see Chapter 3). These matters are referred to the Investigation Division for preliminary investigation.

Only a small number of matters with the potential to expose significant or systemic corrupt conduct will meet the criteria for a full investigation. Once a decision to investigate has been made, the matter is overseen by the Strategic Investigation Group, which also gives direction on each investigation.

In 2015–16, 41 matters were referred to the Investigation Division for preliminary investigation, which is consistent with the 42 matters referred in the previous year.

Decisions made by the Assessment Panel in 2015–16 are shown in Table 15.

Table 15: Decisions made by the Assessment Panel in 2015–16

| | Number of decisions | % of decisions |
|--|---------------------|----------------|
| Closed without referral | 1,549 | 80% |
| Closed but referred externally | 192 | 10% |
| Referred internally but not investigated | 144 | 7% |
| Investigated | 41 | 2% |



Case study: In the family

The Commission received a PID from a public official, alleging a senior public official engaged in nepotism by securing their family member a position within a public authority. It was also alleged the public official subsequently used their influence to secure that family member another position within the public authority.

The Commission first made enquiries with the public authority, which confirmed a number of facts and suggested that possible nepotism by the senior public official had been ongoing for a number of years. As the public authority was well placed to undertake an investigation and the Commission's powers would not be required, the Commission referred the allegations to the public authority for investigation and reporting back to the Commission under s 53 and s 54 of the ICAC Act. The Commission also required the public authority to identify corruption risks and system improvements arising in this matter.

The investigation revealed no evidence that the senior public official engaged their family member or that those officials who engaged the family member were pressured to do so by the senior public official. The investigation found that the public authority did not previously require some vacancies to be advertised, increasing the risk of corrupt conduct in the engagement of officials. However, the public authority enhanced its policies and conflict of interest practices, and improved staff awareness of these issues. The public authority also advised that it has managed the conflict of interest between the senior public official and their family member.

As there was no reasonable likelihood that the senior public official engaged in corrupt conduct and having regard to the steps taken by the public authority to improve its policies, procedures and staff awareness, the Commission determined to take no further action.



Chapter 3: Investigating corruption

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A principal function of the Commission is to investigate and publicly expose serious corruption and systemic corruption with a view to educating public authorities, officials and the public and to reducing corruption in the NSW public sector. The Commission deploys overt and covert investigation techniques to detect corruption, and uses coercive powers available to the Commission under the ICAC Act and other Acts.

As of 28 September 2015, the Commission now also has the function of investigating matters referred to it by the NSW Electoral Commission under s 13A of the ICAC Act that may involve possible criminal offences under the *Parliamentary Electorates and Elections Act 1912*, the *Election Funding, Expenditure and Disclosures Act 1981* or the *Lobbying of Government Officials Act 2011*.

Investigation challenges in 2015–16

In the reporting period, the Commission investigated a number of large and complex matters, some of which resulted in public inquiries and some of which are still in progress.

The Commission continues to adapt to meet the challenges in delivering its investigation outcomes. One of those challenges involves maintaining the capacity to deliver its current level of performance – both in quality and timeliness – for significant investigations with decreasing resources. While the number of preliminary investigations the Commission undertakes has reduced from the high levels of five years ago, the average number of full investigations being undertaken by the Commission at any point in time has been consistent throughout that period and now represents a greater proportion of the total investigations being conducted by the Commission. This change has been a result of the increasing complexity of the investigations undertaken by the Commission and, in turn, greater selectivity in the face of limited resources.

The Commission is continually working to improve its technical capacity to identify, capture and interpret evidence, maintain the skills and knowledge of its staff, and ensure its management and operational systems and processes are of the highest standard.

In 2015–16, the Commission undertook the following investigation systems and process improvements:

- commenced work on the design and build of a new case management system, expected to be delivered in early 2017

- completed a substantial upgrade of its surveillance technology
- reviewed relevant policies and procedures, and implemented work processes relevant to changes in the Commission's jurisdiction and functions arising from the commencement of the *Independent Commission Against Corruption Amendment Act 2015* on 28 September 2015
- undertook a significant review of telecommunications interception and access policies and procedures for compliance with certain provisions of the *Telecommunications (Interception and Access) Amendment (Data Retention) Act 2015* that commenced on 12 October 2015
- continued to review and update the Operations Manual to ensure investigation policies and procedures support the Commission's investigation standards.

How we investigate

All investigations undertaken by the Commission commence as preliminary investigations. A preliminary investigation may assist the Commission to discover or identify conduct that might be made the subject of a more complete investigation or in deciding whether to make particular conduct the subject of a more complete investigation. If appropriate, a matter may then be escalated to a full investigation (known as an "operation").

After conducting a preliminary investigation into conduct that may involve possible electoral or lobbying offences referred to it by the NSW Electoral Commission, the Commission must discontinue the investigation if the conduct does not involve any possible electoral or lobbying offences and it is not related to possible corrupt conduct that the Commission is already investigating and the Commission is not otherwise authorised to investigate the conduct. If the Commission decides to escalate the preliminary investigation to a full investigation, it must provide the NSW Electoral Commission with reasons for the decision to investigate the conduct.

If it is in the public interest to do so, the Commission may decide to hold a public inquiry as part of the investigation process.

Investigations may focus on both historic and current activities, and the investigation methods used may vary depending on the nature of the allegations.

Investigation plans are prepared and regularly revised and assessed to determine the most appropriate investigation strategy.

The conclusion of an investigation may result in no further action or a number of different actions, including the referral of information to a public authority relevant to the exercise of its functions (such as information for disciplinary action), the dissemination of intelligence and information, the referral of a brief of evidence to the Director of Public Prosecutions (DPP) and the publication of an investigation report.

Our investigations

At the commencement of the 2015–16 reporting period, a total of 11 preliminary investigations and 13 operations were carried over from the previous period. Forty-one new preliminary investigations and 10 new operations were commenced in 2015–16. A total of 43 preliminary investigations and 15 operations were completed during the reporting period.

The Commission has key performance targets for the timeliness of its investigations. The Commission aims to complete 80% of its preliminary investigations within 120 days of the Commission decision to commence the investigation¹. If a matter is escalated to an operation, the time period for completing the confidential phase of the investigation is extended to 16 months and the Commission aims to complete 80% of matters within that period². If a public inquiry is held for the purpose of an investigation, the confidential phase of the investigation ends. The period of time between the commencement of the public inquiry and the publication of the investigation report is dealt with in Chapter 5.

The percentage of preliminary investigations completed by the Commission within 120 days has decreased from 98% in 2014–15 to 86% in 2015–16. The average time taken to complete preliminary investigations has increased from 74 days in 2014–15 to 85 days in 2015–16. The percentage of operations completed within 16 months was 60%, compared to 73% in 2014–15. The average time taken to complete a full investigation has increased from 454 days in 2014–15 to 505 days in 2015–16.

The negative variances for the timely completion of both preliminary investigations and full investigations resulted from changes to the Commission's jurisdiction, resources engaged in dealing with an increasing number of civil actions, and assisting the Office of the Director of Public Prosecutions with the preparation for, or conduct of, significant criminal prosecutions arising from the Commission's investigations.

Table 16: Preliminary investigation statistics for 2015–16

| | |
|-------------------------------------|-----|
| Number current as at 1 July 2015 | 11 |
| Number referred by Assessment Panel | 41 |
| Number discontinued | 43 |
| Number current as at 30 June 2016 | 9 |
| Days on average taken to complete | 85 |
| Number completed within 120 days | 37 |
| % completed within 120 days | 86% |

Table 17: Full investigation (operation) statistics for 2015–16

| | |
|---|-----|
| Number current as at 1 July 2015 | 13 |
| Number escalated from preliminary investigation | 10 |
| Number discontinued/concluded | 15 |
| Number current as at 30 June 2016 | 8 |
| Days on average taken to complete | 505 |
| Number completed within 16 months | 9 |
| % completed within 16 months | 60% |

Use of statutory powers

Investigations may include the use of statutory powers, such as search warrants, surveillance devices, controlled operations and the interception and access to telecommunications content and data. All applications for the use of statutory powers are reviewed by a Commission lawyer before final approval is given by the Executive Director, Legal, to apply for use of the power. This process is designed to ensure that all applications comply with regulatory and evidentiary requirements before being submitted to the appropriate authorities.

¹ Decisions to conduct preliminary investigations are made by the Commission's Assessment Panel (see Chapter 2 for further information on the panel).

² The 16-month period includes the 120-day period for a preliminary investigation. This means, in effect, that the Commission aims to complete the confidential (non-public) phase of an operation within 12 months of the date of escalation.

Table 18: Source of preliminary investigations by sector in 2015–16

| Sector | Number of preliminary investigations | % of preliminary investigations |
|-----------------------------------|--------------------------------------|---------------------------------|
| Local government | 18 | 44% |
| Health | 4 | 10% |
| Transport, ports and waterways | 3 | 7% |
| Community and human services | 3 | 7% |
| Aboriginal affairs and services | 3 | 7% |
| Custodial services | 3 | 7% |
| Education (except universities) | 2 | 5% |
| Land, property and planning | 2 | 5% |
| Universities | 1 | 2% |
| Policing | 1 | 2% |
| Emergency services | 1 | 2% |
| Law and justice | 1 | 2% |
| Arts and heritage | 1 | 2% |
| Government and financial services | 1 | 2% |
| Natural resources and environment | 1 | 2% |
| Other – unspecified | 1 | 2% |

Table 19: Statutory powers used by the Commission in 2015–16, compared to the two previous years

| Power | 2015–16 | 2014–15 | 2013–14 |
|--|---------|---------|---------|
| Notice to produce a statement (s 21) | 8 | 16 | 18 |
| Notice to produce a document or thing (s 22) | 522 | 879 | 609 |
| Notice authorising entry to public premises (s 23) | 0 | 3 | 0 |
| Summons (s 35) | 167 | 308 | 448 |
| Arrest warrant (s 36) | 0 | 0 | 0 |
| Order for prisoner (s 39) | 0 | 0 | 0 |
| Search warrant (s 40)* | 11 | 17 | 33 |
| Controlled operations | 0 | 0 | 0 |
| Surveillance device warrants | 2 | 2 | 4 |
| Telephone interception warrants | 13 | 5 | 21 |
| Stored communications warrants | 0 | 0 | 3 |
| Telecommunications data authorities issued | 266 | 550 | 963 |

* All warrants were issued by an external authority; none was issued by the Commissioner.

In 2013–14, the Commission investigated allegations of corrupt conduct by Darren Bullock, district manager of the Picton office of the Mine Subsidence Board (MSB). The investigation made use of the Commission's formal powers to obtain records and a number of witnesses were also interviewed and called to compulsory examinations.

It was alleged that Mr Bullock was receiving payments from Kevin Inskip, a director of an MSB contractor, Plantac Pty Ltd. In exchange, Mr Bullock was alleged to show favour in his capacity as district manager to Mr Inskip's company with regards to the allocation of mine subsidence repair work.

The investigation revealed that Mr Bullock had received cash payments from Mr Inskip totalling over \$314,000. Mr Inskip's wife, Barbara Inskip, also a director of Plantac, identified various cash cheques that represented payments to Mr Bullock. These were disguised in Plantac's financial records as payments to real and fictitious suppliers.

The investigation also revealed that Mr Bullock was receiving corrupt payments from another MSB contractor, David Salmon. Mr Salmon identified various building works he had performed for the MSB where he inflated the value of his invoices at the direction of Mr Bullock. Mr Salmon then shared the inflated amounts with Mr Bullock. The value of this practice was over \$210,000, of which Mr Bullock received half.

The investigation further uncovered that Mr Bullock had revealed confidential tender information to both Mr Inskip and Mr Salmon, enabling them to obtain MSB work by submitting lower tenders than other contractors.

A public inquiry was held in March, April and May of 2015. In its investigation report, which was released in the 2015–16 period, the Commission made findings that Mr Bullock, Mr Salmon, Mr Inskip and Mrs Inskip engaged in serious corrupt conduct.

The Commission has sought the advice of the Director of Public Prosecution with respect to the prosecution of Mr Bullock for various offences.

Public inquiries and compulsory examinations

If the Commission determines it is in the public interest to do so, it may take evidence from witnesses in compulsory examinations. These examinations are held in private. When examinations are held in public, the evidence is generally heard before (and made available to) the public, subject to the discretion of the presiding Commissioner to suppress or restrict publication of evidence, if he or she believes it is in the public interest to do so.

The Commission can compel witnesses to answer questions and produce documents or other things when they are summoned to a compulsory examination or a public inquiry. The witness must comply with this direction regardless of whether the answers or production of the documents or other things may incriminate them. A witness, however, may object to answering the question or to producing the item. If an objection is made, the witness must still comply with the direction but neither the answer nor the item produced is admissible as evidence against the witness in any subsequent criminal or civil proceedings, other than for an offence under the ICAC Act. Also, disciplinary proceedings may be taken against a public official on the basis of a finding of corrupt conduct made by the Commission in a report under s 74 of the ICAC Act and evidence supporting that finding, including evidence of the public official that was given under objection.

In 2015–16, the Commission conducted 65 compulsory examinations over 47 days, and six public inquiries over 48 days.

Investigation outcomes

The Commission is an investigative body that can make findings of corrupt conduct against public officials or other persons who engage in corrupt conduct that involves or affects, or could involve or affect, the exercise of public official functions by a public official or a public authority.

The Commission is not a court or disciplinary tribunal and does not conduct prosecutions or disciplinary proceedings as a consequence of any of its investigations. Outcomes that may result from a Commission investigation include:

- findings of serious corrupt conduct
- corruption prevention recommendations and advice

- referral of evidence to the DPP or another appropriate agency to consider action such as:
 - prosecution action
 - disciplinary action
 - proceeds of crime action
 - further investigation.

It is important to acknowledge that not every investigation will produce findings of serious corrupt conduct. An investigation is designed to determine the truth or otherwise of the allegations raised. As such, an investigation may find that there was no corrupt conduct.

Findings of corrupt conduct and recommendations for prosecution/disciplinary action

In 2015–16, the Commission published four investigation reports and made 21 findings of serious corrupt conduct against a total of nine persons.

The Commission does not have a direct role in prosecutions. It does, however, refer briefs of evidence to the DPP for consideration of prosecution action. The DPP then advises the Commission whether prosecution proceedings are warranted.

In 2015–16, the Commission recommended the advice of the DPP be obtained in relation to the prosecution of six people for various criminal offences. The Commission did not make any recommendations to a relevant public sector agency that disciplinary action be taken against a person.

Appendix 5 provides further details on the progress of prosecutions resulting from Commission investigations.

Proceeds of crime referrals and other disseminations

During the reporting period, the Commission disseminated intelligence gathered in the course of its investigations to the Crime and Corruption Commission (Qld), the Independent Broad-based Anti-corruption Commission (Vic), the Police Integrity Commission, the NSW Crime Commission, the Australian Competition and Consumer Commission, the NSW Electoral Commission, the NSW Police Force, the Australian Federal Police, the Australian Taxation Office, the Fair Work Ombudsman, and the Environmental Protection Authority.

Table 20: Public inquiries conducted in 2015–16

| Operation name | Summary |
|----------------|---|
| Yancey | Investigation into the conduct of a Department of Justice Asset Management Branch senior officer and other officers (this public inquiry commenced in the 2014–15 reporting period) |
| Sonet | Investigation into the conduct of a TAFE NSW manager |
| Elgar | Investigation into the conduct of a University of Sydney manager |
| Ricco | Investigation into the conduct of the chief financial officer and others at the City of Botany Bay Council |
| Nestor | Investigation into the conduct of a Local Aboriginal Land Council chief executive officer and an administration assistant at Casino Boolangle Local Aboriginal Land Council |
| Greer | Investigation into the conduct of the chief executive officer and others at Gandangara Local Aboriginal Land Council |

Corruption prevention issues arising from investigations

The Commission recognises the high value of lessons learnt in the course of an investigation into corrupt practices. The Commission's investigations provide insight into how or why the corrupt practices occurred. In turn, this insight provides the groundwork for improving systems, policies and procedures within the NSW public sector.

Corruption prevention officers are assigned to an investigation where corruption prevention issues have been identified. In the course of an investigation, they conduct a comprehensive review of the systems, policies, procedures and work practices relevant to the matter under investigation.

The purpose of the review is to identify weaknesses and gaps and suggest improvements that will reduce future opportunities for corrupt conduct. Even when an investigation does not progress to a public inquiry, the Commission may still provide corruption prevention advice and recommendations to the agency concerned.

Further information on corruption prevention work linked to investigations, including the monitoring of the implementation of recommendations arising from investigations, is outlined in Chapter 4.

Strategic alliances to optimise investigative outcomes

There is a constant need to monitor and keep up with the everchanging investigation environment. For this reason, it is important to maintain ongoing liaison with other law enforcement agencies, and to participate in various forums and interagency committees to enhance the currency of the Commission's investigation techniques and processes. The Commission is a member of the following committees and forums.

Australian Surveillance Group

This group provides a forum for integrity agencies, law enforcement agencies and intelligence agencies to discuss their respective agency's surveillance capabilities, emerging technology and methodologies. Commission officers attended a meeting of this group on 19 and 20 November 2015.

Electronic Evidence Practitioner Partnership

This partnership is dedicated to the sharing of knowledge and ideas about the practice of digital forensics. It brings together government agency practitioners to discuss shared challenges and help drive the direction of operational research and development. A Commission officer attended meetings of this group on 30 September 2015 and 11 March 2016.

Interagency Technical Group and Special Networks Committee

The Interagency Technical Group provides an opportunity for intercepting agencies to seek common ground in delivery standards and monitoring telecommunications interception. The Special Networks Committee is a forum for intercepting agencies to discuss the capability of telecommunications interception and any related contractual issues. Commission officers attended meetings of both committees on 5 and 6 August 2015, on 2 and 3 December 2015, and on 2 and 3 March 2016.

Interception Consultative Committee

This committee is a source of advice to agencies concerning telecommunications interception. It monitors emerging technologies that impact on lawful interception within Australia. It also interacts with telecommunications providers to ensure that they supply the interception capability required by agencies. Commission officers attended meetings of this committee on 23 September 2015, 10 February 2016 and 9 May 2016.

Joint User Group

This group provides a forum for investigation agencies utilising the same brand as the Commission's telecommunications interception system. Commission officers attended meetings of this group on 4 August 2015, 1 December 2015 and 1 March 2016.

National Oversight Covert Group

This group is concerned with the sharing of knowledge between the smaller oversight and anti-corruption agencies that have a covert physical and technical capability to improve relevant skills and techniques. Commission officers attended a meeting of this group on 18 November 2015.

SEDNode User Forum

SEDNode is a secure information system used by law enforcement and anti-corruption agencies to receive telecommunications data from providers. The Commission subscribes to the SEDNode system. The SEDNode User Forum has been established to keep members updated with system enhancements, functionality and new members. A Commission officer attended meetings of this group on 19 August 2015, 30 September 2015, 14 October 2015, 2 March 2016, 11 May 2016 and 10 June 2016.

Other alliances

To further strengthen its strategic alliances with various agencies, the Commission may enter into a memorandum of understanding (MOU) with another agency to facilitate the sharing of information and resources. The Commission currently has MOUs with the Australian Taxation Office, the Australian Transactions Reports and Analysis Centre, the DPP, the NSW Electoral Commission, and the NSW Police Force.



Chapter 4: Preventing corruption

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Sector-wide projects

The Commission's Corruption Prevention Division identifies and analyses corruption risks of sector-wide significance with a view to making corruption prevention recommendations to government. Projects undertaken in this cluster are selected on the basis of the degree of public concern and the extent of the corruption risks.

In 2015–16, the division worked on four major projects examining corruption risks of sector-wide significance.

Community attitudes survey

The NSW public has a key role in assisting the Commission to expose and reduce corruption in the NSW public sector. The Commission's capacity to perform its functions is enhanced if members of the public identify that corruption is problematic, are aware of the Commission and are prepared to report corrupt conduct to it.

Since 1993, the Commission has periodically conducted its community attitudes survey (CAS). This survey examines the attitudes and perceptions of members of the public regarding corruption and the Commission itself. In November and December 2015, the CAS was distributed to 501 NSW adults. These individuals were asked about their perceptions of the extent of NSW public sector corruption, awareness of the Commission, perceptions of the Commission's effectiveness, and willingness to report corruption to the Commission.

The results of the 2015 CAS were published in a research report that was released in June 2016. Key findings presented in this report include:

- 78% of respondents indicated that corruption is a problem in the NSW public sector
- 83% indicated that they are aware of the Commission
- 93% indicated that the Commission is a good thing for the people of NSW
- 84% of respondents indicated that they are willing to report serious corrupt conduct to the Commission.

Compared with the 2012 CAS, there were statistically significant increases in the proportion of respondents who could name the Commission as NSW's public sector anti-corruption body without prompting and

in the proportion who indicated that they were very willing to report serious corrupt conduct to the Commission.

Overall, these results suggest that the NSW public's attitudes to corruption and the Commission are such that they are able to assist the Commission to expose and reduce corruption.

Employment screening

The Commission has previously identified inadequate screening of employees as a potential corruption risk factor. In a number of Commission investigations, employees who acted corruptly had lied on their resumes or falsified references, but this fraud was only detected at a much later date after their (other) corrupt conduct had occurred.

In 2015–16, Commission staff interviewed representatives from public and private sector organisations concerning employment screening practices and challenges. The representatives of these organisations included human resources managers, risk and governance managers, and employment screening experts. In total, over 20 interviews were conducted.

Facilities maintenance

Each year, the NSW Government spends billions of dollars on facilities maintenance (FM), and spending on outsourced FM contractor services is of considerable financial value. FM contracting is characterised by a range of delivery models, with the work varying from straightforward services to highly specialised technical tasks, and from planned, preventive jobs to reactive, corrective and emergency work.

In the past decade, a quarter of the Commission's investigations have involved corruption in FM contracts totalling \$62.6 million. These investigations have underscored the challenges faced in managing outsourced FM services, especially with regard to integrity breaches such as nepotism, over-scoping and over-servicing (known as "scope creep"), over-charging and under-delivery.

The Commission has been examining the vulnerability of outsourced FM to corruption. During the reporting period, the research was expanded with further interviews with industry experts as well as with reviews of better practices in NSW and other jurisdictions. The interviews and literature reviews

undertaken to date have highlighted a number of key issues that help to tighten outsourced FM operations, such as:

- improving visibility about assets and optimal maintenance regimes to tighten scopes of work
- tightening budgetary controls and gaining insight into maintenance and transaction costs to avoid over-charging and inflated variation claims
- choosing a contracting model that matches the organisation's needs and the maturity of its internal capabilities
- designing key performance indicators to incentivise desired behaviour
- implementing competitive work allocation mechanisms to provide strong performance incentives
- integrating databases of asset and contractor performance and analytical skills and capabilities to identify patterns that raise the red flag for corrupt over- or under-service
- using customer feedback to provide quality information about contractor performance
- conducting a random or independent audit to clear under-performing contractors from the books.

The Commission intends to release a report on its findings. The publication will provide advice on some of the governance mechanisms used by better practice operations in a number of organisations researched by the Commission. While there is no single right answer to solve every problem raised when outsourcing FM services, there are ways to tighten outsourced FM operations, to ensure the integrity of establishing maintenance needs, estimating and discovering the cost of works, allocating work to contractors and verifying the delivery of goods and services.

Change management

In 2015–16, the Commission concluded its research on organisational change. The results were presented at conferences and will be included in a forthcoming publication for managers. A number of areas have emerged as central to maintaining the integrity of an organisation during change. These include:

- maintaining a standing change management capability
- building governance around change management

- planning of change, including due diligence
- developing a business case and road map
- controlling risks associated with the frequency, pace and scale of change
- managing motivations by analysing, monitoring and managing shifting incentive structures and cultures
- reducing opportunities for misconduct by conducting risk-based assessment
- tightening controls in high-risk areas during change, measuring progress and building in triggers for review.

Investigations

Within most investigation teams, specialist corruption prevention officers identify processes, structures, human factors, external influences and, in some cases, legislative issues that allowed the corrupt conduct to occur.

During the course of an investigation, corruption prevention officers conduct interviews and obtain statements from witnesses to understand the systemic weaknesses within the agency. This diagnostic work is carried out with a view to developing recommendations for change that are compatible with the operations of the agency involved in the investigation.

Identifying controls related to agency operations requires an understanding of the context in which the organisation functions. Developing such knowledge involves consultation with managers and staff in the workplace and identifying best practice from other organisations that perform similar functions.

Agency response to corruption prevention recommendations made following investigations

Section 111E(2) of the ICAC Act requires any public authority to which recommendations are made to inform the Commission in writing within three months (or such longer period as the Commission may agree to in writing) if it proposes to implement any plan of action in response to the recommendations and, if so, of the plan of action.

If a plan of action is prepared, the agency must provide a written report to the Commission of its progress in implementing the plan 12 months after informing the Commission of the plan. If the plan has

not been fully implemented by then, a further written report must be provided 12 months after the initial progress report.

In 2015–16, the Commission reviewed its procedure for the follow up of recommendations made in investigations, which led to re-examination of the associated key performance indicators.

Rather than focus on the progress of the implementation of the action plans, the new arrangements focus on working with the agency to ensure that the recommendations made in the Commission's report address both the corruption risk and the business priorities of the subject agency. The Commission monitors the level of acceptance of the recommendations in the agency's plan of action.

Requests for the 12-month and 24-month reports are still made of an agency but, where an agency responds promptly and notifies the Commission of the implementation of the plan of action, no further follow up is needed.

It is noted that, in relation to Operation Sonet and Operation Misto, the South Western Sydney Institute and Macquarie University had, respectively, fully implemented their plans of action when the plans were submitted to the Commission.

Final reports received by the Commission in 2015–16 indicated that 82% of corruption prevention recommendations made to agencies were fully implemented, either as indicated by the Commission or in an alternative way. Details of all progress and final reports received in the reporting period are available in Appendix 6.

The Commission continues to publish agency plans of action, progress and/or final reports on its website so that members of the public and other interested parties can verify the progress an agency has made in implementing changes recommended by the Commission.

Education

During the year, the Commission's corruption prevention work continued to focus on assisting public sector agencies to examine the design of their operations to identify ways to create a corruption-resistant environment at a lower overall cost; the object being to equip agencies to design out corrupt opportunities and incentives from their systems.

In March 2016, the Commission released *Investigation into the conduct of a TAFE NSW ICT manager*, which found that, between January and July 2014, Ronald Cordoba improperly engaged in corrupt conduct by exercising his official functions to obtain over \$1.7 million from the South Western Sydney Institute (SWSI) for a business he owned and operated.

Mr Cordoba's conduct included providing false and misleading information about the registration of a vendor on the NSW Department of Education and Communities' systems applications products (SAP), ordering goods on behalf of the SWSI from his business without declaring a conflict of interest, supplying false and misleading documentation to the SWSI to conceal that he was ordering goods from that business, and falsely certifying that goods had been received by the SWSI while knowing that this was untrue. The goods ordered by Mr Cordoba related to ICT infrastructure projects.

The emerging role of ICT in education underscores the importance of competency in project management and governance for growing institutions like the SWSI. The Commission's public inquiry highlighted several limitations in the SWSI's management of ICT projects, including the initial-needs identification and development of proposed budgets. The governance arrangements around ICT projects were also raised during the inquiry. The Commission recommended that the SWSI establishes formal project management and governance structures to oversee ICT projects and implement formal value-realisation analysis at the completion of projects to help address these problems.

The investigation also found that the absence of controls embedded in the governance of SWSI ICT projects effectively reduced scrutiny of expenditure to the transaction level. Weaknesses in the procure-to-pay system then further exposed the SWSI to the risk of corrupt conduct for these purchases. Particular areas of concern were the SWSI's vulnerability to the unauthorised use of out-of-contract suppliers and its lack of ability to detect instances where purchase order thresholds and financial delegations had been breached. Accordingly, the Commission recommended that the SWSI finance unit devises a system to audit expenditure involving out-of-contract suppliers on a periodic basis. The Commission also recommended that the SWSI undertakes a regular analysis of vendor payments based on computer-aided audit reports to detect anomalies in the procure-to-pay system.

Once operations are tightened, the overall control environment can be further enhanced by having in place clear standards of expected behaviour, as set out in a code of conduct, policies and other instruments. Risk treatments can then be applied to any residual risks and opportunities for corrupt conduct that could not be designed out of the operations.

In all its education activities, the consistent message is that, if public sector agencies adopt work processes that are measured, analysed and “owned” by accountable individuals, both organisational performance and corruption control can be improved.

Advice

The Commission provides advice on ways in which corrupt conduct can be prevented, detected, or its frequency and effects reduced. The advice service is free, and available to all officers of the NSW public sector and members of the public.

In 2015–16, a total of 94 advice requests were received, representing a decrease of 30% compared with the previous reporting period (134 in 2014–15). Of the advice requests received, 12 were categorised as being significant; that is, a matter that has widespread impact on the public sector as a whole, an agency or a particular operation.

Training

In 2015–16, the Commission continued to develop workshops and deliver them free-of-charge to the NSW public sector, both in Sydney and other regions. During the reporting period, the Commission delivered 107 workshops to over 1,900 people.

After successful trials, four new workshops were introduced this year:

- “Corruption prevention for planning professionals”
- “Corruption prevention for local government operational staff”
- “Corruption prevention for Local Aboriginal Land Councils”
- “Strategic approaches to corruption prevention” for senior executives.

The “Corruption prevention in procurement for managers” and “Corruption prevention for procurement officers” workshops were repackaged as the more modular “Corruption prevention in procurement and contract management”, which can

be easily adapted to the needs of an organisation. All of the Commission’s workshops have been redesigned and are being delivered with a view to continuous improvement.

Although there was an overall reduction in the number of unsolicited training requests received during the reporting period, there was a 26% increase in the number of workshops delivered. This increase is due to a number of factors, including the introduction and promotion of new workshops and an increase in the number of Commission-initiated workshops (up from 16 in 2014–15 to 34 in 2015–16).

“Corruption prevention for managers” remains the most requested workshop and this year saw an increase in the number delivered. There was also an increase in the number of corruption prevention in procurement and contract management workshops. Capacity constraints have resulted in the delivery of fewer fact-finder workshops than in past years and limitations on the number of “Corruption prevention for planning professionals” workshops the Commission has been able to offer.

A total of 33% of these workshops were delivered in rural and regional areas. While the percentage is down from 41% last year, the actual number of workshops delivered in these areas increased to 35. As a further demonstration of the Commission’s ongoing commitment to serving the needs of rural and regional NSW, the Commission started offering workshops for enrolment by individual public officials in selected regional centres in addition to those already offered through the Commission’s Rural and Regional Outreach Program.

Of the 107 workshops delivered in 2015–16, 75 were randomly evaluated to ensure quality. A total of 91% of participants rated these workshops as “useful” or “very useful”, and 94% of participants “agreed” or “strongly agreed” that these workshops had met their training needs. These evaluation results are consistent with those reported in previous years and are indicative of very high participant satisfaction with the Commission’s workshops.

Speaking engagements

In 2015–16, Commission officers delivered 68 speaking engagement presentations to over 2,796 attendees. This is down from 109 reported in the last financial year. The reduction in speaking engagement requests can be attributed to a combination of fewer requests for speakers and some requests being better delivered as workshops.

Fourteen of these speaking engagements were delivered within regional centres throughout NSW, nine were delivered to interstate audiences, at the request of counterpart agencies or at conferences, and two were delivered in New Zealand.

These speaking engagements were attended by both members of the broader community and public sector staff. A range of topics was presented to public sector audiences, such as the use of operational effectiveness as a corruption control, procurement safeguards, risk management during change, and effective management of accounts payable.

ANZSOG/ICAC executive course and scholarship

The year 2015–16 saw the delivery of the second Australia and New Zealand School of Government (ANZSOG)/ICAC executive short course, “Strategic responses to corruption”, which ran from 13 to 16 October 2015. The four-day course, which focused on the enhancement of operational controls, was delivered in its entirety by Commission officers.

As in previous years, 10 scholarship placements were provided in exchange for the provision of the Commission’s teaching services. The scholarships were competitively awarded to NSW public sector executives with the aim of developing their capacity

to implement operational controls to address identified corruption risks. These scholarships were awarded to applicants who were in a position to influence reform and could immediately apply the knowledge that they had obtained from the course.

Course evaluations indicated that the course was consistently well received, for example:

- when asked the extent to which the course would help them develop their abilities at work on a 5-point scale (where 1 = not at all, and 5 = to a large degree) attendees gave an average rating of 4.4
- when asked the extent to which the course’s learning environment was thought provoking (using the same rating scale), the average rating for the course was 4.6
- when asked to rate the course overall (using the same rating scale on a 5-point scale where 1 = poor and 5 = excellent), the average rating was 4.6
- when asked to rate the Commission’s presenters on a 5-point scale (where 1 = very poor and 5 = very good), the average ratings varied between 4.5 and 4.6.

Table 21: Number of workshops and training sessions delivered from 2013–14 to 2015–16

| Workshop/session | 2015–16 | 2014–15 | 2013–14 |
|---|------------|-----------|-----------|
| Corruption prevention for managers | 40 | 34 | 33 |
| Corruption prevention in procurement* and contract management | 34 | 30 | 36 |
| Fact finder | 4 | 9 | 5 |
| Strategic approaches to corruption prevention senior executive workshop | 4 | – | – |
| Custom workshops (including senior executive workshops) | – | 8 | 16 |
| Corruption prevention for local government operational staff | 15 | – | – |
| Corruption prevention for planning professionals | 4 | – | – |
| Corruption prevention for Local Aboriginal Land Councils | 6 | – | – |
| New workshop pilots | – | 4 | – |
| TOTAL | 107 | 85 | 90 |

* Includes “Corruption prevention in procurement for managers”, “Corruption prevention for procurement officers”, “Corruption prevention in procurement and contract management” and “Probity in procurement”.

Table 22: Number of speaking engagements delivered compared with previous years

| Month/quarter | 2015–16 corruption prevention speaking engagements | | 2014–15 corruption prevention speaking engagements | | 2013–14 corruption prevention speaking engagements | |
|---------------|--|-------------------|--|-------------------|--|-------------------|
| | Number of engagements | Number addressed* | Number of engagements | Number addressed* | Number of engagements | Number addressed* |
| Jul–Sept 2015 | 17 | 601 | 13 | 398 | 20 | 1,176 |
| Oct–Dec 2015 | 21 | 1,080 | 28 | 1,227 | 26 | 870 |
| Jan–Mar 2016 | 15 | 627 | 36 | 1,091 | 17 | 622 |
| Apr–Jun 2016 | 15 | 488 | 32 | 1,046 | 16 | 771 |
| Total | 68 | 2,796 | 109 | 3,762 | 79 | 3,439 |

* These figures do not include attendees at the APSACC, National Investigations Symposium, or the ANU or ANZSOG course.

Rural and regional communities

Every year since 2001, the Commission has visited a number of regional centres with the aim of providing corruption prevention information and advice to the wider NSW community. This initiative is known as the Rural and Regional Outreach Program.

During the reporting period, the Commission hosted two visits; one to the Blue Mountains region (based at Katoomba) in December 2015, and the other to the Orana region (based at Cobar) in May 2016.

Each visit included training sessions for public sector staff and a community leaders' event. Commission staff also visited a number of public sector agencies within each region and spoke to senior managers about their role in reporting corruption to the Commission. More than 200 people participated in the programmed events.

Aboriginal governance project

Local Aboriginal Land Councils (LALCs) are autonomous bodies that are governed by boards elected every four years by local Aboriginal community members. There are 120 LALCs throughout NSW, and they vary greatly in terms of their membership size, scope of activities and annual income. They were established under the *Aboriginal Land Rights Act 1983* as the elected representatives for Aboriginal people in NSW.

The main function of a LALC is to work for its members and the wider Aboriginal community living in their local area relating to the areas of housing, employment and other day-to-day matters involving Aboriginal people in accordance with functions detailed under the *Aboriginal Land Rights Act 1983*. In 2014, amendments to the *Aboriginal Land Rights Act 1983* were made to allow LALCs a greater role in economic development.

The Commission is currently undertaking a project to identify improvements to the arrangements of the LALC network, which would help reduce the governance challenges faced by some LALCs in their existing activities and when engaging in economic development.

In 2015–16, the Commission undertook extensive research, met with stakeholders within the LALC network, and spoke with a range of government agencies and statutory authorities at state and Commonwealth level. It also surveyed LALC leaders about the scope of LALC activities, their thoughts on the regulatory regime, the ways in which members participate in LALC activities, how LALC performance is monitored, and board experience and training.

A report will be released in the next reporting period.

National Investigations Symposium

During the reporting period, the Commission once again collaborated with the Office of the NSW Ombudsman and the NSW Division of the Institute of Public Administration Australia (IPAA) to begin planning the hosting of the 11th National Investigations Symposium (NIS).

The NIS is a biennial conference held to foster and develop investigative ability and knowledge in the NSW public sector. The Commission is currently working with its partners to deliver the 11th NIS, which will take place from 9 to 11 November 2016 in Sydney.

APSACC

The 5th Australian Public Sector Anti-Corruption Conference (APSACC) was held in Brisbane, Queensland, from 17 to 19 November 2015. The biennial conference was jointly planned and hosted with the Corruption and Crime Commission in Queensland and the Crime and Corruption Commission in Western Australia.

The 2015 conference had a total of 498 attendees who provided positive feedback about the conference. Respondents to the evaluation report agreed that the conference increased their knowledge of anti-corruption issues (89%) and was useful and relevant (94%). The program of speakers included executives, practitioners, journalists and academics from Australia, Austria, Mexico, the United States, Jamaica, the South Pacific and Southeast Asia.

APSACC aims to increase the skills and knowledge of public sector managers and leaders to identify and respond effectively to corruption.



Chapter 5: Compliance and accountability

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The ICAC Act provides the Commission with extensive statutory powers. In addition to powers under the ICAC Act, Commission officers can:

- apply for telecommunications interception warrants and stored communications warrants, and obtain access to existing and prospective telecommunications data under the *Telecommunications (Interception and Access) Act 1979*
- obtain approval under the *Law Enforcement (Controlled Operations) Act 1997* for the conduct of operations that would otherwise be unlawful
- obtain authorisation to use false identities under the *Law Enforcement and National Security (Assumed Identities) Act 2010*
- apply for warrants to use listening devices, tracking devices, optical surveillance devices and/or data surveillance devices under the *Surveillance Devices Act 2007*.

The Commission has a compliance framework to ensure that it complies with relevant legislative requirements and does not abuse these powers.

The compliance framework

The Commission's compliance framework includes both internal and external accountability systems. Internal accountability systems include:

- strict procedural requirements for the exercise of all statutory powers
- the Strategic Investigation Group (SIG) to oversee investigations
- the Prevention Management Group (PMG) to oversee Commission corruption prevention activities
- the Executive Management Group (EMG) to oversee corporate governance and budgeting, and provide overall strategic direction
- the Audit and Risk Committee to provide independent assistance to the Commission by overseeing and monitoring the Commission's governance, risk and control frameworks
- the Work Health and Safety Committee to monitor and review the Commission's policies and regulatory requirements relating to health and safety in the workplace

- the Access and Equity Committee to oversee equal employment opportunity issues, plans, policies and procedures.

The two main external accountability bodies for the Commission are the Parliamentary Committee on the ICAC and the Inspector of the ICAC. The Commission is also externally accountable for its work through:

- accounting to the NSW Treasury and the Auditor General for the proper expenditure of funds
- inspection by the NSW Ombudsman of records of telecommunications interceptions, controlled operations and the use of surveillance devices
- inspection by the Commonwealth Ombudsman of records relating to stored communications warrants, preservation notices and access to telecommunications data
- reporting to the NSW Attorney General and the judge who issued the warrant for each surveillance device warrant
- compliance with access to information and privacy laws, with exemption for certain operational matters
- requirements for annual reporting, including those in the ICAC Act.

In some cases, the Commission's actions are reviewable by the NSW Supreme Court to ensure proper exercise of its functions and powers.

Section 20(5) of the ICAC Act requires the Commission to provide reasons to complainants and those who report possible corrupt conduct under s 11 of the ICAC Act for its decisions to discontinue or not commence an investigation and to inform each such person of the reasons for its decisions.

Other ways in which the Commission demonstrates accountability to the community include conducting public inquiries, posting public inquiry transcripts and relevant exhibits on the Commission's website, and publishing investigation reports and other material prepared by the Commission.

Internal governance

Legal review

All applications for the exercise of statutory powers, whether under the ICAC Act or other legislation, are reviewed by a Commission lawyer to ensure they meet relevant regulatory and Commission requirements. Applications are then reviewed by the Executive Director, Legal.

If approved by the Executive Director, Legal, applications for the exercise of powers under the ICAC Act and some other statutes are submitted to the Commissioner or an Assistant Commissioner for final approval. Applications for surveillance device warrants are considered by judges of the NSW Supreme Court. Applications for telecommunications interception warrants and stored communications warrants are usually made to judicial members of the Administrative Appeals Tribunal (Commonwealth).

The Executive Director, Legal, audits the Commission's assumed identity records as required under the *Law Enforcement and National Security (Assumed Identities) Act 2010*. In 2015–16, the Commission authorised three new assumed identities and revoked six assumed identity authorities. Five assumed identity authorities were varied. Assumed identities were granted and used by Commission officers in surveillance operations on people of interest in Commission investigations and to maintain covert arrangements. The audit was conducted in November 2015. Records of all audited files complied with the relevant legislative requirements.

Executive Management Group

The EMG comprises the Commissioner, Deputy Commissioner and all executive directors. It usually meets fortnightly and is responsible for:

- reviewing and recommending:
 - strategic and business plans
 - risk management
 - general policies, procedures and delegations
 - codes of conduct
 - the overall management framework

- considering and determining corporate-wide management commitment to:
 - corporate governance
 - management of information systems
 - human resources
 - finance and general administration
 - communication and marketing
- overseeing major corporate projects by:
 - approving and overseeing projects
 - determining the appropriate level of progress reporting required for each project
 - ensuring effective administration and management of organisational resources
 - making decisions on a suitable course of action when a project is delayed or new information is revealed
 - endorsing strategic directions and broad operational priorities
 - ensuring that Commission staff comply with the policies relating to project planning and management.

Strategic Investigation Group

The SIG comprises the Commissioner, Deputy Commissioner and all executive directors, except the Executive Director, Corporate Services. It oversees Commission investigations, preparation of investigation reports, preparation of briefs of evidence for submission to the Director of Public Prosecutions (DPP), and the progress of criminal prosecutions arising from Commission investigations. The SIG meets monthly. The functions of the SIG include:

- determining the appropriate level of reporting for, and overseeing the progress of, investigations, investigation reports, briefs of evidence and criminal prosecutions
- providing direction and advice on proposed investigative strategies
- deciding whether a preliminary investigation should be escalated to a full investigation
- making and/or approving key decisions for an investigation
- endorsing and/or determining investigation priorities.

Prevention Management Group

Members of the PMG are the same as for the EMG. It oversees the Commission's corruption prevention activities, and usually meets monthly.

Operations Manual and General Investigation Standards and Procedure

The Commission's Operations Manual sets out procedures for the exercise of relevant statutory powers. The procedures must be followed by Commission officers both in applying to exercise a particular power and in exercising that power. The procedures ensure that all relevant legislative requirements are identified and addressed.

The Operations Manual is updated to reflect changes to legislation. Any changes to the Operations Manual must be approved by the EMG.

The Commission has also developed a General Investigation Standards and Procedure document, which sets out the minimum standards for the conduct of Commission investigations.

External governance

Parliamentary Committee on the ICAC

The Parliamentary Committee on the ICAC ("the Parliamentary Committee") is the means by which the Commission is accountable to the NSW Parliament. It was established by resolution on 6 April 1989 and was re-established on 2 June 2015.

The functions of the committee are set out in s 64 of the ICAC Act. They are to:

- monitor and review the exercise by the Commission and the Inspector of the ICAC of the Commission's and Inspector's functions
- report to both Houses of Parliament, with such comments as it thinks fit, on any matter appertaining to the Commission or the Inspector of the ICAC or connected with the exercise of its functions to which, in the opinion of the committee, the attention of Parliament should be directed
- examine each annual and other report of the Commission and of the Inspector of the ICAC and report to both Houses of Parliament on any matter appearing in, or arising out of, any such report

- examine trends and changes in corrupt conduct, and practices and methods relating to corrupt conduct, and report to both Houses of Parliament any change that the committee thinks desirable to the functions, structures and procedures of the Commission and the Inspector of the ICAC
- enquire into any question in connection with its functions referred to it by both Houses of Parliament, and report to both Houses of Parliament on that question.

The committee cannot investigate a matter relating to particular conduct, reconsider a decision by the Commission to investigate, not investigate or discontinue an investigation, or reconsider any findings, recommendations, determinations or other decisions of the Commission in relation to a particular investigation or complaint.

The Parliamentary Committee consists of members of Parliament, selected from both the Legislative Assembly and Legislative Council. As of 30 June 2016, the members of the Parliamentary Committee were:

- Damien Tudehope MLA (chair)
- Adam Marshall MLA (deputy chair)
- Ron Hoenig MLA
- the Hon Kevin Humphries MLA
- the Hon Trevor Khan MLC
- Tania Mihailuk MLA
- Reverend the Hon Fred Nile MLC
- Chris Patterson MLA
- Kathy Smith MLA
- Mark Taylor MLA
- the Hon Lynda Voltz MLC.

In August 2015, Commission officers attended and gave evidence at a Parliamentary Committee hearing on the Parliamentary Committee's review of the 2013–14 annual reports of both the Commission and the Inspector of the ICAC. The Commission later provided written answers to questions taken on notice.

The Parliamentary Committee published its report on this review in March 2016. The committee made two recommendations. The first is that the NSW Government ensures that Inspectors of the ICAC and Assistant Inspectors of the ICAC are recruited in a timely fashion to avoid any periods of vacancy in these positions. The second recommendation is that the NSW Attorney General write to the

Commonwealth Attorney General seeking an amendment to the *Telecommunications (Interception and Access) Act 1979* (Commonwealth) to enable the inspectors of law enforcement and integrity agencies to access telecommunications interception material for audit purposes.

In February 2016, the Parliamentary Committee commenced an inquiry to examine the Inspector of the ICAC's *Report Pursuant to Section 77A Independent Commission Against Corruption Act 1988 – Operation Hale* ("the Hale Report").

The Inspector of the ICAC's Hale Report concerns the Commission's 2014 decision to investigate allegations that, on 31 May 2014, Margaret Cunneen and Stephen Wyllie, with the intention to pervert the course of justice, counselled Sophia Tilley to pretend to have chest pains, and that Ms Tilley, with the intention to pervert the course of justice, pretended to have chest pains, to prevent investigating police officers from obtaining evidence of Ms Tilley's blood alcohol level at the scene of a motor vehicle accident. This investigation is known as Operation Hale.

In the Hale Report, the Inspector of the ICAC made a number of adverse findings affecting the Commissioner and some officers of the Commission with respect to the decision to investigate the matter and the conduct of the investigation.

On 2 February and 12 April 2016, the Commission provided the Parliamentary Committee with answers to questions on notice. The Commission provided written submissions to the Parliamentary Committee on 9 February 2016 (published in part by the committee) and 18 March 2016 (not published by the committee). On 11 February and 18 March 2016, the Commissioner gave evidence to the Parliamentary Committee.

The Commission's response to the Hale Report is contained, in part, in its 9 February 2016 submission to the Parliamentary Committee. This submission can be accessed from the NSW Parliament website at www.parliament.nsw.gov.au/committees.

The Commission's submission to the Parliamentary Committee was that the Hale Report is so fundamentally flawed that it cannot be relied on and should be withdrawn. One of the reasons the Commission considers that the Hale Report is flawed is because the Inspector of the ICAC failed to afford the Commission and affected Commission officers procedural fairness by giving them notice of any potential adverse comments or findings

and providing an opportunity to respond. This was despite the Commissioner writing to the Inspector of the ICAC prior to the publication of the Hale Report specifically identifying the need for the Inspector of the ICAC to afford procedural fairness. In some cases, the adverse findings do not reveal the factual basis upon which they are made. The Commission considers the adverse findings made by the Inspector of the ICAC in the Hale Report are either not reasonably open on the basis of all the material available to the Inspector of the ICAC or are not reasonably open if the Inspector of the ICAC had afforded Commission officers the opportunity to respond to them and had properly taken those responses into account.

The Parliamentary Committee has not reported on this inquiry.

Also in February 2016, the Parliamentary Committee commenced an inquiry into the 2014–15 annual reports of both the Commission and the Inspector of the ICAC. No hearings have yet been held in relation to this inquiry.

On 1 June 2016, the Parliamentary Committee commenced an inquiry to examine the Inspector of the ICAC's *Report to the Premier: The Inspector's Review of the ICAC* ("the Review Report"). The Review Report is dealt with in more detail in the next section.

The Parliamentary Committee is reviewing the Inspector of the ICAC's Review Report with particular regard to:

- 1) the extent, nature and exercise of the Commission's current powers and procedures, including the rationale for, and conduct of, investigations and public hearings, and possible options for reform
- 2) the current structure and governance of the Commission, best practice models adopted by other integrity institutions, and possible options for reform
- 3) the current oversight arrangements for the Commission, including the role, powers and resourcing of the Inspector of the ICAC, and possible options for reform
- 4) whether the outcome of legal action taken in response to the Commission's corrupt conduct findings is adequately reflected on the public record, and possible options for reform
- 5) any other related matters.

The Commission has provided the Parliamentary Committee with a copy of its May 2016 submission to the NSW Premier (see below), setting out its response to the Review Report, and has accepted the Parliamentary Committee's invitation to make a further submission.

Inspector of the ICAC

The Hon David Levine AO RFD QC is the current Inspector of the ICAC. In February 2016, John Nicholson SC was appointed as Assistant Inspector of the ICAC.

The principal functions of the Inspector of the ICAC are set out in s 57B of the ICAC Act. Those functions are to:

- audit the operations of the Commission for the purpose of monitoring compliance with the law of NSW
- deal with (by reports and recommendations) complaints of abuse of power, impropriety and other forms of misconduct on the part of the Commission or officers of the Commission
- deal with (by reports and recommendations) conduct amounting to maladministration (including delay in the conduct of investigations and unreasonable invasions of privacy) by the Commission or officers of the Commission
- assess the effectiveness and appropriateness of the procedures of the Commission relating to the legality or propriety of its activities.

The Inspector of the ICAC has extensive powers. These include the power to:

- investigate any aspect of the Commission's operations or any conduct of officers of the Commission
- require Commission officers to supply information or produce documents or other things relating to the Commission's operations or conduct of Commission officers
- require Commission officers to attend before the Inspector of the ICAC to answer questions or produce documents or other things relating to the Commission's operations or the conduct of Commission officers
- investigate and assess complaints about the Commission or Commission officers
- recommend disciplinary action or criminal prosecution against Commission officers.

In 2015–16, the Inspector of the ICAC published two reports concerning the Commission. These are the Hale Report and the Review Report, both of which are referred to earlier. These reports can be accessed from the Inspector of the ICAC's website at www.oiiacac.nsw.gov.au.

The Hale Report was published on 4 December 2015. The Commission's response is dealt with earlier.

The Review Report was published on 12 May 2016. It contains 16 recommendations made by the Inspector of the ICAC, most of which directly concern the operation of the Commission. In May 2016, the Commission responded to the Review Report by way of a submission to the NSW Premier. A copy of the submission is published on the Commission's website at www.icac.nsw.gov.au.

The Commission does not support the majority of the recommendations in the Review Report. This is because some would seriously compromise the Commission's effectiveness, some are unnecessary because the issues they seek to address are already addressed by the ICAC Act and internal Commission policies and procedures, and, in some cases, no policy or practical justification is provided for their adoption.

The Inspector of the ICAC's "principal recommendation" is that the Commission should conduct all examinations in private. The Commission's view is that adoption of this recommendation would seriously weaken the Commission's proven effectiveness in exposing and preventing corruption. It is contrary to the considered conclusions reached by the 2004–05 Independent Review of the ICAC conducted by Bruce McClintock SC and the more recent 2015 Independent Panel Review conducted by the Hon Murray Gleeson AC QC and Mr McClintock.

The Inspector of the ICAC did not directly address the reports on these reviews and provided no compelling reasons for repudiating the relevant conclusions. The Commission agrees with the 2015 Independent Panel's assessment that public inquiries "...serve an important role in the disclosure of corrupt conduct [and] in disclosing the ICAC's investigative processes". The Commission's position is that its accountability is enhanced by having public inquiries.

The Auditor General

The *Public Finance and Audit Act 1983* requires the Commission to keep books and records in relation to the Commission's operations and to prepare a financial report for each financial year. This Act requires the Commission to submit the financial report to the Auditor General and to the NSW Premier, as the minister responsible for the Commission. The financial report must:

- be prepared in accordance with Australian Accounting Standards
- comply with any written directions of the Treasurer as to form and content
- exhibit a true and fair view of the Commission's financial position and performance.

The Auditor General is required to audit the Commission's financial report. Details of the Commission's financial report and the Auditor General's audit are contained in this annual report.

The NSW Ombudsman

The NSW Ombudsman inspects the Commission's records of telecommunications interceptions, surveillance device warrants, and controlled operations to measure compliance with statutory obligations.

The Ombudsman inspected the Commission's telecommunications interception records in June 2016. It was found that all records were kept in accordance with the relevant legislative requirements.

The Ombudsman inspected the Commission's surveillance device records in April 2016. It was found that all records were kept in accordance with the *Surveillance Devices Act 2007*.

As the Commission did not authorise or undertake any controlled operations in 2015–16, it was not necessary for the Ombudsman to inspect the Commission's controlled operations records.

The Commonwealth Ombudsman

The Commonwealth Ombudsman can inspect the Commission's records relating to stored communications warrants, preservation notices and access to telecommunications data.

In 2015–16, there were no stored communications warrants for the Commonwealth Ombudsman to inspect. The Commonwealth Ombudsman inspected the Commission's preservation notices in September 2015. The Commission's records were compliant. The Commonwealth Ombudsman did not conduct an inspection of the Commission's telecommunications data records during the reporting period but did undertake a review of the Commission's processes with respect to the keeping of these records.

Legal changes

The *Independent Commission Against Corruption Amendment Act 2015* ("the Amendment Act") commenced operation on 28 September 2015.

The object of the Amendment Act was to implement the recommendations of the 30 July 2015 report by the Independent Panel, comprising Mr Gleeson and Mr McClintock. The panel was established to review the jurisdiction of the Commission following the decision of the High Court in *ICAC v Cunneen* [2015] HCA 14. That decision, which is dealt with in the Commission's 2014–15 annual report, excluded certain conduct of private persons from the definition of "corrupt conduct" under the ICAC Act that had previously been understood to be within the Commission's jurisdiction.

The Amendment Act expanded the definition of corrupt conduct by inserting s 8(2A). That section provides:

Corrupt conduct is also any conduct of any person (whether or not a public official) that impairs, or that could impair, public confidence in public administration and which could involve any of the following matters:

- (a) *collusive tendering,*
- (b) *fraud in relation to applications for licences, permits or other authorities under legislation designed to protect health and safety or the environment or designed to facilitate the management and commercial exploitation of resources,*

- (c) *dishonestly obtaining or assisting in obtaining, or dishonestly benefiting from, the payment or application of public funds for private advantage or the disposition of public assets for private advantage,*
- (d) *defrauding the public revenue,*
- (e) *fraudulently obtaining or retaining employment or appointment as a public official.*

The Amendment Act conferred a new function on the Commission to investigate conduct that may involve certain possible criminal offences under the *Parliamentary Electorates and Elections Act 1912*, the *Election Funding, Expenditure and Disclosures Act 1981* or the *Lobbying of Government Officials Act 2011* that the NSW Electoral Commission refers to the Commission for investigation under s 13A of the ICAC Act. It is not necessary that conduct so referred for investigation involves corrupt conduct.

The Amendment Act also amended the ICAC Act by inserting s 14(1)(a1), which provides that the Commission has the function of gathering and assembling evidence, during or after the discontinuance or completion of an investigation into conduct under s 13A, that may be admissible in the prosecution of a person for a criminal offence in connection with the conduct and to furnish such evidence to the Electoral Commission and (if considered appropriate) to the DPP.

The Amendment Act amended s 13 of the ICAC Act to provide that the Commission's education, advisory and prevention functions can be used generally for the purpose of promoting the integrity and good repute of public administration.

One of the other principal amendments made by the Amendment Act was to insert a new s 74BA into the ICAC Act. This section provides that the Commission is not authorised to include in a report a finding or opinion that any conduct of a specified person is corrupt conduct unless the conduct is serious corrupt conduct. The amendment provides, however, that the Commission is not precluded from including in a report a finding or opinion about any conduct of a specified person that may be corrupt conduct within the meaning of the ICAC Act if the statement as to the finding or opinion does not describe the conduct as corrupt conduct.

Litigation

The Commission was involved in the following litigation matters during the reporting period.

1. On 8 September 2015, Jeffrey McCloy filed a summons in the NSW Supreme Court seeking orders restraining the Commission and the Commissioner from continuing with work on Operation Spicer, including preparing or furnishing any report on that operation.

On 10 December 2015, the summons was dismissed with costs (*McCloy v Latham & Ors* [2015] NSWSC 1879).

2. On 9 July 2015, Edward Obeid Senior, Moses Obeid, Paul Obeid and Edward Obeid Junior filed a statement of claim in the NSW Supreme Court claiming declarations that the first to ninth defendants engaged in misfeasance in public office, that certain reports issued by the Commission were ultra vires, were not made according to law and were a nullity (reports for operations Indus, Jasper, Meeka and Cabot, and Cyrus) and an order permanently restraining the Commission from issuing reports on operations Credo and Spicer. The plaintiffs also claimed general damages, aggravated damages, special damages and exemplary damages. The defendants were the Hon David Ipp AO QC (the former Commissioner), Geoffrey Watson SC (Counsel Assisting the Commission in operations Jasper, Credo and Spicer), seven named Commission officers and the State of NSW. The Commission was subsequently joined as a party and proceedings were discontinued against four of the named Commission officers.

On 11 December 2015, an amended statement of claim was filed confining the claims to Operation Jasper.

The case is set down for hearing in the NSW Supreme Court commencing on 1 August 2016.

On 6 October 2015, the solicitors for the plaintiffs requested the Commissioner to make an order under s 111(4) of the ICAC Act directing the defendants to divulge information for the purposes of discovery, interrogatories and evidence that would otherwise be subject to the secrecy provisions of s 111(2) and s 111(3) of the ICAC Act. The solicitors for the plaintiffs also requested the Commissioner to make directions under s 112 of the ICAC Act to vary non-publication directions

in operations Jasper, Indus, Meeka, Cyrus, Credo and Spicer in relation to all evidence, documents, information and submissions for the purposes of the Supreme Court proceedings.

On 9 October 2015, the Commissioner wrote to the solicitors for the plaintiffs declining to make the orders on the basis that relief from obligations under s 111 and s 112 of the ICAC Act can only be granted upon a determination by the Commissioner that it is in the public interest to do so and that ground had not been made out by the plaintiffs.

On 5 November 2015, the plaintiffs filed a summons seeking judicial review of the Commissioner's decision not to make directions under s 111 and s 112 of the ICAC Act as sought by the plaintiffs. On 14 December 2015, the summons was dismissed with costs (*Obeid v ICAC* [2015] NSWSC 1891). In his judgment, Davies J held that it was for the Commissioner, not the Court, to determine whether it is in the public interest to make orders under s 111 and s 112 of the ICAC Act.

3. On 30 April 2015, each of Andrew Poole, Michael Chester and Craig Ransley filed a summons in the NSW Supreme Court seeking declarations that the corrupt conduct findings made against them in the Commission's August 2013 report, *Investigation into the conduct of Ian Macdonald, John Maitland and others* (Operation Acacia), were wrong in law and a nullity. These proceedings were commenced as a result of the decision of the High Court in *ICAC v Cunneen* [2015] HCA 14, which found that the Commission lacked jurisdiction under s 8(2) of the ICAC Act in relation to the conduct of a private person that adversely affects, or could adversely affect, the "efficacy" of the exercise of official functions. The corrupt conduct findings made against Messrs Poole, Chester and Ransley were made under s 8(2) of the ICAC Act and were based on their conduct adversely affecting the "efficacy" of the exercise of official functions.

On 6 May 2015, the *Independent Commission Against Corruption (Validation) Act 2015* ("the Validation Act") came into force. It amended the ICAC Act to validate anything done or purporting to have been done by the Commission prior to 15 April 2015 that would have been validly done if corrupt conduct included conduct that adversely affects or could adversely affect the "efficacy" of the exercise of official functions.

As a result of the Validation Act, consent orders were filed in September 2015, discontinuing the proceedings involving Messrs Poole and Chester on the basis that each party bear its own costs. Mr Ransley did not respond to an invitation to agree to discontinue proceedings. On 28 September 2015, orders were made in the Supreme Court dismissing his proceedings with costs.

4. On 9 February 2015, Sandra Lazarus, Michelle Lazarus and Jessica Lazarus filed a statement of claim in the NSW Supreme Court seeking damages for alleged negligence in the conduct of the Commission's investigation involving them and which was the subject of the Commission's August 2011 report, *Investigation into corrupt conduct involving alleged fraud on two Sydney hospitals* (Operation Charity).

On 22 September 2015, the proceedings were dismissed with costs (*Sandra Lazarus & Ors v ICAC* [2015] NSWSC 1390).

5. On 28 July 2014, Mr McCloy and others filed a writ of summons in the High Court against the State of NSW and the Commission. On 19 September 2014, the plaintiffs filed an amended statement of claim. The plaintiffs challenged the validity of s 96E (prohibition on certain indirect election campaign contributions) and Divisions 2A (caps on political donations for NSW elections) and 4A (prohibition on certain donations) of Part 6 of the *Election Funding, Expenditure and Disclosures Act 1981* on the basis that these provisions impermissibly infringe the freedom of communication on political or government matters implied in the Commonwealth Constitution. The plaintiffs also sought a declaration that certain conduct under investigation in the Commission's Operation Spicer was incapable of amounting to corrupt conduct within the meaning of s 8 and s 9 of the ICAC Act.

The Commission filed a submitting appearance.

On 7 October 2015, the High Court unanimously upheld the constitutional validity of s 96E and Divisions 2A and 4A of Part 6 of the *Election Funding, Expenditure and Disclosures Act 1981* and ordered the plaintiffs to pay costs (*McCloy & Ors v State of NSW & ICAC* [2015] HCA 34).

6. In April 2014, NuCoal Resources Ltd, the former holder of coal Exploration Licence 7270, commenced proceedings in the NSW Supreme

Court seeking to quash the Commission's report of December 2013, titled *Operations Jasper and Acacia – addressing outstanding questions*, in which the Commission recommended that Exploration Licence 7270 be expunged or cancelled.

On 24 September 2015, the summons was dismissed with costs (*NuCoal Resources Ltd v ICAC* [2015] NSWSC 1400).

7. In January 2014, Cascade Coal Pty Ltd, Mt Penny Coal Pty Ltd and Glendon Brook Coal Pty Ltd commenced proceedings in the NSW Supreme Court seeking a declaration that the recommendation made in the Commission's December 2013 report, *Operations Jasper and Acacia – addressing outstanding questions*, that the Mount Penny and Glendon Brook coal exploration licences be expunged or cancelled, is a nullity.

On 29 July 2014, the summons was dismissed with costs (*Duncan & Ors v ICAC* [2014] NSWSC 1018).

The plaintiffs filed a summons seeking leave to appeal to the Court of Appeal.

On 22 June 2016, the appeal was dismissed with costs (*Duncan & Ors v ICAC* [2016] NSWCA 143).

8. In October 2013, Travers Duncan, John Kinghorn, John McGuigan, John Atkinson and Richard Poole commenced proceedings in the NSW Supreme Court seeking a declaration that corrupt conduct findings made against them by the Commission in its July 2013 report, *Investigation into the conduct of Ian Macdonald, Edward Obeid Senior, Moses Obeid and others* (Operation Jasper), were wrong in law and a nullity.

On 29 July 2014, the summons filed by Messrs Duncan, McGuigan, Atkinson and Poole was dismissed with costs and a declaration was made that the finding that Mr Kinghorn had engaged in corrupt conduct was not made according to law and was a nullity. The Commission was ordered to pay Mr Kinghorn's costs (*Duncan & Ors v ICAC* [2014] NSWSC 1018).

The Commission filed a summons seeking leave to appeal the decision concerning Mr Kinghorn. Each of Messrs Duncan, McGuigan, Atkinson and Poole also filed a summons seeking leave to appeal.

On 15 April 2015, the High Court delivered its judgment in *ICAC v Cunneen* [2015] HCA 14. This judgment affected the findings in relation to Messrs Duncan, McGuigan, Atkinson, Poole and Kinghorn because those findings were made on the basis that their conduct could affect the "efficacy" rather than the "probity" of the exercise of official functions.

As the Commission then had no arguable basis to sustain its appeal in the Kinghorn proceedings or to resist the making of orders allowing the appeals by Messrs Duncan, McGuigan, Atkinson and Poole, the Commission consented to the dismissal of its summons seeking leave to appeal the decision in Kinghorn and consented to the appeals in the matters of Messrs Duncan, McGuigan, Atkinson and Poole. On 4 May 2015, the proceedings involving Messrs Duncan, McGuigan, Atkinson and Poole were adjourned for the purpose of constituting a bench of three judges of the NSW Court of Appeal to make orders to finalise the matters.

On 6 May 2015, the Validation Act came into effect. As a result, the orders made on 4 May 2015 concerning the proceedings involving Messrs Duncan, McGuigan, Atkinson and Poole were vacated. On 7 May 2015, the Commission filed a notice of motion seeking to have set aside the consent order dismissing its appeal in the Kinghorn matter.

Mr Duncan then amended his notice of appeal to include an application seeking a declaration challenging the validity of the Validation Act and made application to have that challenge removed to the High Court. On 9 September 2015, the High Court dismissed this application with costs (*Duncan v ICAC* [2015] HCA 32).

On 28 October 2015, the NSW Court of Appeal dismissed with costs the Commission's notice of motion in the Kinghorn matter (*ICAC v Kinghorn* [2015] NSWCA 342).

On 22 June 2016, the NSW Court of Appeal dismissed with costs the appeals of Messrs Duncan, McGuigan, Atkinson and Poole (*Duncan & Ors v ICAC* [2016] NSWCA 143).

9. In March 2013, Martin Waterhouse filed a statement of claim in the NSW Supreme Court seeking orders to compel the Commission to investigate certain allegations previously made to the Commission.

On 2 April 2015, the proceedings were dismissed with costs (*Waterhouse v ICAC* [2015] NSWSC 261).

On 30 June 2015, Mr Waterhouse filed a summons seeking leave to appeal this decision.

On 15 June 2016, the NSW Court of Appeal dismissed the appeal with costs (*Waterhouse v ICAC* [2016] NSWCA 133).

Complaints against Commission officers

Complaints concerning the misconduct of Commission officers may be made directly to the Inspector of the ICAC or to the Commission. The Commission's memorandum of understanding with the Inspector of the ICAC provides that the Commission will notify the Inspector of complaints against Commission officers that come within the Inspector's functions. The Inspector may decide to investigate complaints directly or ask the Commission to undertake an investigation and report its findings to him.

The Executive Director, Legal, is responsible for advising the Commissioner with respect to complaints of misconduct dealt with by the Commission.

In 2015–16, the Commission received and investigated one matter concerning the conduct of Commission officers. The matter involved an allegation of maladministration with respect to a decision by the Commission to not investigate a complaint alleging corrupt conduct. The allegation was made by the complainant. The Commission concluded that there was no evidence of maladministration.

The Inspector of the ICAC was informed about this matter and the conclusion reached by the Commission.

Privacy and personal information

The *Privacy and Personal Information Protection Act 1998* ("the PPIP Act") provides for the protection of "personal information" and for the protection of the privacy of individuals generally.

The PPIP Act sets out a number of information protection principles. They apply to the Commission only in connection with the exercise by the Commission of its administrative and educative functions.

As required by the PPIP Act, the Commission has a privacy management plan. The plan sets out how the Commission complies with the principles and requirements of the PPIP Act and, in so far as the Commission holds any health information, the *Health Records and Information Privacy Act 2002*. The plan can be accessed from the Commission's website at www.icac.nsw.gov.au or by contacting the Commission directly.

The Commission operated in accordance with its privacy management plan in the reporting period.

No reviews were required or conducted under Part 5 of the PPIP Act during the reporting period.

Access to information

The *Government Information (Public Access) Act 2009* ("the GIPA Act") facilitates public access to information held by government agencies, including the Commission.

The GIPA Act requires agencies to make "open access information" publicly available on an agency's website. The Commission's open access information is available from its website at www.icac.nsw.gov.au.

The GIPA Act provides for the making of access applications for information held by an agency. The GIPA Act provides, however, that an access application cannot be made for access to information held by the Commission relating to its corruption prevention, complaint-handling, investigative or report writing functions. It also provides that it is to be conclusively presumed that there is an overriding public interest against disclosure of other information the disclosure of which is prohibited by the ICAC Act.

Section 125 of the GIPA Act requires agencies to report on the agency's obligations under the GIPA Act. The Commission's report is set out in Appendix 7.

Report publicly about the work of the Commission

Section 76 of the ICAC Act requires the Commission to report on its operations for each year ending on 30 June and to furnish that report to the Presiding Officer of each House of Parliament.

The section provides that the report shall include the following:

- a description of the matters that were referred to the Commission
- a description of the matters investigated by the Commission
- the time interval between the lodging of each complaint and the Commission deciding to investigate the complaint
- the number of complaints commenced to be investigated but not finally dealt with during the year
- the average time taken to deal with complaints and the actual time taken to investigate any matter in respect of which a report is made
- the total number of compulsory examinations and public inquiries conducted during the year
- the number of days spent during the year in conducting public inquiries
- the time interval between the completion of each public inquiry conducted during the year and the furnishing of a report on the matter
- any recommendations for changes in the laws of the state, or for administrative action, that the Commission considers should be made as a result of the exercise of its functions
- the general nature and extent of any information furnished under the ICAC Act by the Commission during the year to a law enforcement agency
- the extent to which its investigations have resulted in prosecutions or disciplinary action in that year
- the number of search warrants issued by authorised officers and the ICAC Commissioner respectively
- a description of its activities during that year in relation to its educating and advising functions.

This information is included in this publication.

In addition to its annual report, the Commission also publishes its investigation reports and a number of corruption prevention and research publications. These are all available from the Commission's website at www.icac.nsw.gov.au.

Investigation reports

Under the ICAC Act, the Commission is required to prepare reports on matters referred by both Houses of the NSW Parliament and on matters involving public inquiries. The Commission can also produce public reports without conducting a public inquiry. These reports are furnished to the Presiding Officer of each House who arrange for the reports to be tabled in Parliament. Each Presiding Officer has the discretion to make Commission reports public immediately on presentation.

In 2015–16, the Commission furnished four investigation reports to the Presiding Officers. All were immediately made public.

The time interval between the completion of the relevant public inquiry and the furnishing of the report are set out in the table on page 52.

Other publications

The Commission published its *Annual Report 2014–2015* on 13 October 2015. The Commission also published a number of information brochures during the reporting period and met its target of producing two editions of the *Corruption Matters* e-newsletter. This publication raises awareness in the public sector and the wider community about corruption-related matters and the Commission's activities.

During the reporting period, the number of external visitor sessions on the Commission's website at www.icac.nsw.gov.au was 513,521. This is significantly less than the figure of 781,591 reported in the previous year, which can be attributed to high profile investigations conducted during the 2014–15 reporting period. Once again, the "current investigations" pages generated the most user hits.

Table 23: Time interval between completion of each public inquiry and furnishing of the report – s 76(2)(ba)(vi) of the ICAC Act

| Public inquiry | Date public inquiry complete* | Date investigation report furnished to Presiding Officers | Days from end of public inquiry to furnishing of report** |
|---|-------------------------------|---|---|
| Investigation into the conduct of officers of the NSW Rural Fire Service and others (Operation Vika) (5-day public inquiry) | 26/10/15 *** | 17/12/15 | 52 |
| Investigation into the conduct of a Mine Subsidence Board district manager (Operation Tunic) (15-day public inquiry) | 5/11/15 *** | 23/3/16 | 139 |
| Investigation into the conduct of a TAFE NSW ICT manager (Operation Sonet) (3-day public inquiry) | 26/11/15 *** | 4/3/16 | 99 |
| Investigation into the conduct of a University of Sydney ICT manager (Operation Elgar) (5-day public inquiry) | 18/1/16 | 11/5/16 | 114 |

* The Commission considers a public inquiry to be complete as at the date of receipt of final submissions from parties who are granted leave to appear at the public inquiry.

** The corporate goal is two months (60 days), where the duration of the public inquiry was five or less days and three months (90 days) otherwise.

*** Amendments to the ICAC Act, commencing on 28 September 2015, required the Commission to make a finding of corrupt conduct only if the conduct is "serious corrupt conduct". This change came into operation after submissions had been received for these investigations. It was then necessary for further submissions from Counsel Assisting the Commission and relevant parties to address whether specified conduct was "serious corrupt conduct". This delayed completion of the reports for these investigations.



Chapter 6: Our organisation

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| Other internal committees | 57 |
| Information management and technology | 59 |
| Shared corporate services | 60 |

In 2015–16, the Commission employed an average of 114.3 full-time equivalent (FTE) staff across its seven functional areas. At the end of the reporting period, of the 120 staff working at the Commission (head count figure), 107 were employed on a permanent basis, eight on a temporary basis, zero were casual employees, and five (including the Commissioner) were employed in the equivalent of NSW Senior Executive Band contract positions (see Appendix 8 for further information).

HR and administration

Policies and procedures

The Commission is committed to complying with legislative requirements and aligning with the conditions of employment contained in the ICAC Award and the NSW public sector policies and procedures.

The Commission's Compliance Monitoring Register is instrumental in the ongoing review and update

of Commission-wide policies to improve the Commission's governance and performance. This register is periodically monitored by the Audit and Risk Committee (ARC).

Prior to formal approval by the Commissioner, policies are reviewed and endorsed by the Commission's management groups.

During the reporting period, the following policies were reviewed and updated:

- Leave Without Pay Policy
- Sick Leave Policy
- Study Time and Examination Leave Policy
- Work Experience Policy
- Induction and Procedures Policy
- Commonwealth Paid Parental Leave Scheme Policy
- Maternity Leave Policy
- Other Parent Leave Policy.

Table 24: Average full-time equivalent (FTE) staff numbers by division/section

| Division/section | 2015–16 | 2014–15 | 2013–14 | 2012–13 |
|------------------------|----------------|--------------|--------------|--------------|
| Executive | 4.5 | 8.8 | 8.5 | 8.2 |
| Communications & Media | 3.6 * | n/a | n/a | n/a |
| Corporate Services | 17.6 | 19 | 19.3 | 19.9 |
| Corruption Prevention | 17.0 | 20.2 | 20.1 | 19.5 |
| Legal | 10.7 | 10.8 | 13.8 | 12.4 |
| Investigation | 48.2 | 49.3 | 51.8 | 52.2 |
| Assessments | 12.7 | 14.2 | 12.9 | 11.6 |
| Total | 114.3** | 122.3 | 126.4 | 123.8 |

* This section, which was previously counted as part of the Executive, is now counted separately from that unit.

** This figure represents FTE staff numbers as at 30 June 2016 (it does not reflect the organisational restructure that took place early in the new reporting period).

Note: The average FTE excludes contractors. Further, these figures are based on Establishment Report figures (internal). There is a variation between these figures and those of the Workforce Profile report, which is a result of differences in counting criteria.

Learning and development

The Commission continued to focus on increasing its organisational capability through the ongoing development of its staff. This was achieved through providing opportunities to maintain or increase their skills, knowledge and experience through access to training courses, seminars and other relevant educational institutions. The Commission has a Study Time and Examination Leave Policy, which provides assistance to support staff who undertake study to further their careers.

Staff learning and development activities within the Commission are focused on six core streams. These are (1) IT, (2) risk management, (3) project management, (4) organisational development, (5) leadership/management and (6) technical skills.

Staff attended a number of conferences, including the Australian Public Sector Anti-Corruption Conference, Annual Government Lawyers Conference, Constitutional Law Conference, JSI User Conference, Annual Bar Association Queensland Conference, Women's Executive Luncheon, CPA Congress, and Corruption Prevention Network Annual Forum.

Training was provided to staff in the areas of occupational health and safety, equal employment opportunity (EEO), harassment and bullying prevention, management, IT and computer-based training, communication skills, conflict resolution, law, managing performance, surveillance and corruption prevention.

There were 511 staff attendances at training sessions, which equates to an average of 4.5 training sessions for each staff member.

During the reporting period, opportunities arose for staff to undertake higher duties and temporary appointments both within divisions and across divisions.

The Commission also supported the secondment of a staff member to work at the NSW Department of Justice and another staff member was granted leave-without-pay to work in private enterprise to assist in their career development.

Conditions of employment and movement in salaries and allowances

The ICAC Award sets out the conditions of employment for Commission staff. In line with award conditions, a 2.5% increase for non-executive staff became effective at the beginning of the first full pay period from 1 July 2015. The increase also applied to some of the award's allowances, such as the Associate Allowance, the Community Language Allowance and the First Aid Allowance. As in the past, ICAC Award increases have followed the Crown Employees (Public Sector 2015) Award.

Senior executive staff were also granted a 2.5% pay increase from 1 July 2015 following the Statutory and Other Offices Remuneration Tribunal (SOORT) pay determination.

Industrial relations

The Commission is strongly committed to consultation on industrial issues to ensure issues are addressed and resolved quickly and effectively.

During the reporting period, it was necessary for the Commission to undergo an organisational restructure requiring it to reduce its workforce by approximately 10% to keep within a reduced budget allocation going forward. The organisational restructure resulted in both a voluntary redundancy program and forced redundancies. Affected staff were managed in accordance with the Commission's Managing Excess Employees Policy.

The Commission heavily consulted with the Public Service Association (PSA) during the restructure, with PSA organisers holding several meetings with PSA members on Commission premises during work hours.

Staff performance management

The Commission has an established electronic performance management system that allows both staff and management to complete and review individual performance agreements online in Employee Self Service (ESS). All permanent, temporary and casual staff are required to have a performance agreement.

The individual performance agreements of Commission employees are clearly aligned with corporate objectives and key result areas (as reflected in the Commission's strategic and business plans), and are linked to individual position accountabilities.

The performance management system is aligned with the financial year, with new performance agreements developed in July and reviews undertaken in June, and is linked to salary incremental progression.

Training needs are also contained in a staff member's performance agreement, which addresses corporate, positional and individual learning and development activities.

During the reporting period, enhancements were made to the performance management system to reflect changes being made to all Commission-wide position descriptions to encompass generic performance accountabilities of quality, operational effectiveness, people and communication, and growth.

Risk management

The Commission's Risk Management Policy and Toolkit form the generic guide for managing risk within the Commission. It provides a systematic process of making realistic evaluations of risk and has broad applicability to all aspects of Commission activities, ranging from operational and strategic matters to its work practices and assets. The guide provides principles and assistance in identifying, measuring and dealing with risks in all stages in the life of an activity, function, project or asset.

During 2015–16, the Commission's Risk Management Plan, relating to its strategic risks, and its Risk Register, covering operational risks, were reviewed and updated. The Commission's risk and control framework, including the currency of its risk-related policies and procedures, was overseen by the Audit and Risk Committee (ARC) and the Executive Management Group. The ARC also monitors the implementation of any recommendations made by the Commission's independent internal auditors in their annual review, the NSW Auditor General and other management reviews.

In 2015–16, the Commission conducted 48 days of public inquiries and all proceedings were subjected to risk assessments.

The Commission continues to focus on the importance of its site security as part of its risk management strategy. The Commission's physical security measures are continually reviewed and updated to meet its specific security requirements. During the reporting period, security procedures were updated and barrier controls installed. The Commission's integrated electronic access control and electronic surveillance security system were

monitored and rigorously maintained to ensure optimum efficiency. In addition, special constables from the NSW Police Force continued to oversee onsite security.

Table 25: Hazards reported and risks controlled

| Reporting period | Number of hazards reported | Risks controlled to an acceptable level |
|------------------|----------------------------|---|
| 2011–12 | 5 | Yes |
| 2012–13 | 3 | Yes |
| 2013–14 | 1 | Yes |
| 2014–15 | 2 | Yes |
| 2015–16 | 1 | Yes |

Work health and safety

The Health and Safety Committee meets quarterly. The committee reviews safety policies and practices, conducts regular workplace inspections and facilitates the resolution of safety issues. The committee is strongly committed to the prevention of workplace accidents and injuries and to providing a safe environment for its staff and those people on its premises. More information on health and safety and the activities of the committee is provided in Appendix 10.

During 2015–16, the emergency evacuation procedure was reviewed and updated. Emergency evacuation training was provided to fire wardens.

Personnel security

Foremost in the Commission's commitment to managing its risk of securing its confidential information holdings, its reputation and activities, is its adoption of a stringent vetting of personnel conducting Commission work. The vetting process is one of the risk management strategies to support the integrity and confidentiality of Commission operations and activities. The Commission applies a vigorous employment-screening regime to make suitability assessments of persons who are to be employed or engaged by the Commission for the provision of services.

During the reporting period, 47 security checks were conducted on personnel as part of its employment-screening regime.

All Commission staff are briefed on security and risk management issues on the commencement of their employment. The Commission's intranet holds relevant information on security and risk management to promote security awareness among its staff and enhance the security profile of the Commission. Periodic reminders/refreshers are issued to staff on security and risk management.

Other internal committees

The Commission continues to support operational and corporate committees to ensure that it maintains and improves its internal governance infrastructure. The role of the three principal internal governance committees – the Strategic Investigation Group, the Executive Management Group, and the Prevention Management Group – is to assist the Commission to meet its compliance and accountability obligations, as outlined in Chapter 5.

The Commission has in place a range of internal management and staff committees to facilitate good governance. These committees meet on a regular basis, in line with each committee's terms of reference.

Commission Consultative Group

The CCG was established to provide a formal mechanism for consultation and communication between staff and management on matters of policy and procedure before final endorsement of these policies and procedures is provided by the Commissioner. The group also considers issues referred by staff and management that relate to employee policies or procedures with Commission-wide significance.

The Executive Director, Corporate Services, provides the CCG with an overview of the outcomes of the quarterly meetings held by the Commission's other consultative committees, namely the Access and Equity Committee, and the Work Health and Safety Committee.

Staff are encouraged to contribute to the CCG through a staff representative, and raise any issues relating to the ICAC Award, policies and procedures.

Access and Equity Committee

This committee acts as the Commission's oversight body for activities related to EEO and workplace diversity. The committee is also a driving force in monitoring the Commission's EEO Management Plan, Disability Inclusion Action Plan, Multicultural

Policies and Services Program and related EEO policies. The committee comprises both staff and management representatives from across the Commission's functional work areas and meets on a quarterly basis. Further information on the Access and Equity Committee is outlined in Appendix 9.

Audit and Risk Committee

The objective of the ARC is to provide independent assistance to the Commission by overseeing and monitoring the Commission's governance, risk and control frameworks, and its external accountability requirements. The committee also monitors progress on agreed management actions arising out of recommendations made by the Commission's independent internal auditors.

In 2015–16, internal auditors conducted two audits: complaints assessment, and fraud and corruption prevention. The scope of the former audit initiative focused on examining compliance with established criteria and procedures for assessing complaints, processes to receive and allocate complaints, and timeliness of assessing information and management reporting. Recommendations made were accepted by management and are being implemented. The purpose of the fraud and corruption prevention audit, which began in June 2016, was to consider:

- systems, processes and policies in use by the Commission and evaluate the risk of fraud and corruption
- key controls and processes in place to mitigate fraud and corruption risks.

A minor recommendation was subsequently made and accepted by management.

Five meetings were held by the ARC during the year and attended by the independent chair and member. During the reporting period, the Commission appointed an additional independent member.

Insurance activities

The NSW Treasury Managed Fund provides insurance cover for all of the Commission's activities. These include workers compensation, motor vehicle, public liability, property and miscellaneous claims. During the reporting period, the workers compensation deposit premium decreased by \$6,325 (22%), while the remaining deposit premiums increased by \$9,360 (6%).

Internal Audit and Risk Management Attestation Statement for the 2015–2016 Financial Year for the Independent Commission Against Corruption

I, Megan Latham, Commissioner of the Independent Commission Against Corruption (ICAC), am of the opinion that the ICAC has internal audit and risk management processes in place that are compliant with the eight (8) core requirements set out in the Internal Audit and Risk Management Policy for the NSW Public, specifically:

| Core requirements | | Compliant, non-compliant or in transition |
|----------------------------------|---|---|
| Risk Management Framework | | |
| 1.1 | The agency head is responsible and accountable for risk management in the agency | compliant |
| 1.2 | A risk management framework that is appropriate to the agency has been established and maintained and the framework is consistent with AS/NZS ISO 31000:2009 | compliant |
| Internal Audit Function | | |
| 2.1 | An internal audit function has been established and maintained | compliant |
| 2.2 | The operation of the internal audit function is consistent with the International Standards for the Professional Practice of Internal Auditing | compliant |
| 2.3 | The agency has an Internal Audit Charter that is consistent with the model of the “model charter” | compliant |
| Audit and Risk Committee | | |
| 3.1 | An independent Audit and Risk Committee with appropriate expertise has been established | compliant |
| 3.2 | The Audit and Risk Committee is an advisory committee providing assistance to the agency head on the agency’s governance processes, risk management and control frameworks, and its external accountability obligations | compliant |
| 3.3 | The Audit and Risk Committee has a Charter that is consistent with the content of the “model charter” | compliant |

Membership

The chair and members of the Audit and Risk Committee are:

- Independent Chair – David Roden (appointed from 1 September 2012 to 31 August 2015, re-appointed to 31 August 2016, and as independent member thereafter for a four-year term)
- Independent Member – Paul Apps (re-appointed from 21 June 2014 to 20 June 2018)
- Independent Member – Robert Smith (appointed 1 June 2016 to 31 August 2016, and thereafter as independent chair for a four-year term)
- Non-Independent Member – Roy Waldon, Executive Director, Legal, and Solicitor to the Commission.



The Hon Megan Latham
 Commissioner
 Independent Commission Against Corruption
 7/09/16

Information management and technology

Case management application

In 2015–16, the Commission issued a tender for the upgrade and or replacement of the existing case management application (MOCCA). The final decision was made to replace MOCCA with a fit-for-purpose case management application known as RESOLVE. The development of this new application and database commenced in June 2016 and is expected to go live in January 2017.

During the reporting period, additional enhancements were also carried out to the MOCCA system and iBase analytical databases.

Information security

The Commission is strongly committed to information security and, to this end, has continuously and successfully maintained and complied with its annual external audit accreditation to the Australian Standard AS/NZS ISO 27001:2013, which is an internationally recognised standard to information and asset security management.

There were also a number of initiatives undertaken to address findings from vulnerability assessments in June 2015 and network penetration tests in February 2016.

Disaster recovery

Disaster recovery functionality was a focus in the reporting period due to planned building power outages. Initiatives are underway to address process and skill-level gaps that were identified during the annual testing and scheduled events.

Application services

In 2015–16, frontend applications for the NSW Electoral List and Australian Business Register database were successfully redeveloped. The frontend redevelopment for the Call Charge Register will be completed in July 2016. Several new initiatives have begun for the Corruption Prevention Training Database and Surveillance Run Sheet application.

Digital Information Security Annual Attestation Statement for the 2015–2016 Financial Year for the Independent Commission Against Corruption (ICAC)

I, Megan Latham, Commissioner, am of the opinion that the Independent Commission Against Corruption had an Information Security Management System in place during the 2015–2016 financial year that is consistent with the Core Requirements set out in the NSW Government *Digital Information Security Policy*.

The controls in place to mitigate identified risks to the digital information and digital information systems of the Independent Commission Against Corruption are adequate.

There is no agency under the control of the Independent Commission Against Corruption, which is required to develop an independent ISMS in accordance with the *NSW Government Digital Information Security Policy*.

The Independent Commission Against Corruption has maintained certified compliance with *ISO 27001 Information technology – Security techniques – Information security management systems – Requirements* by an Accredited Third Party during the 2015–2016 financial year.



The Hon Megan Latham
Commissioner
Independent Commission Against Corruption
27/07/16

Shared corporate services

The Commission has a shared corporate services arrangement with the Health Care Complaints Commission (HCCC). It oversees the management of the HCCC's corporate services unit on a fee-for-service basis and provides:

- corporate planning and risk management
- financial planning and financial management
- HR management and advice
- information management, planning on policy development, and technology planning and advice
- payroll administration
- financial accounting, reporting and payments.

Following agreement with the HCCC, the Commission issued a termination notice under the memorandum of understanding, which will end the agreement on 30 September 2016.



Financials

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INDEPENDENT COMMISSION
AGAINST CORRUPTION
NEW SOUTH WALES

Statement by Commissioner

In accordance with section 45F of the *Public Finance and Audit Act 1983* ("the Act"), I state that:

- (a) the accompanying financial statements in respect of the year ended 30 June 2016 have been prepared in accordance with applicable Australian Accounting Standards (which include Australian Accounting Interpretations), the requirements of the Act, Regulation 2015, and the Financial Reporting Directions published in the Financial Reporting Code for NSW General Government Sector Entities or issued by the Treasurer under section 9(2)(n) of the Act
- (b) the financial statements exhibit a true and fair view of the financial position, financial performance and cash flows of the Independent Commission Against Corruption
- (c) I am not aware of any circumstances that would render any particulars included in the financial statements to be misleading or inaccurate.

A handwritten signature in black ink, appearing to read 'M Latham', is positioned above the printed name of the Commissioner.

The Hon Megan Latham
Commissioner

16 September 2016



INDEPENDENT AUDITOR'S REPORT

Independent Commission Against Corruption

To Members of the New South Wales Parliament

Opinion

I have audited the accompanying financial statements of the Independent Commission Against Corruption (the Commission), which comprise the statement of financial position as at 30 June 2016, the statement of comprehensive income, statement of changes in equity, statement of cash flows and summary of compliance with financial directives for the year then ended, notes comprising a summary of significant accounting policies and other explanatory information.

In my opinion the financial statements:

- give a true and fair view of the financial position of the Commission as at 30 June 2016, and of its financial performance and its cash flows for the year then ended in accordance with Australian Accounting Standards
- are in accordance with section 45E of the *Public Finance and Audit Act 1983* (PF&A Act) and the Public Finance and Audit Regulation 2015.

My opinion should be read in conjunction with the rest of this report.

Basis for Opinion

I conducted my audit in accordance with Australian Auditing Standards. My responsibilities under those standards are further described in the *Auditor's Responsibilities for the Audit of the Financial Statements* section of my report.

I am independent of the Commission in accordance with the auditor independence requirements of:

- Australian Auditing Standards
- ethical requirements of the Accounting Professional and Ethical Standards Board's APES 110 'Code of Ethics for Professional Accountants' (the Code).

I have also fulfilled my other ethical responsibilities in accordance with the Code.

The PF&A Act further promotes independence by ensuring the Auditor-General and the Audit Office of New South Wales are not compromised in their roles by:

- providing that only Parliament, and not the executive government, can remove an Auditor-General
- mandating the Auditor-General as auditor of public sector agencies, but precluding the provision of non-audit services.

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

Commissioner's Responsibility for the Financial Statements

The Commissioner is responsible for preparing financial statements that give a true and fair view in accordance with Australian Accounting Standards and the PF&A Act, and for such internal control as the Commissioner determines is necessary to enable the preparation of financial statements that give a true and fair view and are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the Commissioner must assess the Commission's ability to continue as a going concern unless the Commission's operations will cease as a result of an administrative restructure. The assessment must include, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting.

Auditor's Responsibility for the Audit of the Financial Statements

My objectives are to:

- obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error
- issue an Independent Auditor's Report including my opinion.

Reasonable assurance is a high level of assurance, but does not guarantee an audit conducted in accordance with Australian Auditing Standards will always detect material misstatements. Misstatements can arise from fraud or error. Misstatements are considered material if, individually or in aggregate, they could reasonably be expected to influence the economic decisions users take based on the financial statements.

A further description of my responsibilities for the audit of the financial statements is located at the Auditing and Assurance Standards Board website at: <http://www.auasb.gov.au/Home.aspx>. The description forms part of my auditor's report.

My opinion does *not* provide assurance:

- that the Commission carried out its activities effectively, efficiently and economically
- about the assumptions used in formulating the budget figures disclosed in the financial statements
- about the security and controls over the electronic publication of the audited financial statements on any website where they may be presented.



Chris Clayton
Director, Financial Audit Services

19 September 2016
SYDNEY

Statement of comprehensive income for the year ended 30 June 2016

| | Notes | Actual 2016 \$'000 | Budget 2016 \$'000 | Actual 2015 \$'000 |
|---|-------|--------------------------|--------------------------|--------------------------|
| Expenses excluding losses | | | | |
| Operating expenses | | | | |
| Employee related | 2(a) | 18,724 | 17,021 | 17,160 |
| Other operating expenses | 2(b) | 5,529 | 4,422 | 6,548 |
| Depreciation and amortisation | 2(c) | 2,653 | 2,795 | 2,001 |
| Total expenses excluding losses | | 26,906 | 24,238 | 25,709 |
| Revenue | | | | |
| Recurrent appropriation | 3(a) | 19,638 | 19,638 | 20,804 |
| Capital appropriation | 3(a) | 584 | 1,180 | 6,274 |
| Sale of goods and services | 3(b) | 367 | 375 | 386 |
| Investment revenue | 3(c) | – | – | 74 |
| Grants and contributions | 3(d) | 2,621 | 840 | 1,600 |
| Acceptance by the Crown Entity of employee benefits and other liabilities | 3(e) | 888 | 503 | 434 |
| Other revenue | 3(f) | 6 | 25 | 3 |
| Total Revenue | | 24,104 | 22,561 | 29,575 |
| Gain/(loss) on disposal | 4 | (5) | – | (123) |
| Net result | 16 | (2,807) | (1,677) | 3,743 |
| Other comprehensive income | | – | – | – |
| Total other comprehensive income | | – | – | – |
| Total comprehensive income | | (2,807) | (1,677) | 3,743 |

The accompanying notes form part of these financial statements.

Statement of financial position as at 30 June 2016

| | Notes | Actual 2016 \$'000 | Budget 2016 \$'000 | Actual 2015 \$'000 |
|--------------------------------------|-------|--------------------------|--------------------------|--------------------------|
| Assets | | | | |
| Current Assets | | | | |
| Cash and cash equivalents | 6 | 212 | 560 | 1,640 |
| Receivables | 7 | 1,952 | 210 | 622 |
| Total Current Assets | | 2,164 | 770 | 2,262 |
| Non-Current Assets | | | | |
| Receivables | 7 | 38 | – | – |
| Property, plant and equipment | 8 | | | |
| – Leasehold improvements | | 4,204 | 4,155 | 5,144 |
| – Plant and equipment | | 1,672 | 2,085 | 2,177 |
| Total property, plant and equipment | | 5,876 | 6,240 | 7,321 |
| Intangible assets | 9 | 2,464 | 2,417 | 3,093 |
| Total Non-Current Assets | | 8,378 | 8,657 | 10,414 |
| Total Assets | | 10,542 | 9,427 | 12,676 |
| Liabilities | | | | |
| Current Liabilities | | | | |
| Payables | 10 | 2,077 | 490 | 1,072 |
| Provisions | 11 | 2,015 | 2,667 | 1,823 |
| Other | 12 | 567 | – | 567 |
| Total Current Liabilities | | 4,659 | 3,157 | 3,462 |
| Non-Current Liabilities | | | | |
| Provisions | 11 | 562 | 331 | 519 |
| Other | 12 | 1,866 | 1,923 | 2,433 |
| Total Non-Current Liabilities | | 2,428 | 2,254 | 2,952 |
| Total Liabilities | | 7,087 | 5,411 | 6,414 |
| Net Assets | | 3,455 | 4,016 | 6,262 |
| Equity | | | | |
| Accumulated funds | | 3,455 | 4,016 | 6,262 |
| Total Equity | | 3,455 | 4,016 | 6,262 |

The accompanying notes form part of these financial statements.

Statement of changes in equity for the year ended 30 June 2016

| | Accumulated Funds \$'000 | Asset Revaluation Surplus \$'000 | Total \$'000 |
|--|--------------------------------|---|-----------------|
| Balance at 1 July 2015 | 6,262 | – | 6,262 |
| Net result for the year | (2,807) | – | (2,807) |
| Other comprehensive income | – | – | – |
| Total other comprehensive income | – | – | – |
| Total comprehensive income for the year | (2,807) | – | (2,807) |
| Balance at 30 June 2016 | 3,455 | – | 3,455 |
| Balance at 1 July 2014 | 2,110 | 409 | 2,519 |
| Net result for the year | 3,743 | – | 3,743 |
| Other comprehensive income | | | |
| Net increase/(decrease) in property, plant and equipment revaluation surplus | 409 | (409) | – |
| Total other comprehensive income | 409 | (409) | – |
| Total comprehensive income for the year | 4,152 | (409) | 3,743 |
| Balance at 30 June 2015 | 6,262 | – | 6,262 |

The accompanying notes form part of these financial statements.

Statement of cash flows for the year ended 30 June 2016

| | Notes | Actual 2016 \$'000 | Budget 2016 \$'000 | Actual 2015 \$'000 |
|---|-------|--------------------------|--------------------------|--------------------------|
| Cash flows from operating activities | | | | |
| Payments | | | | |
| Employee related | | 16,860 | 17,068 | 16,086 |
| Other | | 6,668 | 5,253 | 5,046 |
| Total Payments | | 23,528 | 22,321 | 21,132 |
| Receipts | | | | |
| Recurrent appropriation | 3(a) | 19,638 | 19,638 | 20,804 |
| Capital appropriation | 3(a) | 700 | 1,180 | 6,274 |
| Sale of goods and services | | 367 | 375 | 386 |
| Interest received | | 24 | – | 79 |
| Grants and contributions | | 1,338 | 840 | 1,600 |
| Cash transfers to the Crown Entity | | – | – | (2,262) |
| Other | | 617 | 919 | 928 |
| Total Receipts | | 22,684 | 22,952 | 27,809 |
| Net cash flows from operating activities | 16 | (844) | 631 | 6,677 |
| Cash flows from investing activities | | | | |
| Purchases of property, plant and equipment | | (584) | (552) | (6,125) |
| Other | | – | (628) | (3,211) |
| Net cash flows from investing activities | | (584) | (1,180) | (9,336) |
| Net increase/(decrease) in cash | | (1,428) | (549) | (2,659) |
| Opening cash and cash equivalents | | 1,640 | 1,109 | 4,299 |
| Closing cash and cash equivalents | 6 | 212 | 560 | 1,640 |

The accompanying notes form part of these financial statements.

Summary of compliance with financial directives

| | 2016 | | | | 2015 | | | |
|---|--------------------------------------|--|------------------------------------|--|--------------------------------------|--|------------------------------------|--|
| | Recurrent Appropriation \$'000 | Expenditure/ Net claim on Consolidated Fund \$'000 | Capital Appropriation \$'000 | Expenditure/ Net claim on Consolidated Fund \$'000 | Recurrent Appropriation \$'000 | Expenditure/ Net claim on Consolidated Fund \$'000 | Capital Appropriation \$'000 | Expenditure/ Net claim on Consolidated Fund \$'000 |
| Original budget appropriation | | | | | | | | |
| – Appropriation Act | 19,638 | 19,638 | 1,180 | 584 | 20,822 | 20,804 | 6,274 | 6,274 |
| Total Appropriations/ Expenditure/ Net Claim on Consolidated Fund (includes transfer payments) | 19,638 | 19,638 | 1,180 | 584 | 20,822 | 20,804 | 6,274 | 6,274 |
| Amount drawn down against Appropriation | | 19,638 | | 700 | | 20,804 | | 6,274 |
| Liability to Consolidated Fund* | | – | | 116 | | – | | – |

The Summary of Compliance is based on the assumption that Consolidated Fund moneys are spent first (except where otherwise identified or prescribed).

*The "Liability to Consolidated Fund" represents the difference between the "Amount drawn down against Appropriation" and the "Total Expenditure/Net Claim on Consolidated Fund".

Notes to and forming part of the financial statements for the year ended 30 June 2016

1. Summary of Significant Accounting Policies

a. Reporting entity

The Independent Commission Against Corruption (“the Commission”) is constituted by the *Independent Commission Against Corruption Act 1988*. The main objective of the Commission is to minimise corrupt activities and enhance the integrity of NSW public sector administration.

The Commission is a NSW government entity. The Commission is a not-for-profit entity (as profit is not its principal objective) and it has no cash generating units. The reporting entity is consolidated as part of the NSW Total State Sector Accounts.

These financial statements report on all the operating activities under the control of the Commission.

These financial statements for the year ended 30 June 2016 have been authorised for issue by the Commissioner on 16 September 2016.

b. Basis of preparation

The Commission's financial statements are general purpose financial statements that have been prepared on an accruals basis and in accordance with:

- applicable Australian Accounting Standards (that include Australian Accounting Interpretations)
- the requirements of the *Public Finance and Audit Act 1983* and Regulation 2015
- the Financial Reporting Directions published in the Financial Reporting Code for NSW General Government Sector Entities or issued by the Treasurer.

Going concern

The Commission is a “going concern” public sector entity. The Commission will receive a Parliamentary appropriation and government grants as outlined in the NSW Budget Papers for 2016–17 on an “as needs” basis from the Crown Entity.

The closing cash balance is as a result of NSW Treasury's cash management reforms outlined in Circular 15-01 Cash Management – Expanding the Scope of the Treasury Management system which requires all non-restricted cash and cash equivalents in excess of a readily assessable short-term level to be held within the Treasury Banking System. The closing cash balance at 30 June 2016 is less than the established “cash buffer” of \$528,000 due to unanticipated reduced grant from the Department of Premier and Cabinet.

Property, plant and equipment are measured at fair value. Other financial statement items are prepared in accordance with the historical cost convention.

Judgments, key assumptions and estimations management has made are disclosed in the relevant notes to the financial statements.

All amounts are rounded to the nearest one thousand dollars and are expressed in Australian currency.

c. Statement of compliance

The financial statements and notes comply with Australian Accounting Standards, which include Australian Accounting Interpretations.

d. Insurance

The Commission's insurance activities are conducted through the NSW Treasury Managed Fund Scheme of self-insurance for government agencies. The expense (premium) is determined by the fund manager based on past claim experience.

e. Accounting for the Goods and Services Tax (GST)

Income, expenses and assets are recognised net of the amount of GST, except that:

- the amount of GST incurred by the Commission as a purchaser that is not recoverable from the Australian Taxation Office is recognised as part of an asset's cost of acquisition or as part of an item of expense and
- receivables and payables are stated with the amount of GST included.

Cash flows are included in the statement of cash flows on a gross basis. However, the GST components of cash flows arising from investing and financial activities, which are recoverable from, or payable to, the Australian Taxation Office, are classified as operating cash flows.

f. Income recognition

Income is measured at the fair value of the consideration or contribution received or receivable. Comments regarding the accounting policies for the recognition of income are discussed below.

i. Parliamentary appropriations and contributions

Except as specified below, parliamentary appropriations and contributions from other bodies (including grants and donations) are recognised as income when the Commission

Notes to and forming part of the financial statements for the year ended 30 June 2016

obtains control over the assets comprising the appropriations/contributions.

Control over appropriations and contributions is normally obtained upon the receipt of cash.

Unspent appropriations are recognised as liabilities rather than income, as the authority to spend the money lapses and the unspent amount must be repaid to the Consolidated Fund. The liability is disclosed in Note 10 as part of "Current liabilities – payables". The amount will be repaid and the liability will be extinguished next financial year.

ii. Sale of goods

Revenue from the sale of goods is recognised as revenue when the Commission transfers the significant risks and rewards of ownership of the assets.

iii. Rendering of services

Revenue is recognised when the service is provided or by reference to the stage of completion (based on labour hours incurred to date).

iv. Investment revenue

Interest revenue is recognised using the effective interest method as set out in AASB 139 *Financial Instruments: Recognition and Measurement*.

v. Grants and contributions

Grants and contributions from other bodies (including grants from the NSW Department of Premier and Cabinet) are recognised as income when the Commission obtains control over the assets comprising the contributions. Control over contributions is normally obtained upon the receipt of cash.

g. Assets

i. Acquisitions of assets

Assets acquired are initially recognised at cost. Cost is the amount of cash or cash equivalents paid or the fair value of the other consideration given to acquire the asset at the time of its acquisition or construction or, where applicable, the amount attributed to that asset when initially recognised in accordance with the requirements of other Australian Accounting Standards.

Assets acquired at no cost, or for nominal consideration, are initially recognised at their fair value at the date of acquisition. Fair value is the price that would be received to sell an asset in an orderly transaction between market participants at measurement date.

Where payment for an asset is deferred beyond normal credit terms, its cost is the cash price equivalent, that is deferred payment amount, is effectively discounted over the period of credit.

ii. Capitalisation thresholds

The Commission's capitalisation threshold for property, plant and equipment and intangible assets is \$10,000. This means that all property, plant and equipment and intangible assets costing \$10,000 and above individually (or forming part of a network costing more than \$10,000) are capitalised.

iii. Revaluation of property, plant and equipment

Physical non-current assets are valued in accordance with the "Valuation of Physical Non-Current Assets at Fair Value" Policy and Guidelines Paper (TPP 14-1). This policy adopts fair value in accordance with AASB 13 *Fair Value Measurement*, AASB 116 *Property, Plant and Equipment* and AASB 140 *Investment Property*.

Property, plant and equipment is measured at the highest and best use by market participants that is physically possible, legally permissible and financially feasible. The highest and best use must be available at a period that is not remote and take into account the characteristics of the asset being measured, including any socio-political restrictions imposed by government. In most cases, after taking into account these considerations, the highest and best use is the existing use. In limited circumstances, the highest and best use may be a feasible alternative use, where there are no restrictions on use or where there is a feasible higher restricted alternative use.

Fair value of property, plant and equipment is based on a market participant's perspective, using valuation techniques (market approach, cost approach, income approach) that maximise relevant observable inputs and minimise unobservable inputs.

Non-specialised assets with short useful lives are measured at depreciated historical cost as an approximation of fair value. The Commission has assessed that any difference between fair value and depreciated historical cost is unlikely to be material.

Where an asset that has previously been revalued is disposed of, any balance remaining in the asset revaluation reserve in respect of that asset is transferred to accumulated funds.

Notes to and forming part of the financial statements for the year ended 30 June 2016

iv. Impairment of property, plant and equipment

As a not-for-profit entity with no cash generating units, impairment under AASB 136 *Impairment of Assets* is unlikely to arise. As property, plant and equipment is carried at fair value, impairment can only arise in the rare circumstances where the costs of disposal are material. Specifically, impairment is unlikely for not-for-profit entities given that AASB 136 modifies the recoverable amount test for non-cash generating assets of not-for-profit entities to the higher of fair value less costs of disposal and depreciated replacement cost is also fair value.

v. Depreciation of property, plant and equipment

Depreciation is provided for on a straight-line basis for all depreciable assets so as to write off the depreciable amount of each asset as it is consumed over its useful life to the Commission. All material identifiable components of assets are depreciated separately over their shorter useful lives. The useful life of the various categories of non-current assets is in the table below.

vi. Restoration costs

The estimated cost of dismantling and removing an asset and restoring the site is included in the cost of an asset, to the extent it is recognised as a liability.

vii. Maintenance

Day-to-day servicing costs or maintenance are charged as expenses as incurred, except where they relate to the replacement of a part or component of an asset, in which case the costs are capitalised and depreciated.

viii. Leased assets

A distinction is made between finance leases, which effectively transfer from the lessor to the lessee substantially all the risks and benefits incidental to ownership of the leased assets, and operating leases under which the lessor does not transfer substantially all the risks and benefits.

The Commission has no finance lease arrangements. Operating lease payments are recognised as an expense on a straight-line basis over the lease term.

ix. Intangible assets

The Commission recognises intangible assets only if it is probable that future economic benefits will flow to the Commission and the cost of the asset can be measured reliably. Intangible assets are measured initially at cost. Where an asset is acquired at no or nominal cost, the cost is its fair value as at the date of acquisition.

The useful lives of intangible assets are assessed to be finite.

Intangible assets are subsequently measured at fair value only if there is an active market. As there is no active market for the Commission's intangible assets, the assets are carried at cost less any accumulated amortisation.

The Commission's intangible assets, that is, computer software, are amortised using the straight-line method over four years. See table on page 73.

x. Receivables

Receivables are non-derivative financial assets with fixed or determinable payments that are not quoted in an active market. These financial assets are recognised initially at fair value, usually based on the transaction cost, or face value. Subsequent measurement is at amortised cost using the effective interest method, less an allowance for any impairment of receivables. Any changes are recognised in the net result for the year when impaired, de-recognised or through the amortisation process.

Short-term receivables with no stated interest rate are measured at the original invoice amount where the effect of discounting is immaterial.

| | Gross value measurement bases | Depreciation method | Depreciation life in years | Depreciation life in years |
|---------------------|-------------------------------|---------------------|----------------------------|----------------------------|
| Asset category | | | 2015–16 | 2014–15 |
| Computer hardware | Purchase price | Straight-line | 4 | 4 |
| Plant and equipment | Purchase price | Straight-line | 5 | 5 |

Leasehold improvement assets are depreciated at the lesser of six years or the lease term.

Notes to and forming part of the financial statements for the year ended 30 June 2016

xi. Impairment of financial assets

All financial assets, except those measured at fair value through profit and loss, are subject to an annual review for impairment. An allowance for impairment is established when there is objective evidence that the entity will not be able to collect all amounts due.

The amount of the impairment loss is recognised in the net result for the year.

Any reversals of impairment losses are reversed through the net result for the year, where there is objective evidence. However, reversals of impairment losses on an investment in an equity instrument classified as “available for sale” must be made through the reserve. Reversals of impairment losses of financial assets carried at amortised cost cannot result in a carrying amount that exceeds what the carrying amount would have been had there not been an impairment loss.

xii. De-recognition of financial assets and financial liabilities

A financial asset is de-recognised when the contractual rights to the cash flows from the financial assets expire or if the Commission transfers the financial asset:

- where substantially all the risks and rewards have been transferred or
- where the Commission has not transferred substantially all the risks and rewards, if the entity has not retained control.

Where the Commission has neither transferred nor retained substantially all the risks and rewards or transferred control, the asset is recognised to the extent of the Commission’s continuing involvement in the asset.

A financial liability is de-recognised when the obligation specified in the contract is discharged or cancelled or expires.

h. Liabilities

i. Payables

These amounts represent liabilities for goods and services provided to the Commission and other

amounts. Payables are recognised initially at fair value, usually based on the transaction cost or face value. Subsequent measurement is at amortised cost using the effective interest method. Short-term payables with no stated interest rate are measured at the original invoice amount where the effect of discounting is immaterial.

ii. Employee benefits and other provisions

(a) Salaries and wages, annual leave, sick leave and on-costs

Salaries and wages (including non-monetary benefits), and paid sick leave that are expected to be settled wholly within 12 months after the end of the period in which the employees render the service are recognised and measured at the undiscounted amounts of the benefits.

Annual leave is not expected to be settled wholly before 12 months after the end of the annual reporting period in which the employees render the related service. As such, it is required to be measured at present value in accordance with AASB 119 *Employee Benefits* (although short-cut methods are permitted).

Actuarial advice obtained by Treasury has confirmed that the use of an approach using nominal annual leave plus annual leave on the nominal liability using 8.9% (2015: 8.9%) of the nominal value of annual leave can be used to approximate the present value of the annual leave liability.

The Commission has assessed the actuarial advice based on the entity’s circumstances and has determined that the effect of discounting is immaterial to annual leave.

Unused non-vesting sick leave does not give rise to a liability, as it is not considered probable that sick leave taken in the future will be greater than the benefits accrued in the future.

(b) Long service leave and superannuation

The Commission’s liabilities for long service leave and defined benefit superannuation are assumed by the Crown Entity. The Commission accounts

| | Gross value measurement bases | Amortisation method | Amortisation life in years | Amortisation life in years |
|----------------|-------------------------------|---------------------|----------------------------|----------------------------|
| Asset category | | | 2015–16 | 2014–15 |
| Software | Purchase price | Straight-line | 4 | 4 |

Notes to and forming part of the financial statements for the year ended 30 June 2016

for the liability as having been extinguished, resulting in the amount assumed being shown as part of the non-monetary revenue items described as "Acceptance by the Crown Entity of employee benefits and other liabilities".

Long service leave is measured at present value in accordance with AASB 119 *Employee Benefits*. This is based on the application of certain factors (specified in NSW TC 15/09) to employees with five or more years of service, using current rates of pay. These factors were determined based on an actuarial review to approximate present value.

The superannuation expense for the financial year is determined by using the formulae specified in the Treasurer's Directions. The expense for certain superannuation schemes (that is, Basic Benefit and First State Super) is calculated as a percentage of the employees' salary. For other superannuation schemes (that is, State Superannuation Scheme and State Authorities Superannuation Scheme), the expense is calculated as a multiple of the employees' superannuation contributions.

(c) Consequential on-costs

Consequential costs to employment are recognised as liabilities and expenses where the employee benefits to which they relate have been recognised. This includes outstanding amounts of payroll tax, workers compensation insurance premiums and fringe benefits tax.

iii. Other provisions

Other provisions exist when: the entity has a present legal or constructive obligation as a result of a past event; it is probable that an outflow of resources will be required to settle the obligation; and a reliable estimate can be made of the amount of the obligation.

(a) Make-good provision

The Commission has a present legal obligation to make good its current accommodation premises at 255 Elizabeth Street, Sydney, when the current lease agreement terminates on 15 October 2020.

The Commission has recognised a provision for make good because it is probable that an outflow of resources will be required to settle the obligation; and a reliable estimate can be made of the amount of the obligation.

As the effect of the time value of money is material, provisions are discounted at 1.6% (2015: 3.01%), which is a pre-tax rate that reflects

the current market assessments of the time value of money and the risks specific to the liability.

(b) Lease incentive provision

The Commission received a lease incentive of \$3.405 million as part of the new lease agreement for 255 Elizabeth Street, Sydney. The amount of \$3.405 million was used to fit out the office premises prior to September 2014.

A provision has been made in the financial statements to recognise a lease incentive liability for the duration of the lease term of six years. At the same time, an equivalent lease incentive abatement amount is recognised as an offset against rental expenses.

i. Fair value hierarchy

A number of the Commission's accounting policies and disclosures require the measurement of fair values, for both financial and non-financial assets and liabilities. When measuring fair value, the valuation technique used maximises the use of relevant observable inputs and minimises the use of unobservable inputs. Under AASB 13, the Commission categorises, for disclosure purposes, the valuation techniques based on the inputs used in the valuation techniques as follows:

- Level 1 – quoted prices in active markets for identical assets/liabilities that the entity can access at the measurement date.
- Level 2 – inputs other than quoted prices included within Level 1 that are observable, either directly or indirectly.
- Level 3 – inputs that are not based on observable market data (unobservable inputs). The entity recognises transfers between levels of the fair value hierarchy at the end of the reporting period during which the change has occurred.

As disclosed in Note 1(g), the Commission holds non-specialised assets with short useful lives and these are measured at depreciated historical cost as a surrogate for fair value. Consequently, there are no further disclosures made in relation to the AASB 13 fair value hierarchy.

j. Equity and reserves

(i) Revaluation surplus

The revaluation surplus is used to record increments and decrements on the revaluation

Notes to and forming part of the financial statements for the year ended 30 June 2016

of non-current assets. This accords with the Commission's policy on the revaluation of property, plant and equipment, as discussed in Note 1(g)(iii).

In September 2014, the Commission relocated to new office premises at 255 Elizabeth Street, Sydney. The leasehold improvements revaluation surplus for the previous premises was transferred to accumulated funds.

(ii) Accumulated funds

The category "Accumulated Funds" includes all current and prior period retained funds.

k. Budgeted amounts

The budgeted amounts are drawn from the original budgeted financial statements presented to Parliament in respect of the reporting period. Subsequent amendments to the original budget (e.g. adjustment for transfer of functions between entities as a result of Administrative Arrangements Orders) are not reflected in the budget amounts. Major variances between the original budgeted amounts and the actual amounts disclosed in the primary financial statements is explained in Note 15.

l. Comparative information

Except when an Australian Accounting Standard permits or requires otherwise, comparative information is presented in respect of the previous period for all amounts reported in the financial statements.

m. Changes in accounting policy, including new or revised Australian Accounting Standards

(i) Effective for the first time in 2015–16

The accounting policies applied in 2015–16 are consistent with those of the previous financial year.

(ii) Issued but not yet effective

NSW public sector entities are not permitted to early adopt new Australian Accounting Standards, unless Treasury determines otherwise.

The following new Australian Accounting Standards represent some of the new standards not yet applied and hence not yet effective.

AASB 2015–6, Amendments to Australian Accounting Standards – Extending Related Party Disclosures to Not-for-Profit Public Sector

Entities [AASB 10, AASB 124 & AASB 1049], has application from 1 July 2016. Based on preliminary evaluation, this standard is likely to increase disclosures to the financial statements relating to related party transactions, outstanding balances and Key Management Personnel remuneration.

AASB 16, Leases will have application from 1 January 2019. The standard introduces a new approach to lease accounting that requires a lessee to recognise assets and liabilities for the rights and obligations created by leases. The Commission believes that the application of this standard will likely have a significant transitional impact as a result of all leases, except short term (<12 months) and low value, brought on balance sheet.

AASB 2014–7, Amendments to various Australian Accounting Standards as a result of the changes from AASB 9 (December 2014) and will have application from 1 January 2018 and comprises changes to improve and simplify the approach for classification and measurement of financial assets. The new AASB 9 includes revised guidance on the classification and measurement of financial assets and supersedes AASB 9 (December 2009) and AASB 9 (December 2010). The change is not expected to materially impact the financial statements.

AASB 15, AASB 2014–5, AASB 2015–8 and AASB 2016–3, Revenue from Contracts with Customers, has application from 1 January 2018. The Commission believes this standard will impact on the timing recognition of certain revenues given the core principle of the new standard requires revenue to be recognised when the goods or services are transferred to the customer at the transaction price (as opposed to stage of completion of the transaction). The model features a contract-based five-step analysis of transactions to determine whether, how much and when revenue is recognised.

AASB 2016–2, Amendments to Australian Accounting Standards – Disclosure Initiative: Amendments to AASB 107, will apply from 1 January 2017. The standard amends AASB 107 to require additional disclosures regarding financing activities in the Statement of Cash Flows. The change is not expected to materially impact the financial statements.

The possible impact of these standards in the period of initial application is considered to be immaterial.

Notes to and forming part of the financial statements for the year ended 30 June 2016

2. Expenses excluding losses

| | 2016 \$'000 | 2015 \$'000 |
|---|----------------|----------------|
| (a) Employee-related expenses | | |
| Salaries and wages (including annual leave) | 15,523 | 14,542 |
| Superannuation – defined benefit plans | 169 | 243 |
| Superannuation – defined contribution plans | 1,091 | 1,084 |
| Long service leave | 839 | 212 |
| Workers compensation insurance | 95 | 96 |
| Payroll tax and fringe benefits tax | 1,007 | 983 |
| Employee-related expenses | 18,724 | 17,160 |
| (b) Other operating expenses include the following: | | |
| Advertising and publicity | 23 | 26 |
| Auditor's remuneration | | |
| – audit of the financial statements | 38 | 47 |
| Books and subscriptions | 171 | 150 |
| Cleaning | 131 | 64 |
| Consultants | 56 | 72 |
| Contract security services | 247 | 284 |
| Contractors | 271 | 6 |
| Courier and freight | 2 | 2 |
| Electricity | 111 | 101 |
| External legal fees | 702 | 1,642 |
| Fees for services | 259 | 434 |
| Insurance | 28 | 41 |
| Maintenance | 479 | 424 |
| Minor computer equipment/licences | 90 | 132 |
| Operating lease rental expense | | |
| – minimum lease payments | 1,801 | 2,031 |
| Postal and telephone | 116 | 131 |
| Telecommunications | 94 | 69 |
| Printing | 29 | 30 |
| Stores and specialised supplies | 49 | 63 |
| Training | 150 | 145 |
| Transcript fees | 87 | 127 |
| Travelling, air fares, subsistence, taxi and vehicle rental | 112 | 99 |
| Other | 483 | 428 |
| | 5,529 | 6,548 |

Notes to and forming part of the financial statements for the year ended 30 June 2016

| | 2016 \$'000 | 2015 \$'000 |
|--|----------------|----------------|
| (c) Depreciation and amortisation expense | | |
| Depreciation | | |
| Leasehold improvements | 975 | 807 |
| Computer equipment | 597 | 495 |
| Plant and equipment | 195 | 204 |
| | 1,767 | 1,506 |
| Amortisation | | |
| Software | 886 | 495 |
| Total depreciation and amortisation | 2,653 | 2,001 |

3. Revenue

| | 2016 \$'000 | 2015 \$'000 |
|--|----------------|----------------|
| (a) Appropriations and Transfers to the Crown Entity | | |
| Recurrent appropriations | | |
| Total recurrent draw-downs from NSW Treasury (per Summary of compliance) | 19,638 | 20,804 |
| Less: Liability to Consolidated Fund* (per Summary of compliance) | – | – |
| | 19,638 | 20,804 |
| Comprising: | | |
| Recurrent appropriations (per Statement of comprehensive income) | 19,638 | 20,804 |
| Capital appropriations | | |
| Total capital draw-downs from NSW Treasury (per Summary of compliance) | 700 | 6,274 |
| Less: Liability to Consolidated Fund* (per Summary of compliance) | (116) | – |
| | 584 | 6,274 |
| Comprising: | | |
| Capital appropriations (per Statement of comprehensive income) | 584 | 6,274 |

* The Liability to Consolidated Fund is recognised in the Statement of Financial Position as a current liability – other

| | 2016 \$'000 | 2015 \$'000 |
|--|----------------|----------------|
| (b) Sale of goods and services | | |
| Corporate Services Support – Health Care Complaints Commission | 367 | 386 |
| (c) Investment revenue | – | 74 |

Notes to and forming part of the financial statements for the year ended 30 June 2016

| | 2016 \$'000 | 2015 \$'000 |
|--|----------------|----------------|
| (d) Grants and contributions | | |
| Operating grant from the Department of Premier and Cabinet | 1,340 | 1,600 |
| Special grant – redundancy | 1,281 | – |
| | 2,621 | 1,600 |
| (e) Acceptance by the Crown Entity of employee benefits and other liabilities | | |
| The following liabilities and/or expenses have been assumed by the Crown Entity: | | |
| Superannuation – defined benefit | 169 | 243 |
| Long service leave | 709 | 178 |
| Payroll tax | 10 | 13 |
| | 888 | 434 |
| (f) Other revenue | | |
| Other | 6 | 3 |

4. Gain/(loss) on disposal

| | | |
|---|------------|--------------|
| Plant and computer equipment | (5) | (112) |
| Leasehold improvements | – | (11) |
| Written-down value of assets disposed | (5) | (123) |
| Gain/(loss) on disposal of Plant, Property and Equipment | (5) | (123) |

5. Service Group of the Commission

Corruption Investigation, Prevention, Research and Education

The Commission has one service group.

This service group covers the processing, assessment and investigation of all corruption complaints. It also covers research and development of corruption training and providing prevention advice to public sector agencies through educational materials.

6. Current assets – cash and cash equivalents

| | | |
|---------------------------------|------------|--------------|
| Cash at bank and on hand | 212 | 1,640 |
|---------------------------------|------------|--------------|

For the purposes of the statement of cash flows, cash and cash equivalents include cash on hand, cash at bank and short-term deposits.

Cash and cash equivalent assets recognised in the statement of financial position are reconciled at the end of the financial year to the statement of cash flows as follows:

| | | |
|--|------------|--------------|
| Cash and cash equivalents (per statement of financial position) | 212 | 1,640 |
| Closing cash and cash equivalents (per statement of cash flows) | 212 | 1,640 |

Notes to and forming part of the financial statements for the year ended 30 June 2016

7. Current/Non-current assets – receivables

| | 2016 \$'000 | 2015 \$'000 |
|---|----------------|----------------|
| GST | 252 | 232 |
| Prepayments – Current | 387 | 364 |
| Other receivables | | |
| Debtors – redundancy program | 32 | 2 |
| Debtors – others | 1,281 | – |
| Interest income | – | 24 |
| | 1,952 | 622 |
| Prepayments – Non-current | 38 | – |
| Total Current/Non-current assets – receivables | 1,990 | 622 |

The Commission expects to receive all amounts due, therefore no allowance for impairment of receivables has been raised. Details regarding credit risk, liquidity risk and market risk, including financial assets that are either past due or impaired are disclosed in Note 17.

8. Non-current assets – property, plant and equipment

| | Leasehold improvements \$'000 | Plant and equipment \$'000 | Computer equipment \$'000 | Work in progress \$'000 | Total \$'000 |
|---|-------------------------------------|----------------------------------|---------------------------------|-------------------------------|-----------------|
| At 1 July 2015 – fair value | | | | | |
| Gross carrying amount | 5,856 | 1,462 | 2,565 | 101 | 9,984 |
| Accumulated depreciation and impairment | (712) | (1,021) | (930) | – | (2,663) |
| Net carrying amount | 5,144 | 441 | 1,635 | 101 | 7,321 |
| At 30 June 2016 – fair value | | | | | |
| Gross carrying amount | 5,892 | 1,545 | 2,539 | 190 | 10,166 |
| Accumulated depreciation and impairment | (1,688) | (1,115) | (1,487) | – | (4,290) |
| Net carrying amount | 4,204 | 430 | 1,052 | 190 | 5,876 |

Reconciliation

A reconciliation of the carrying amount of each class of property, plant and equipment at the beginning and end of the current reporting period is set out below.

| | Leasehold improvements \$'000 | Plant and equipment \$'000 | Computer equipment \$'000 | Work in progress \$'000 | Total \$'000 |
|---|-------------------------------------|----------------------------------|---------------------------------|-------------------------------|-----------------|
| Year ended 30 June 2016 | | | | | |
| Net carrying amount at start of year | 5,144 | 441 | 1,635 | 101 | 7,321 |
| Additions | 35 | 188 | 10 | 94 | 327 |
| Disposals | – | (4) | (1) | – | (5) |
| Transfer to/(from) other asset classes | – | – | 5 | (5) | – |
| Depreciation expense | (975) | (195) | (597) | – | (1,767) |
| Net carrying amount at end of year | 4,204 | 430 | 1,052 | 190 | 5,876 |

Notes to and forming part of the financial statements for the year ended 30 June 2016

| | Leasehold improvements \$'000 | Plant and equipment \$'000 | Computer equipment \$'000 | Work in progress \$'000 | Total \$'000 |
|---|----------------------------------|-------------------------------|------------------------------|----------------------------|-----------------|
| At 1 July 2014 – fair value | | | | | |
| Gross carrying amount | 1,853 | 1,729 | 1,802 | 1,423 | 6,807 |
| Accumulated depreciation and impairment | (1,747) | (1,110) | (1,214) | – | (4,071) |
| Net carrying amount | 106 | 619 | 588 | 1,423 | 2,736 |
| At 30 June 2015 – fair value | | | | | |
| Gross carrying amount | 5,856 | 1,462 | 2,565 | 101 | 9,984 |
| Accumulated depreciation and impairment | (712) | (1,021) | (930) | – | (2,663) |
| Net carrying amount | 5,144 | 441 | 1,635 | 101 | 7,321 |

Reconciliation

A reconciliation of the carrying amount of each class of property, plant and equipment at the beginning and end of the prior reporting period is set out below.

| | Leasehold improvements \$'000 | Plant and equipment \$'000 | Computer equipment \$'000 | Work in progress \$'000 | Total \$'000 |
|---|----------------------------------|-------------------------------|------------------------------|----------------------------|-----------------|
| Year ended 30 June 2015 | | | | | |
| Net carrying amount at start of year | 106 | 619 | 588 | 1,423 | 2,736 |
| Additions | 5,856 | 89 | 269 | – | 6,214 |
| Disposals | (11) | (63) | (49) | – | (123) |
| Transfer to/(from) other asset classes | – | – | 1,322 | (1,322) | – |
| Depreciation expense | (807) | (204) | (495) | – | (1,506) |
| Net carrying amount at end of year | 5,144 | 441 | 1,635 | 101 | 7,321 |

9. Intangible assets

| | Software \$'000 | Work in progress \$'000 | Total \$'000 |
|---|--------------------|----------------------------|-----------------|
| At 1 July 2015 | | | |
| Cost (gross carrying amount) | 5,047 | 201 | 5,248 |
| Accumulated amortisation and impairment | (2,155) | – | (2,155) |
| Net carrying amount | 2,892 | 201 | 3,093 |
| At 30 June 2016 | | | |
| Cost (gross carrying amount) | 4,535 | 260 | 4,795 |
| Accumulated amortisation and impairment | (2,331) | – | (2,331) |
| Net carrying amount | 2,204 | 260 | 2,464 |

Notes to and forming part of the financial statements for the year ended 30 June 2016

| | Software \$'000 | Work in progress \$'000 | Total \$'000 |
|---|--------------------|-------------------------------|-----------------|
| Year ended 30 June 2016 | | | |
| Net carrying amount at start of year | 2,892 | 201 | 3,093 |
| Additions | – | 259 | 259 |
| Disposals | (1) | – | (1) |
| Transfers from/to other asset classes | 200 | (200) | – |
| Amortisation | (887) | – | (887) |
| Net carrying amount at end of year | 2,204 | 260 | 2,464 |
| At 1 July 2014 | | | |
| Cost (gross carrying amount) | 1,875 | 243 | 2,118 |
| Accumulated amortisation and impairment | (1,811) | – | (1,811) |
| Net carrying amount | 64 | 243 | 307 |
| At 30 June 2015 | | | |
| Cost (gross carrying amount) | 5,047 | 201 | 5,248 |
| Accumulated amortisation and impairment | (2,155) | – | (2,155) |
| Net carrying amount | 2,892 | 201 | 3,093 |
| Year ended 30 June 2015 | | | |
| Net carrying amount at start of year | 64 | 243 | 307 |
| Additions | 3,281 | – | 3,281 |
| Disposals | 42 | (42) | – |
| Amortisation | (495) | – | (495) |
| Net carrying amount at end of year | 2,892 | 201 | 3,093 |

10. Current liabilities – payables

| | 2016 \$'000 | 2015 \$'000 |
|---|----------------|----------------|
| Accrued salaries, wages and on-costs | 1 | 594 |
| Accrued expenses – redundancy program | 1,372 | – |
| Accrued expenses – other operating expenses | 268 | 478 |
| Creditors | 320 | – |
| Liability to Consolidated Fund – capital | 116 | – |
| | 2,077 | 1,072 |

Details regarding credit risk, liquidity risk and market risk, including a maturity analysis of the above payables, are disclosed in Note 17.

Notes to and forming part of the financial statements for the year ended 30 June 2016

11. Current/Non-current liabilities – provisions

| | 2016 \$'000 | 2015 \$'000 |
|---|----------------|----------------|
| Current | | |
| Employee benefits and related on-costs | | |
| Annual leave expected to be settled in the next 12 months is \$879,515 | | |
| Annual leave (includes annual leave loading) | 1,254 | 1,219 |
| Annual leave on-cost | 95 | 95 |
| Payroll tax on annual leave, long service leave (and fringe benefits tax payable) | 290 | 258 |
| Long service leave on-cost | 376 | 251 |
| | 2,015 | 1,823 |
| Non-current | | |
| Employee benefits and related on-costs | | |
| Long service leave on-costs | 32 | 28 |
| Provision for payroll tax on long service leave | 20 | 17 |
| Make good provision | 510 | 474 |
| | 562 | 519 |
| Aggregate employee benefits and related on-costs | | |
| Provision – current | 2,015 | 1,823 |
| Provision – non-current | 53 | 45 |
| Accrued salaries, wages and on-costs (Note 10) | 1 | 594 |
| | 2,069 | 2,462 |

Movements in provisions (other than employee benefits)

Movements in each class of provision during the financial year, other than employee benefits, are set out below:

| 2016 | “Make good” provision \$'000 | Total \$'000 |
|---|------------------------------------|-----------------|
| Carrying amount at the beginning of the financial year | 474 | 474 |
| Additional provisions recognised | 36 | 36 |
| Amounts used | – | – |
| Carrying amount at the end of the financial year | 510 | 510 |

Notes to and forming part of the financial statements for the year ended 30 June 2016

12. Current/Non-current liabilities – other

| | 2016 \$'000 | 2015 \$'000 |
|--|----------------|----------------|
| Current liabilities | | |
| Lease incentive | 567 | 567 |
| Total Current liabilities – other | 567 | 567 |
| Non-current liabilities | | |
| Lease incentive | 1,866 | 2,433 |
| Total Non-current liabilities – other | 1,866 | 2,433 |

13. Commitments for expenditure

| | 2016 \$'000 | 2015 \$'000 |
|--|----------------|----------------|
| (a) Capital commitments | | |
| Not later than one year | 311 | 28 |
| Later than one year and not later than five years | – | – |
| Later than five years | – | – |
| Total (including GST) | 311 | 28 |
| (b) Operating lease commitments | | |
| Future non-cancellable operating lease rentals not provided for and payable: | | |
| Not later than one year | 2,654 | 2,419 |
| Later than one year and not later than five years | 8,720 | 10,369 |
| Later than five years | – | 801 |
| Total (including GST) | 11,374 | 13,589 |

The total “operating lease commitments” above includes potential input tax credits of \$1,034,068 (2015: \$1,235,389) that are expected to be recoverable from the ATO. The operating lease commitments represent the six-year lease for new accommodation at Elizabeth Street, motor vehicle leases and miscellaneous outstanding purchase orders as at 30 June 2016.

14. Contingent liabilities and contingent assets

The Commission has contingent liabilities estimated at \$53,000 representing potential legal expenses for which the Crown Solicitor is acting on behalf of the Commission as at 30 June 2016.

The Commission has no contingent assets.

Notes to and forming part of the financial statements for the year ended 30 June 2016

15. Budget review

Net result

The actual net result of \$2,807,000 deficit was higher than budget by \$1,130,000, primarily due to:

– Expenses

The Commission's total expenditure was higher than budget by \$2,668,000, comprising of employee expenses variance of \$1,703,000 and other operating expenses variance of \$1,107,000.

Higher than budget employee expenses variance can be attributed to the June 2016 implementation of a redundancy program costing \$1,372,000 following the release of the 2016–17 State Budget and the corresponding reduction in the Commission's 2016–17 recurrent appropriation. The remaining balance represented an increase in the Crown acceptance component of the leave liabilities of the Commission as calculated by the NSW Treasury at 30 June 2016.

Other operating expenses variance to budget of \$1,107,000 was expenditure incurred to perform special investigations and to maintain current levels of operations. This expenditure included employee expenses, software maintenance, legal fees, and contractors and was primarily funded by a special grant from the Department of Premier and Cabinet of \$1,340,000.

– Revenue

The Commission's total revenue was higher than budget by \$1,543,000 of which \$1,281,000 was due to recoupment of redundancy costs receivable from NSW Treasury. The balance was due to additional grants from the Department of Premier and Cabinet to fund special investigations and maintain current levels of operations.

Capital

Appropriations was \$596,000 lower than budget due to roll-over of two minor capital projects (Resolve and Microsoft Office 2016) to 2016–17.

Assets and liabilities

Plant and equipment assets were lower than budget by approximately \$400,000 due to the roll-over of the two aforementioned minor capital projects.

Current liabilities was higher than budget due to \$1,372,000 due and payable to excess employees in July 2016, following the implementation of the redundancy program previously mentioned.

Non-current liabilities (annual leave) were slightly lower than budgeted following the implementation of the Treasury's excess annual leave policy in 2015–16.

Cash flows

The Commission's cash balance of \$212,000 was lower than budget and the cash buffer following the implementation of the Cash Management – Expanding the scope of the Treasury Banking System (TC 15-01). The Commission was unable to maintain the budget cash balance due to unfunded other expenses such as hardware and software maintenance. These maintenance expenses were unavoidable, arising from additional software/hardware requirements at the completion of the ICT Infrastructure Upgrade project in 2014–15.

16. Reconciliation of cash flows from operating activities to net result

| | 2016 \$'000 | 2015 \$'000 |
|---|----------------|----------------|
| Net cash used on operating activities | (844) | 6,677 |
| Depreciation and amortisation | (2,653) | (2,001) |
| Decrease/(increase) in provisions | 332 | (2,838) |
| Increase/(decrease) in prepayments and other assets | 1,368 | (573) |
| (Increase) in payables | (1,005) | 339 |
| Cash transfer to Consolidated Fund | – | 2,262 |
| Net loss on sale of plant and equipment | (5) | (123) |
| Net result | (2,807) | 3,743 |

Notes to and forming part of the financial statements for the year ended 30 June 2016

17. Financial instruments

The Commission's principal financial instruments are outlined below. These financial instruments arise directly from the Commission's operations or are required to finance the Commission's operations. The Commission does not enter into or trade financial instruments, including derivative instruments, for speculative purposes.

The Commission's main risks arising from financial instruments are outlined below, together with the Commission's objectives, policies and processes for measuring and managing risk. Further quantitative and qualitative disclosures are included throughout the financial statements.

The Commissioner has overall responsibility for the establishment and oversight of risk management and reviews and agrees on policies for managing each of these risks. Risk management policies are established to identify and analyse the risks faced by the Commission, to set risk limits and controls, and to monitor risks. From time to time, compliance with policies is reviewed by the Audit and Risk Committee/internal audit.

(a) Financial instrument categories

| Financial Assets | | Note | Category | Carrying Amount | Carrying Amount |
|---------------------------|--|------|--|-----------------|-----------------|
| Class: | | | | 2016 \$'000 | 2015 \$'000 |
| Cash and cash equivalents | | 6 | N/A | 212 | 1,640 |
| Receivables ¹ | | 7 | Receivables at amortised cost | 1,313 | 26 |
| Financial Liabilities | | Note | Category | Carrying Amount | Carrying Amount |
| Class: | | | | 2016 \$'000 | 2015 \$'000 |
| Payables ² | | 10 | Financial liabilities measured at amortised cost | 264 | 303 |

Notes

1. Excludes statutory receivables and prepayments (not within scope of AASB 7).
2. Excludes statutory payables and unearned revenue (not within scope of AASB 7).

(b) Credit risk

Credit risk arises when there is the possibility of the Commission's debtors defaulting on their contractual obligations, resulting in a financial loss to the Commission. The maximum exposure to credit risk is generally represented by the carrying amount of the financial assets (net of any allowance for impairment).

Credit risk arises from the financial assets of the Commission, including cash and receivables. No collateral is held by the Commission. The Commission has not granted any financial guarantees.

Cash

Cash comprises cash on hand and bank balances within the NSW Treasury Banking System.

Receivables – trade debtors

All trade debtors are recognised as amounts receivable at balance date. Collectability of trade debtors is reviewed on an ongoing basis. Procedures as established in the Treasurer's Directions are followed to recover outstanding amounts, including letters of demand. Debts that are known to be uncollectable are written off. An allowance for impairment is raised when there is objective evidence that the entity will not be able to collect all amounts due. This evidence includes past experience, and current and expected changes in economic conditions and debtor credit ratings. No interest is earned on trade debtors. Sales are made on 30-day terms.

The Commission is not materially exposed to concentrations of credit risk to a single trade debtor or group of debtors. Based on past experience, debtors that are not past due (2016: \$nil ; 2015: \$nil) and less than 12 months past due (2016: \$nil ; 2015: \$nil) are not considered impaired. Together, these represent 100% of the total trade debtors. All of the Commission's debtors are other government departments or government authorities. There are no debtors which are currently not past due or impaired whose terms have been renegotiated.

Notes to and forming part of the financial statements for the year ended 30 June 2016

(c) Liquidity risk

Liquidity risk is the risk that the Commission will be unable to meet its payment obligations when they fall due. The Commission continuously manages risk through monitoring future cash flows to ensure adequate holding of liquid assets.

During the current and prior year, there were no defaults on any loans payable. No assets have been pledged as collateral. The Commission's exposure to liquidity risk is deemed insignificant based on prior periods' data and current assessment of risk.

The liabilities are recognised for amounts due to be paid in the future for goods or services received, whether or not invoiced. Amounts owing to suppliers (which are unsecured) are settled in accordance with the policy set out in NSW TC 11/12. For small business suppliers, where terms are not specified, payment is made no later than 30 days from date of receipt of a correctly rendered invoice. For other suppliers, if trade terms are not specified, payment is made no later than the end of the month following the month in which an invoice or a statement is received. For small business suppliers, where payment is not made within the specified time period, simple interest must be paid automatically unless an existing contract specifies otherwise. For payments to other suppliers, the head of an authority (or a person appointed by the head of an authority) may automatically pay the supplier simple interest. No interest was applied during the year.

(d) Market risk

Market risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market prices. The Commission has no exposure to market risk as it does not have borrowings or investments. The Commission has no exposure to foreign currency risk and does not enter into commodity contracts.

(e) Fair value compared to carrying amount

Financial instruments are generally recognised at cost. The amortised cost of financial instruments recognised in the statement of financial position approximates the fair value, because of the short-term nature of many of the financial instruments.

18. Trust funds – s 47 Division 4 of the ICAC Act

| | 2016 \$'000 | 2015 \$'000 |
|---|----------------|----------------|
| Opening balance as at 1 July 2015 | 110 | – |
| Deposits | – | 120 |
| Less: Payments | 70 | 10 |
| Total trust funds as at 30 June 2016 | 40 | 110 |

19. Events after balance date

There are no events after balance date.

(END OF AUDITED FINANCIAL STATEMENTS)

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Appendix 1 – Complaints profile

Table 26: Government sectors that were subject to matters received in 2015–16

| Government sector | Section 10 complaints (s 10s) | | Public interest disclosures (PIDs) | | Section 11 reports (s 11s) | | Other types of matters (OMs) | | Total for all matters | |
|---------------------------------------|-------------------------------|------------|------------------------------------|-----------|----------------------------|------------|------------------------------|----------|-----------------------|------------------|
| | Number of s 10s | % of s 10s | Number of PIDs | % of PIDs | Number of s 11s | % of s 11s | Number of OMs | % of OMs | Number of matters | % of all matters |
| Local government | 295 | 45% | 79 | 36% | 120 | 20% | 206 | 22% | 700 | 29% |
| Transport, ports and waterways | 33 | 5% | 20 | 9% | 136 | 22% | 25 | 3% | 214 | 9% |
| Health | 44 | 7% | 24 | 11% | 75 | 12% | 32 | 3% | 175 | 7% |
| Education (except universities) | 23 | 4% | 13 | 6% | 95 | 16% | 14 | 1% | 145 | 6% |
| Government and financial services | 62 | 9% | 9 | 4% | 17 | 3% | 43 | 5% | 131 | 5% |
| Custodial services | 31 | 5% | 11 | 5% | 35 | 6% | 34 | 4% | 111 | 5% |
| Law and justice | 50 | 8% | 4 | 2% | 4 | 1% | 53 | 6% | 111 | 5% |
| Policing | 27 | 4% | 1 | 0% | 1 | 0% | 82 | 9% | 111 | 5% |
| Community and human services | 41 | 6% | 11 | 5% | 29 | 5% | 29 | 3% | 110 | 5% |
| Natural resources and environment | 21 | 3% | 9 | 4% | 18 | 3% | 19 | 2% | 67 | 3% |
| Land, property and planning | 25 | 4% | 6 | 3% | 1 | 0% | 17 | 2% | 49 | 2% |
| Aboriginal affairs and services | 14 | 2% | 11 | 5% | 10 | 2% | 10 | 1% | 45 | 2% |
| Universities | 17 | 3% | 3 | 1% | 14 | 2% | 7 | 1% | 41 | 2% |
| Emergency services | 11 | 2% | 6 | 3% | 18 | 3% | 5 | 1% | 40 | 2% |
| Consumer and trade | 10 | 2% | 6 | 3% | 2 | 0% | 7 | 1% | 25 | 1% |
| Energy | 6 | 1% | 1 | 0% | 13 | 2% | 3 | 0% | 23 | 1% |
| Arts and heritage | 5 | 1% | 2 | 1% | 8 | 1% | 4 | 0% | 19 | 1% |
| Tourism, sport, recreation and gaming | 5 | 1% | 2 | 1% | 2 | 0% | 4 | 0% | 13 | 1% |
| Employment and industrial relations | 7 | 1% | 0 | 0% | 0 | 0% | 3 | 0% | 10 | 0% |
| Parliament | 1 | 0% | 0 | 0% | 0 | 0% | 0 | 0% | 1 | 0% |
| Other – unspecified | 5 | 1% | 4 | 2% | 2 | 0% | 31 | 3% | 42 | 2% |

Note: Percentages may not add to 100% because a matter may relate to more or less than one sector.

Table 27: Workplace functions applicable to matters received in 2015–16

| Function | Section 10 complaints (s 10s) | | Public interest disclosures (PIDs) | | Section 11 reports (s 11s) | | Other types of matters (OMs) | | Total for all matters | |
|--|-------------------------------|------------|------------------------------------|-----------|----------------------------|------------|------------------------------|----------|-----------------------|------------------|
| | Number of s 10s | % of s 10s | Number of PIDs | % of PIDs | Number of s 11s | % of s 11s | Number of OMs | % of OMs | Number of matters | % of all matters |
| Human resources and staff administration | 104 | 16% | 106 | 48% | 264 | 44% | 29 | 3% | 503 | 21% |
| Reporting, investigation, sentencing and enforcement | 179 | 27% | 55 | 25% | 55 | 9% | 55 | 6% | 344 | 14% |
| Development applications and land rezoning | 179 | 27% | 20 | 9% | 36 | 6% | 50 | 5% | 285 | 12% |
| Procurement, disposal and partnerships | 98 | 15% | 47 | 21% | 88 | 15% | 27 | 3% | 260 | 11% |
| Allocation of funds, materials and services | 68 | 10% | 19 | 9% | 85 | 14% | 20 | 2% | 192 | 8% |
| Processing of electronic and cash payments | 17 | 3% | 4 | 2% | 30 | 5% | 9 | 1% | 60 | 2% |
| Issue of licences or qualifications | 31 | 5% | 8 | 4% | 2 | 0% | 8 | 1% | 49 | 2% |
| Electoral and political activities | 16 | 2% | 2 | 1% | 26 | 4% | 4 | 0% | 48 | 2% |
| Policy development and information processing | 19 | 3% | 5 | 2% | 3 | 0% | 0 | 0% | 27 | 1% |
| Miscellaneous functions | 80 | 12% | 16 | 7% | 79 | 13% | 50 | 5% | 225 | 9% |

Note: Percentages may not add to 100% because a matter may relate to more or less than one workplace function.

Table 28: Types of corrupt conduct alleged in matters received in 2015–16

| Conduct | Section 10 complaints (s 10s) | | Public interest disclosures (PIDs) | | Section 11 reports (s 11s) | | Other types of matters (OMs) | | Total for all matters | |
|--|-------------------------------|------------|------------------------------------|-----------|----------------------------|------------|------------------------------|----------|-----------------------|------------------|
| | Number of s 10s | % of s 10s | Number of PIDs | % of PIDs | Number of s 11s | % of s 11s | Number of OMs | % of OMs | Number of matters | % of all matters |
| Partiality | 217 | 33% | 101 | 46% | 115 | 19% | 54 | 6% | 487 | 20% |
| Improper use of records or information | 170 | 26% | 49 | 22% | 214 | 35% | 36 | 4% | 469 | 19% |
| Failure to perform required actions | 172 | 26% | 53 | 24% | 122 | 20% | 53 | 6% | 400 | 16% |
| Personal interests | 149 | 23% | 70 | 32% | 124 | 20% | 29 | 3% | 372 | 15% |
| Improper use or acquisition of funds or resources | 84 | 13% | 36 | 16% | 187 | 31% | 21 | 2% | 328 | 13% |
| Intimidating or violent conduct | 78 | 12% | 33 | 15% | 35 | 6% | 26 | 3% | 172 | 7% |
| Bribery, secret commissions and gifts | 72 | 11% | 15 | 7% | 63 | 10% | 13 | 1% | 163 | 7% |
| Corrupt conduct related to investigations or proceedings | 75 | 11% | 31 | 14% | 15 | 2% | 28 | 3% | 149 | 6% |
| Other corrupt conduct | 86 | 13% | 14 | 6% | 27 | 4% | 26 | 3% | 153 | 6% |
| Non-corrupt conduct | 59 | 9% | 13 | 6% | 17 | 3% | 68 | 7% | 157 | 6% |

Note: Percentages may not add to 100% because allegations may involve more than one type of corrupt conduct or allegations of corrupt conduct may not be made.

Appendix 2 – Public interest disclosures

Table 29: Number of public officials who made a PID in 2015–16

| Type of PID | Number of PIDs | Number of public officials | PIDs finalised* |
|--|----------------|----------------------------|-----------------|
| PIDs made by public officials in performing their day-to-day functions as public officials | 0 | 0 | 0 |
| PIDs made under a statutory or other legal obligation (other than those made by public officials performing their day-to-day functions) ** | 40 | 22 | 41 |
| All other PIDs | 220 | 147 | 239 |
| Total | 260 | 169 | 280 |

Note: In a reporting period, a PID may be made anonymously or made by multiple individuals, and one individual may make multiple PIDs.

* Some of these PIDs were made prior to the start of the 2015–16 financial year.

** These arrive at the Commission as s 11 matters.

Table 30: Types of allegations made in PIDs

| Type of PID | Type of allegation | | | | | Total |
|--|--------------------|--------------------|---|---------------------------------------|--|------------|
| | Corrupt conduct | Mal-administration | Serious and substantial waste of public money | Government information contraventions | Local government pecuniary interest contraventions | |
| PIDs made by public officials in performing their day-to-day functions as public officials | 0 | 0 | 0 | 0 | 0 | 0 |
| PIDs made under a statutory or other legal obligation (other than those made by public officials performing their day-to-day functions)* | 39 | 0 | 1 | 0 | 0 | 40 |
| All other PIDs | 217 | 3 | 0 | 0 | 0 | 220 |
| Total | 256 | 3 | 1 | 0 | 0 | 260 |

* These arrive at the Commission as s 11 matters.

Appendix 3 – Statutory reporting

Table 31: Reports under s 76(2) of the ICAC Act

| Section | Reporting requirement | |
|----------------|---|--------------------------------------|
| 76(2)(ba)(i) | The time interval between the lodging of each complaint and the Commission deciding to investigate the complaint | See Table 32 for details |
| 76(2)(ba)(ii) | Number of complaints where investigations were commenced but were not finalised in 2015–16 | 6 |
| 76(2)(ba)(iii) | Average time to deal with complaints | 35 days |
| 76(2)(ba)(iii) | Actual time taken to investigate any matter in which a report is made | See Table 33 for details |
| 76(2)(ba)(iv) | Total number of compulsory examinations during 2015–16 | 65 |
| 76(2)(ba)(iv) | Total number of public inquiries during 2015–16 | 6 |
| 76(2)(ba)(v) | Number of days spent during 2015–16 in conducting public inquiries | 48 |
| 76(2)(ba)(vi) | Time interval between the completion of each public inquiry conducted during 2015–16 and the furnishing of a report on the matter | See Table 23 (Chapter 5) for details |

Report under s 76(2)(d) of the ICAC Act

In 2015–16, the Commission furnished information to the following law enforcement agencies:

- NSW Police Force
- Australian Competition and Consumer Commission
- NSW Electoral Commission
- Fair Work Ombudsman
- NSW Crime Commission
- Environmental Protection Authority
- Independent Broad-based Anti-corruption Commission
- Australian Federal Police
- Police Integrity Commission
- Crime and Corruption Commission (Queensland)
- Australian Taxation Office.

The general nature and extent of information furnished was as follows:

- intelligence and information disseminations relevant to the functions of the above agencies as those functions concern the enforcement of the laws of the Commonwealth, a state or a territory.

Table 32: Time interval between lodging of each complaint and the Commission deciding to investigate the complaint – s 76(2)(ba)(i) of the ICAC Act

| Date matter received | Date decided to investigate | Time interval (days) |
|----------------------|-----------------------------|----------------------|
| 24/6/2015 | 3/7/2015 | 9 |
| 7/7/2015 | 20/7/2015 | 13 |
| 11/7/2013 | 11/8/2015 | 761* |
| 9/6/2015 | 14/8/2015 | 66 |
| 18/8/2015 | 25/8/2015 | 7 |
| 26/8/2015 | 8/9/2015 | 13 |
| 16/9/2015 | 25/9/2015 | 9 |
| 29/9/2015 | 8/10/2015 | 9 |
| 21/10/2015 | 22/10/2015 | 1 |
| 10/9/2015 | 27/10/2015 | 47 |
| 16/10/2015 | 11/11/2015 | 26 |
| 23/10/2015 | 11/11/2015 | 19 |
| 7/7/2015 | 27/11/2015 | 143 |
| 2/11/2015 | 27/11/2015 | 25 |
| 16/12/2015 | 18/1/2016 | 33 |
| 18/1/2016 | 22/1/2016 | 4 |
| 18/4/2016 | 29/4/2016 | 11 |
| 19/4/2016 | 29/4/2016 | 10 |
| 1/5/2016 | 23/5/2016 | 22 |
| 3/6/2016 | 17/6/2016 | 14 |

Note: The Commission may seek further information or conduct preliminary enquiries before deciding to commence an investigation.

* This matter had been referred for investigation previously but a new referral for investigation occurred during 2015–16. The time interval is between the initial receipt of the matter and the date of the second referral (as it was this referral that occurred during the financial year).

Table 33: Actual time taken to investigate any matter in respect of which a report is made – s 76(2)(ba)(iii) of the ICAC Act

| Date referred for investigation | Date investigation completed | Time taken to investigate (days) |
|---------------------------------|------------------------------|----------------------------------|
| 23/7/2014 | 9/5/2016 | 656 |
| 18/9/2014 | 17/8/2015 | 333 |
| 17/11/2014 | 4/5/2016 | 534 |
| 18/12/2014 | 17/12/2015 | 364 |
| 15/1/2015 | 28/8/2015 | 225 |
| 11/3/2015 | 7/7/2015 | 118 |
| 20/5/2015 | 14/6/2016 | 391 |
| 29/5/2015 | 26/10/2015 | 150 |
| 25/6/2015 | 26/10/2015 | 123 |
| 25/6/2015 | 5/2/2016 | 225 |
| 3/7/2015 | 28/9/2015 | 87 |
| 10/9/2015 | 26/10/2015 | 46 |
| 8/10/2015 | 5/2/2016 | 120 |
| 27/10/2015 | 7/12/2015 | 41 |
| 10/12/2015 | 8/4/2016 | 120 |
| 22/12/2015 | 11/3/2016 | 80 |
| 18/1/2016 | 11/3/2016 | 53 |
| 22/1/2016 | 18/4/2016 | 87 |
| 23/5/2016 | 14/6/2016 | 22 |

Note: These figures relate only to matters reported under s 11 of the ICAC Act.

Appendix 4 – Outcomes of matters

Table 34: Key outcomes recorded in 2015–16

| Key outcomes | Section 10 matters | Public interest disclosures | Section 11 reports | Other types of matters | Total |
|---|--------------------|-----------------------------|--------------------|------------------------|-------|
| Number of persons subject to recommendations that advice of Director of Public Prosecutions be sought for prosecution | 1 | 1 | 4 | 0 | 6 |
| ICAC public inquiry | 2 | 0 | 4 | 0 | 6 |
| ICAC investigation | 13 | 7 | 16 | 5 | 41 |
| Corruption prevention recommendations made | 0 | 7 | 7 | 0 | 14 |

Table 35: Other outcomes for matters closed during 2015–16

| | Section 10 matters | Public interest disclosures | Section 11 matters | Other types of matters | Total |
|--|--------------------|-----------------------------|--------------------|------------------------|-------|
| ICAC outcomes | | | | | |
| Intelligence or technical product passed to another agency | 0 | 0 | 0 | 0 | 0 |
| Matter referred to another law enforcement agency | 4 | 0 | 15 | 1 | 20 |
| Referred to another agency for information | 33 | 15 | 5 | 6 | 59 |
| Referred to the subject agency for information | 69 | 47 | 5 | 3 | 124 |
| Systemic issue identified by the Commission | 3 | 2 | 4 | 1 | 10 |
| No further action identified by the Commission | 541 | 121 | 533 | 853 | 2,048 |
| Agency outcomes | | | | | |
| Disciplinary action taken by the agency – Counselling | 0 | 2 | 24 | 1 | 27 |
| Disciplinary action taken by the agency – Dismissal | 0 | 0 | 18 | 0 | 18 |
| Disciplinary action taken by the agency – Resignation | 0 | 0 | 16 | 1 | 17 |
| Disciplinary action taken by the agency – Other | 2 | 4 | 31 | 1 | 38 |
| Disciplinary action proposed by the agency | 1 | 1 | 52 | 0 | 54 |
| Systemic issue identified by the agency | 0 | 4 | 14 | 1 | 19 |
| Systemic issue addressed by the agency | 3 | 9 | 16 | 1 | 29 |
| No action warranted by the agency | 23 | 13 | 38 | 7 | 81 |

Appendix 5 – Prosecution and disciplinary action in 2015–16 arising from ICAC investigations

Table 36: Progress of prosecution matters in 2015–16

The date the investigation report was published is in brackets.

“Crimes Act” refers to the *Crimes Act 1900* (NSW), while the “ICAC Act” refers to the *Independent Commission Against Corruption Act 1988* (NSW).

Investigation into corrupt issuing of driver licences (Operation Sirona) (September 2007)

| Name | Victor Phomsavanh |
|--|--|
| Offences recommended for Director of Public Prosecutions (DPP) consideration | Common law offence of conspiracy to commit misconduct in public office and s 87 ICAC Act (false evidence). |
| DPP advice | On 16 March 2009, the DPP advised there was sufficient admissible evidence to proceed with an offence of conspiracy to commit misconduct in public office and an offence under s 87 ICAC Act. |
| Status | On 22 April 2015, at the District Court, Mr Phomsavanh pleaded guilty to both offences. On 24 July 2015, Mr Phomsavanh was sentenced to 18 months imprisonment with a non-parole period of 12 months in relation to the conspiracy offence. The s 87 offence was taken into account on sentencing. |

Investigation into corrupt conduct affecting the administration of justice in the Wagga Wagga and other local court areas (Operation Segomo) (March 2010)

Note: The brief of evidence in this matter was provided to the DPP in September 2010. The DPP forwarded the brief to the Crown Solicitor’s office for consideration.

| Name | John Hart |
|--|---|
| Offences recommended for DPP consideration | Section 179 Crimes Act (false pretences) and s 319 Crimes Act (pervert the course of justice). |
| Advice | On 14 September 2012, the Crown Solicitor recommended Mr Hart be prosecuted for one s 179 offence and 10 s 319 offences. |
| Status | On 18 November 2013, Mr Hart pleaded guilty to five s 319 offences. The other five s 319 offences were placed on a Form 1 to be taken into account on sentence. On 22 August 2014, convicted and sentenced to a total term of two years and nine months imprisonment with a non-parole period of 22 months. On 3 May 2016, Mr Hart’s appeal against this sentence was dismissed by the NSW Court of Criminal Appeal. On 29 November 2013, Mr Hart was acquitted of the s 179 offence. |

Investigation into alleged corrupt conduct involving Burwood Council's general manager and others (Operation Magnus) (April 2011)

| Name | Pasquale (Pat) Romano |
|--|--|
| Offences recommended for DPP consideration | Section 249C Crimes Act (provide false document), s 178BB Crimes Act (obtain valuable thing by false or misleading statement), common law offence of misconduct in public office, s 20 <i>Public Interest Disclosures Act 1994</i> (taking detrimental action), s 93 ICAC Act (causing disadvantage to persons assisting the Commission) and s 87 ICAC Act (false evidence). |
| DPP advice | <p>In April 2011, the DPP advised there was insufficient evidence to prosecute Mr Romano for any offence under s 20 <i>Public Interest Disclosures Act 1994</i>. The Commission accepted that advice.</p> <p>On 15 August 2012, the DPP advised there was sufficient evidence to prosecute Mr Romano for four offences of misconduct in public office, six s 178BA offences, one s 249C offence and 23 s 87 offences.</p> |
| Status | <p>On 16 May 2014, Mr Romano pleaded guilty to three offences of misconduct in public office, three offences of give false or misleading evidence pursuant to s 87(1) ICAC Act and one offence of fraudulent appropriation pursuant to s 124 Crimes Act. The court was asked to take into account matters contained on a Form 1, being six offences of obtain financial advantage by deception pursuant to s 178BA Crimes Act and three offences of give false or misleading evidence pursuant to s 87(1) ICAC Act.</p> <p>On 7 November 2014, Mr Romano was sentenced to imprisonment for an aggregate term of two years and six months with a non-parole period of 20 months.</p> <p>Mr Romano lodged a notice of intention to appeal. The time for appeal has now lapsed.</p> |

Investigation into corrupt conduct involving alleged fraud on two Sydney hospitals (Operation Charity) (August 2011)

| Name | Sandra Lazarus |
|--|---|
| Offences recommended for DPP consideration | Section 300(1) Crimes Act (make and use false instrument) and s 178BB Crimes Act (obtain valuable thing by false or misleading statement). |
| DPP advice | On 22 February 2013, the DPP advised there was sufficient evidence to prosecute Ms Lazarus for 42 s 300(1) offences and 16 s 178BB offences. |
| Status | <p>On 27 November 2014, Ms Lazarus was found guilty of 16 s 178BB offences and 27 s 300(1) offences. She was found not guilty of 15 s 300(1) offences. The matter was adjourned to 9 February 2015 for sentence.</p> <p>Ms Lazarus was also referred to the NSW Supreme Court for contempt charges under s 24(1) of the <i>Local Court Act 2007</i> for her conduct and refusal to answer questions put to her when directed to do so by the magistrate.</p> <p>On 5 February 2015, Ms Lazarus commenced proceedings in the NSW Supreme Court seeking judicial review of the magistrate's decision. On 16 April 2015, the Supreme Court proceedings were dismissed.</p> <p>On 27 April 2015, Ms Lazarus was sentenced in the Local Court to an aggregate term of 21 months imprisonment with a non-parole period of 16 months. She lodged an all-grounds appeal to the District Court.</p> <p>On 1 June 2015, Ms Lazarus also filed an appeal in the Supreme Court common law division as an appeal on a point of law under the <i>Crimes (Appeal and Review) Act 2001</i>.</p> <p>On 7 July 2015, Ms Lazarus commenced proceedings in the Supreme Court for a stay of her own District Court appeal. Her application was dismissed.</p> <p>On 22 July 2015, Ms Lazarus commenced proceedings for another judicial review of all Local Court criminal proceedings against her.</p> <p>On 31 July 2015, Ms Lazarus filed an appeal to the Court of Appeal of the decision of 16 April 2015. On 15 December 2015, the Court of Appeal dismissed her application.</p> <p>A notice of motion was filed by the DPP seeking orders that Ms Lazarus' appeals to the Supreme Court filed on 1 June 2015 and 22 July 2015 were each an abuse of process. On 2 December 2015, both these proceedings were dismissed as abuses of process.</p> <p>Ms Lazarus filed a notice of motion in the District Court seeking an order that the criminal proceedings be struck out on the ground that Commission officers could not commence criminal proceedings by way of a court attendance notice. The motion was heard on 16 November 2015 and 24 June 2016. Decision reserved to 12 August 2016.</p> <p>The District Court appeal against conviction and sentence is in abeyance pending the outcome of the hearing on the notice of motion.</p> |

| Name | Michelle Lazarus |
|--|--|
| Offences recommended for DPP consideration | Section 87 ICAC Act (false evidence). |
| DPP advice | On 22 February 2013, the DPP advised sufficient evidence to prosecute Ms Lazarus for seven s 87 offences. |
| Status | <p>On 23 May 2014, Ms Lazarus was found guilty of seven s 87 offences. On 14 July 2014, she was sentenced to a total term of nine months imprisonment, which was suspended pursuant to s 12 <i>Crimes (Sentencing Procedure) Act 1999</i> on the condition that she enter into a good behaviour bond.</p> <p>Ms Lazarus lodged an appeal against conviction and sentence to the District Court. Before this appeal could be heard, she commenced proceedings in the NSW Supreme Court for judicial review of the Local Court conviction and sentence. On 21 August 2015, the proceedings were dismissed. She then filed a summons seeking leave to appeal to the Court of Appeal. On 14 March 2016, the Court of Appeal refused leave to appeal.</p> <p>Ms Lazarus filed a notice of motion in the District Court seeking an order that the criminal proceedings be struck out on the ground that Commission officers could not commence criminal proceedings by way of a court attendance notice. The motion was heard on 16 November 2015 and 24 June 2016. Decision reserved to 12 August 2016.</p> <p>Ms Lazarus' District Court appeal against conviction and sentence is in abeyance pending the outcome of the hearing on the notice of motion.</p> |

Investigation into the conduct of officers of the Wagonga Local Aboriginal Land Council and others (Operation Petrie) (September 2012)

| Name | Ronald Medich |
|--|---|
| Offences recommended for DPP consideration | Section 249F Crimes Act (aiding and abetting corrupt practices). |
| DPP advice | On 16 January 2013, briefs of evidence were sent to the DPP. |
| Status | The DPP is awaiting the outcome of another criminal proceeding involving Mr Medich before finalising its advice in relation to this matter. |

| Name | Ron Mason |
|--|---|
| Offences recommended for DPP consideration | Section 249B(1) Crimes Act (corruptly receiving benefit) and common law offence of misconduct in public office. |
| DPP advice | On 16 January 2013, briefs of evidence were sent to the DPP. |
| Status | The DPP is awaiting the outcome of another criminal proceeding involving Mr Medich before finalising its advice in relation to this matter. |

| Name | Ken Foster |
|--|---|
| Offences recommended for DPP consideration | Section 249B(1) Crimes Act (corruptly receiving benefit) and common law offence of misconduct in public office. |
| DPP advice | On 16 January 2013, briefs of evidence were sent to the DPP. |
| Status | The DPP is awaiting the outcome of another criminal proceeding involving Mr Medich before finalising its advice in relation to this matter. |

| Name | Vanessa Mason |
|--|---|
| Offences recommended for DPP consideration | Section 249B(1) Crimes Act (corruptly receiving benefit) and common law offence of misconduct in public office. |
| DPP advice | On 16 January 2013, briefs of evidence were sent to the DPP. |
| Status | The DPP is awaiting the outcome of another criminal proceeding involving Mr Medich before finalising its advice in relation to this matter. |

Investigation into allegations that a manager at the University of Technology, Sydney (UTS) solicited and accepted money, gifts and other benefits from UTS contractors (Operation Stark) (March 2013)

| Name | Nabil Faysal |
|--|---|
| Offences recommended for DPP consideration | Section 249B(1) Crimes Act (corruptly receiving a benefit). |
| DPP advice | On 24 September 2014, the DPP advised sufficient evidence to charge Mr Faysal with nine s 249B(1)(a) offences and 11 s 178BB Crimes Act offences (obtaining money by false or misleading statements). |
| Status | On 10 December 2014, upon his return to Australia from Qatar, Mr Faysal was charged with nine s 249B(1)(a) Crimes Act offences and 11 s 178BB offences. On 16 June 2016, Mr Faysal was found guilty of all charges. The matters are adjourned to 14 September 2016 for sentence. |

Investigation into the conduct of Ian Macdonald, Ronald Medich and others (Operation Jarilo) (July 2013)

| Name | Ian Macdonald |
|--|---|
| Offences recommended for DPP consideration | Section 249B(1) Crimes Act (corruptly receiving a benefit) and the common law offence of misconduct in public office. |
| DPP advice | On 6 August 2013, briefs of evidence were sent to the DPP. |
| Status | The DPP is awaiting the outcome of another criminal proceeding involving Mr Medich before finalising its advice in relation to this matter. |

| Name | Ronald Medich |
|--|---|
| Offences recommended for DPP consideration | Section 249B(2) Crimes Act (corruptly giving a benefit). |
| DPP advice | On 6 August 2013, briefs of evidence were sent to the DPP. |
| Status | The DPP is awaiting the outcome of another criminal proceeding involving Mr Medich before finalising its advice in relation to this matter. |

Investigation into the conduct of Moses Obeid, Eric Roozendaal and others (Operation Indus) (July 2013)

| Name | Moses Obeid |
|--|---|
| Offences recommended for DPP consideration | Section 87 ICAC Act (false evidence). |
| DPP advice | On 30 September 2013, briefs of evidence were sent to the DPP. |
| Status | The Commission is awaiting the DPP's decision on whether proceedings will be taken. |

| Name | Paul Obeid |
|--|---|
| Offences recommended for DPP consideration | Section 87 ICAC Act (false evidence). |
| DPP advice | On 30 September 2013, briefs of evidence were sent to the DPP. |
| Status | The Commission is awaiting the DPP's decision on whether proceedings will be taken. |

| Name | Rocco Triulcio |
|--|---|
| Offences recommended for DPP consideration | Section 87 ICAC Act (false evidence). |
| DPP advice | On 30 September 2013, briefs of evidence were sent to the DPP. |
| Status | The Commission is awaiting the DPP's decision on whether proceedings will be taken. |

| Name | Rosario Triulcio |
|--|---|
| Offences recommended for DPP consideration | Section 87 ICAC Act (false evidence). |
| DPP advice | On 30 September 2013, briefs of evidence were sent to the DPP. |
| Status | The Commission is awaiting the DPP's decision on whether proceedings will be taken. |

Investigation into the conduct of Ian Macdonald, Edward Obeid Senior, Moses Obeid and others (Operation Jasper) (July 2013)

| Name | Ian Macdonald |
|--|--|
| Offences recommended for DPP consideration | Common law offence of conspiracy to defraud or misconduct in public office. |
| DPP advice | On 17 July 2015, the DPP advised that it filed a Court Attendance Notice for the common law offence of conspiracy to commit misconduct in public office. |
| Status | The matter is listed for committal hearing between 29 August and 2 September 2016. |

| Name | Edward Obeid |
|--|--|
| Offences recommended for DPP consideration | Criminal offences of conspiracy to defraud, or aiding and abetting or conspiracy to commit the offence of misconduct in public office. |
| DPP advice | On 17 July 2015, the DPP advised that it filed a Court Attendance Notice for the common law offence of conspiracy to commit misconduct in public office. |
| Status | The matter is listed for committal hearing between 29 August and 2 September 2016. |

| Name | Moses Obeid |
|--|--|
| Offences recommended for DPP consideration | Criminal offences of conspiracy to defraud, or aiding and abetting or conspiracy to commit the offence of misconduct in public office. |
| DPP advice | On 17 July 2015, the DPP advised that it filed a Court Attendance Notice for the common law offence of conspiracy to commit misconduct in public office. |
| Status | The matter is listed for committal hearing between 29 August and 2 September 2016. |

| Name | Travers Duncan |
|--|--|
| Offences recommended for DPP consideration | Section 192E Crimes Act (obtain financial advantage by deception) and s 184(1) of the <i>Corporations Act 2001</i> . |
| DPP advice | Briefs of evidence were sent to the DPP between 31 March and 10 July 2014. |
| Status | The Commission is awaiting the DPP's decision on whether to commence proceedings. |

| Name | John McGuigan |
|--|--|
| Offences recommended for DPP consideration | Section 192E Crimes Act (obtain financial advantage by deception) and s 184(1) of the <i>Corporations Act 2001</i> . |
| DPP advice | Briefs of evidence were sent to the DPP between 31 March and 10 July 2014. |
| Status | The Commission is awaiting the DPP's decision on whether to commence proceedings. |

| Name | John Atkinson |
|--|---|
| Offences recommended for DPP consideration | Section 192E Crimes Act (obtain financial advantage by deception) and s 184(1) <i>Corporations Act 2001</i> . |
| DPP advice | Briefs of evidence were sent to the DPP between 31 March and 10 July 2014. |
| Status | The Commission is awaiting the DPP's decision on whether to commence proceedings. |

| Name | Richard Poole |
|--|---|
| Offences recommended for DPP consideration | Section 192E Crimes Act (obtain financial advantage by deception). |
| DPP advice | Briefs of evidence were sent to the DPP between 31 March and 10 July 2014. |
| Status | The Commission is awaiting the DPP's decision on whether to commence proceedings. |

| Name | John Kinghorn |
|--|---|
| Offences recommended for DPP consideration | Section 184(1) <i>Corporations Act 2001</i> . |
| DPP advice | Briefs of evidence were sent to the DPP between 31 March and 10 July 2014. |
| Status | The Commission is awaiting the DPP's decision on whether to commence proceedings. |

Investigation into the conduct of Ian Macdonald, John Maitland and others (Operation Acacia) (August 2013)

| Name | Ian Macdonald |
|--|--|
| Offences recommended for DPP consideration | Common law offence of misconduct in public office. |
| DPP advice | On 5 November 2014, the DPP advised sufficient evidence to prosecute Mr Macdonald for two offences of misconduct in public office. |
| Status | In order to dispense with the need for committal proceedings, the DPP found an ex officio indictment in relation to the offences. The DPP then sought and gained the permission of the Chief Justice of the Supreme Court to have the matters tried before the NSW Supreme Court. The matters are listed for trial on 6 February 2017. |

| Name | John Maitland |
|--|---|
| Offences recommended for DPP consideration | Section 178BB Crimes Act (publish false or misleading statements), common law offence of accessory before the fact to misconduct in public office, offences under s 112(2) and s 87(1)(a) ICAC Act, and s 184(1) of the <i>Corporations Act 2001</i> . |
| DPP advice | <p>On 2 September 2014, the DPP advised sufficient evidence to prosecute Mr Maitland for a s 87 offence.</p> <p>On 5 November 2014, the DPP advised sufficient evidence to prosecute Mr Maitland for two offences of accessory before the fact to misconduct in public office.</p> <p>On 17 July 2015, the DPP advised that there was sufficient evidence to prosecute Mr Maitland for five s 178BB offences.</p> |
| Status | <p>On 21 December 2015, Mr Maitland was convicted of the s 87 offence and on 7 March 2016 placed on a good behaviour bond for two years and ordered to pay a fine of \$3,000.</p> <p>In order to dispense with the need for committal proceedings, the DPP found an ex officio indictment in relation to the misconduct in public office offences. The DPP then sought and gained the permission of the Chief Justice of the Supreme Court to have the matters tried before the NSW Supreme Court. The matters are listed for trial on 6 February 2017.</p> <p>The matters relating to the s 178BB offences have been set down for trial on 5 September 2017.</p> |

| Name | Craig Ransley |
|--|---|
| Offences recommended for DPP consideration | Section 178BB Crimes Act (publish false or misleading statements), and s 184(1) <i>Corporations Act 2001</i> . |
| DPP advice | On 17 July 2015, the DPP advised that there was sufficient evidence to prosecute Mr Ransley for two s 178BB offences. |
| Status | Set down for trial on 5 September 2017. |

| Name | Andrew Poole |
|--|---|
| Offences recommended for DPP consideration | Section 178BB Crimes Act (publish false or misleading statements), and s 184(1) <i>Corporations Act 2001</i> . |
| DPP advice | On 17 July 2015, the DPP advised that there was insufficient evidence to proceed with any charges against Mr Poole. |
| Status | The DPP's advice has been accepted by the Commission. |

Investigation into allegations of corrupt conduct in the provision of security products and products by suppliers, installers and consultants (Operation Tilga) (September 2013)

| Name | Peter (Charles) Diekman |
|--|--|
| Offences recommended for DPP consideration | Section 249B(2) Crimes Act (corruptly giving a benefit). |
| DPP advice | On 17 April 2015, the DPP advised sufficient evidence to charge Mr Diekman with five offences under s 249B(2) Crimes Act. |
| Status | Mr Diekman's trial took place during the week of 11 April 2016. The matter has been adjourned to a date to be fixed for the prosecution and legal representatives to provide submissions to the court. |

| Name | Robert Huskic |
|--|---|
| Offences recommended for DPP consideration | Section 249B(1) Crimes Act (corruptly giving a benefit) and s 254(b)(iii) Crimes Act (use false instrument). |
| DPP advice | On 17 April 2015, the DPP advised sufficient evidence to charge Mr Huskic with five offences under s 249B(2) Crimes Act and two offences under s 254(b)(iii) of the Crimes Act. |
| Status | Mr Huskic's trial took place during the week of 11 April 2016. The matter has been adjourned to a date to be fixed for the prosecution and legal representatives to provide submissions to the court. |

Investigation into false certifications of heavy vehicle competency-based assessments by a Roads and Maritime Services-accredited assessor (Operation Nickel) (January 2014)

| Name | Christopher Binos |
|--|--|
| Offences recommended for DPP consideration | Section 249B(1) Crimes Act (corruptly soliciting or receiving a benefit). |
| DPP advice | On 13 October 2014, the DPP advised sufficient evidence to charge Mr Binos with four offences under s 249B(1) Crimes Act. |
| Status | On 19 February 2016, Mr Binos pleaded guilty in the District Court. He was sentenced to two years imprisonment to be served by way of an intensive correction order. |

Investigation into the conduct of the commissioner of the NSW State Emergency Service (Operation Dewar) (May 2014)

| Name | Murray Kear |
|--|--|
| Offences recommended for DPP consideration | Section 20 <i>Public Interest Disclosures Act 1994</i> (taking detrimental action in reprisal for a person making a public interest disclosure). |
| DPP advice | On 3 February 2015, the DPP advised sufficient evidence to charge Mr Kear with one s 20 offence. |
| Status | The trial commenced on 12 October 2015 and was adjourned to 8 February 2016. On 16 March 2016, Mr Kear was acquitted. Following the trial, Mr Kear's legal representative made an application that the DPP pay Mr Kear's legal costs in the proceedings. On 25 May 2016, this application was granted. |

Investigation into the conduct of the Hon Edward Obeid MLC and others concerning Circular Quay Retail Lease Policy (Operation Cyrus) (June 2014)

| Name | Edward Obeid |
|--|---|
| Offences recommended for DPP consideration | Common law offence of misconduct in public office. |
| DPP advice | On 19 November 2014, the DPP advised sufficient evidence to proceed with one offence of misconduct in public office. |
| Status | On 19 March 2015, the DPP presented an ex officio indictment before the District Court. The DPP also sought and obtained the permission of the Chief Justice of the Supreme Court to have the matter removed to the NSW Supreme Court. On 28 June 2016, following a Supreme Court trial, the jury returned a verdict of guilty. The matter was stood over to 12 August 2016 for sentencing. |

Investigation into the conduct of certain City of Ryde councillors and others (Operation Cavill) (June 2014)

| Name | Ivan Petch |
|--|--|
| Offences recommended for DPP consideration | Two common law offences of misconduct in public office, five s 87 ICAC Act (false or misleading evidence), one s 249K Crimes Act offence (making an unwarranted demand with menaces with the intention of influencing the exercise of a public duty), and s 96E <i>Election Funding, Expenditure and Disclosures Act 1981</i> ("the EFED Act") offences (accepting an indirect campaign contribution). |
| DPP advice | On 15 April 2015, the DPP advised that, subject to further advice on particular matters, there was sufficient evidence to proceed with one offence of misconduct in public office, six s 87(1) ICAC Act offences, two offences pursuant to s 249K Crimes Act, two s 96E(2) EFED Act offences, and two s 96H(2) EFED Act offences. |
| Status | A committal on the papers has been set down for 17 October 2016. On 30 April 2015, information in relation to offences against the EFED Act was provided to the NSW Electoral Commission, following advice from the NSW Electoral Commission that it was taking over prosecution of offences under the EFED Act. Despite the advice of the DPP (see above), on 26 August 2015, the NSW Electoral Commission advised that it had formed the view that there was insufficient evidence to commence proceedings for offences under the EFED Act. |

| Name | John Goubran |
|--|--|
| Offences recommended for DPP consideration | One s 249K Crimes Act offence (making an unwarranted demand with menaces with the intention of influencing the exercise of a public duty). |
| DPP advice | On 15 April 2015, the DPP advised that, subject to further advice on particular matters, there was sufficient evidence to proceed with one s 249K offence. |
| Status | A committal on the papers has been set down for 17 October 2016. |

| Name | Anthony Stavrinos |
|--|---|
| Offences recommended for DPP consideration | One s 87 ICAC Act offence (giving false or misleading evidence). |
| DPP advice | On 15 April 2015, the DPP advised that, subject to further advice on a particular matter, there was sufficient evidence to proceed with one s 87 offence. |
| Status | On 6 May 2016, Mr Stavrinos was convicted. On 13 May 2016, Mr Stavrinos was sentenced to a term of 12 months imprisonment with a non-parole period of seven months. He lodged an appeal to the District Court, and has been granted conditional bail. Mr Stavrinos' appeal against conviction and sentence is listed to be heard on 22 August 2016. |

| Name | John Booth |
|--|---|
| Offences recommended for DPP consideration | One s 87 ICAC Act offence (giving false or misleading evidence). |
| DPP advice | On 15 April 2015, the DPP advised that, subject to further advice on a particular matter, there was sufficient evidence to proceed with one s 87 offence. |
| Status | Mr Booth's trial commenced on 11 February 2016 in the Local Court. It was adjourned part-heard to 11 April 2016, on which date Mr Booth was acquitted. |

| Name | Richard Henricus |
|--|--|
| Offences recommended for DPP consideration | One s 249B(2) Crimes Act offence (corruptly offering a benefit). |
| DPP advice | On 15 April 2015, the DPP advised that, subject to further advice on a particular matter, there was sufficient evidence to proceed with one s 249B(2) offence. |
| Status | On 28 June 2016, Mr Henricus was sentenced to 100 hours community service. |

| Name | Justin Li |
|--|--|
| Offences recommended for DPP consideration | One s 96E EFED Act offence (accepting an indirect campaign contribution). |
| DPP advice | On 15 April 2015, the DPP advised sufficient evidence to proceed with one s 96E EFED Act offence and a further offence pursuant to s 96H(2) EFED Act. |
| Status | On 30 April 2015, information in relation to offences against the EFED Act was provided to the NSW Electoral Commission, following advice from the NSW Electoral Commission that it was taking over prosecution of offences under the EFED Act. Despite the advice of the DPP (see above), on 26 August 2015, the NSW Electoral Commission advised that it had formed the view that there was insufficient evidence to commence proceedings for offences under the EFED Act. |

| Name | Jeffrey Salvestro-Martin |
|--|--|
| Offences recommended for DPP consideration | One s 96E EFED Act offence (accepting an indirect campaign contribution). |
| DPP advice | On 15 April 2015, the DPP advised sufficient evidence to proceed with one s 96E EFED Act offence and a further offence pursuant to s 96H(2) EFED Act. |
| Status | On 30 April 2015, information in relation to offences against the EFED Act was provided to the NSW Electoral Commission, following advice from the NSW Electoral Commission that it was taking over prosecution of offences under the EFED Act. Despite the advice of the DPP (see above), on 26 August 2015, the NSW Electoral Commission advised that it had formed the view that there was insufficient evidence to commence proceedings for offences under the EFED Act. |

| Name | Terry Perram |
|--|--|
| Offences recommended for DPP consideration | One s 96E EFED Act offence (accepting an indirect campaign contribution). |
| DPP advice | On 15 April 2015, the DPP advised sufficient evidence to proceed with one s 96E EFED Act offence and a further offence pursuant to s 96H(2) EFED Act. |
| Status | On 30 April 2015, information in relation to offences against the EFED Act was provided to the NSW Electoral Commission, following advice from the NSW Electoral Commission that it was taking over prosecution of offences under the EFED Act. Despite the advice of the DPP (see above), on 26 August 2015, the NSW Electoral Commission advised that it had formed the view that there was insufficient evidence to commence proceedings for offences under the EFED Act. |

| Name | Victor Tagg |
|--|---|
| Offences recommended for DPP consideration | One s 96E EFED Act offence (accepting an indirect campaign contribution). |
| DPP advice | On 15 April 2015, the DPP advised sufficient evidence to proceed with one s 96E EFED Act offence and a further offence pursuant to s 96H(2) EFED Act. |
| Status | Information in relation to offences against the EFED Act was provided to the NSW Electoral Commission on 30 April 2015, following advice from the NSW Electoral Commission that it was taking over prosecution of offences under the EFED Act. Despite the advice of the DPP (see above), on 26 August 2015, the NSW Electoral Commission advised that it had formed the view that there was insufficient evidence to commence proceedings for offences under the EFED Act. |

Investigations into the conduct of the Hon Edward Obeid MLC and others in relation to influencing the granting of water licences and the engagement of Direct Health Solutions Pty Ltd (Operations Cabot and Meeka) (June 2014)

| Name | Edward Obeid |
|--|---|
| Offences recommended for DPP consideration | Common law offence of misconduct in public office. |
| DPP advice | On 7 October 2014, briefs of evidence were sent to the DPP. |
| Status | The Commission is awaiting the DPP's advice. |

Investigation into the conduct of a RailCorp manager and a Housing NSW employee (Operation Spector) (October 2014)

| Name | Joseph Camilleri |
|--|--|
| Offences recommended for DPP consideration | Section 249B(1) Crimes Act (corruptly receiving a benefit). |
| DPP advice | On 2 February 2016, the DPP advised there is sufficient evidence to proceed with one offence of misconduct in public office. |
| Status | The matter is listed for mention on 26 July 2016. |

| Name | Kevin McCarthy |
|--|---|
| Offences recommended for DPP consideration | Section 249B(2) Crimes Act (corruptly giving a benefit). |
| DPP advice | On 2 February 2016, the DPP advised there was insufficient evidence to prosecute Mr McCarthy. |
| Status | The DPP's advice has been accepted by the Commission. |

| Name | Sam Cassar |
|--|---|
| Offences recommended for DPP consideration | Section 249B(2) Crimes Act (corruptly giving a benefit). |
| DPP advice | On 2 February 2016, the DPP advised there was insufficient evidence to prosecute Mr Cassar. |
| Status | The DPP's advice has been accepted by the Commission. |

| Name | Carmen Attard |
|--|---|
| Offences recommended for DPP consideration | Section 249B(1) Crimes Act (corruptly receiving a benefit). |
| DPP advice | On 2 February 2016, the DPP advised there was insufficient evidence to prosecute Ms Attard. |
| Status | The DPP's advice has been accepted by the Commission. |

| Name | Jessica Camilleri |
|--|---|
| Offences recommended for DPP consideration | Section 351A Crimes Act (recruiting a person to carry out a criminal activity). |
| DPP advice | On 2 February 2016, the DPP advised there is sufficient evidence to proceed with three counts of using a false document contrary to s 254(b)(ii) Crimes Act and one common law offence of inciting a crime. |
| Status | The matter is listed for mention on 26 July 2016. |

Investigation into allegations that an Ausgrid engineer corruptly solicited and accepted benefits from Ausgrid contractors and subcontractors (Operation Jarah) (June 2015)

| Name | Phillip Cresnar |
|--|--|
| Offences recommended for DPP consideration | Section 249B(1)(a) Crimes Act (corrupt commissions), s 249B(1)(b) Crimes Act, s 89(a) ICAC Act (attempt to procure the giving of false testimony), and s 87(1) ICAC Act (giving false or misleading evidence). |
| DPP advice | On 17 July 2015, a brief of evidence was provided to the DPP. |
| Status | The Commission is awaiting the DPP's advice. |

| Name | Dennis Twomey |
|--|---|
| Offences recommended for DPP consideration | Offences under s 249B(2)(b) Crimes Act (corrupt commissions) and s 114(1) ICAC Act (disclosing information about a Commission summons). |
| DPP advice | On 17 July 2015, a brief of evidence was provided to the DPP. |
| Status | The Commission is awaiting the DPP's advice. |

| Name | Eamon Burke |
|--|--|
| Offences recommended for DPP consideration | Offences under s 249B(2)(b) Crimes Act (corrupt commissions) and s 112 ICAC Act (disclosing information about attendance at a compulsory examination). |
| DPP advice | On 17 July 2015, a brief of evidence was provided to the DPP. |
| Status | The Commission is awaiting the DPP's advice. |

| Name | Patrick Miskelly |
|--|---|
| Offences recommended for DPP consideration | Section 249B(2)(b) Crimes Act (corrupt commissions). |
| DPP advice | On 17 July 2015, a brief of evidence was provided to the DPP. |
| Status | The Commission is awaiting the DPP's advice. |

| Name | John Madden |
|--|---|
| Offences recommended for DPP consideration | Section 249B(2)(a) Crimes Act (corrupt commissions). |
| DPP advice | On 17 July 2015, a brief of evidence was provided to the DPP. |
| Status | The Commission is awaiting the DPP's advice. |

| Name | Fergal McGann |
|--|---|
| Offences recommended for DPP consideration | Section 249B(2)(a) Crimes Act (corrupt commissions). |
| DPP advice | On 17 July 2015, a brief of evidence was provided to the DPP. |
| Status | The Commission is awaiting the DPP's advice. |

Investigation into the conduct of a university manager and others in relation to false invoicing (Operation Misto) (June 2015)

| Name | Brett Roberts |
|--|---|
| Offences recommended for DPP consideration | Section 178BA Crimes Act (obtaining money by deception), s 300 Crimes Act (using a false instrument), s 192E Crimes Act (fraud), s 344A Crimes Act (attempt to commit offence), s 254 Crimes Act (using a false document), and offences under s 87 ICAC Act (giving false and misleading evidence). |
| DPP advice | On 2 December 2015, a brief of evidence was provided to the DPP. |
| Status | The Commission is awaiting the DPP's advice. |

| Name | Christopher Killalea |
|--|--|
| Offences recommended for DPP consideration | Section 178BA (obtain money by deception), s 192E (fraud) and s 254 (using false document) Crimes Act. |
| DPP advice | On 2 December 2015, a brief of evidence was provided to the DPP. |
| Status | The Commission is awaiting the DPP's advice. |

Investigation into the conduct of officers of the NSW Rural Fire Service and others (Operation Vika) (December 2015)

| Name | John Hacking |
|--|--|
| Offences recommended for DPP consideration | Section 249B(1)(b) (corrupt commissions), s 192E(1)(b) (fraud) and s 159 (larceny by a person in the public service) Crimes Act. |
| DPP advice | On 7 June 2016, the DPP advised that there is sufficient evidence to prosecute the following offences: <ul style="list-style-type: none"> • 14 s 249B(1)(b) Crimes Act • three s 159 Crimes Act • two s 192G(b) Crimes Act (dishonestly making statements) • one s 249C(1) Crimes Act (misleading document) • one s 193B(1) Crimes Act (dealing with proceeds of crime) • two s 80(c) ICAC Act (making false statement). |
| Status | Court attendance notices to be served. |

| Name | Scott Homsey |
|--|--|
| Offences recommended for DPP consideration | Section 249B(2)(b) Crimes Act (corrupt commissions), s 192E(1)(b) Crimes Act (fraud), s 87(1) ICAC Act (false evidence) and s 80(c) ICAC Act (make false statement). |
| DPP advice | On 20 January 2016, a brief of evidence was provided to the DPP. |
| Status | The Commission is awaiting the DPP's advice. |

| Name | Gay Homsey |
|--|--|
| Offences recommended for DPP consideration | Section 249F(1) Crimes Act (aiding, abetting corrupt commissions) and s 87(1) ICAC Act (false evidence). |
| DPP advice | A brief of evidence was provided to the DPP on 20 January 2016. |
| Status | The Commission is awaiting the DPP's advice. |

Investigation into the conduct of a TAFE NSW ICT manager (Operation Sonet) (March 2016)

| Name | Ronald Cordoba |
|--|--|
| Offences recommended for DPP consideration | Offences under s 192E Crimes Act (fraud), and s 80 (false statement) and s 87 (false evidence) ICAC Act. |
| DPP advice | On 11 March 2016, a brief of evidence was provided to the DPP. |
| Status | The Commission is awaiting the DPP's advice. |

Investigation into the conduct of a Mine Subsidence Board district manager (Operation Tunic) (March 2016)

The Commission is of the opinion that the advice of the DPP should be obtained with respect to the prosecution of Darren Bullock for offences under s 249B(1)(a) of the Crimes Act, making false instruments under s 300(1) of the Crimes Act, making false documents under s 253 of the Crimes Act, using false instruments under s 300(2) of the Crimes Act, using false documents under s 254 of the Crimes Act, recruiting a person to carry out a criminal activity under s 351A of the Crimes Act, the common law offence of misconduct in public office, giving false or misleading evidence under s 87(1) of the ICAC Act, procuring the giving of false testimony under s 89(a) of the ICAC Act, and s 88(2)(a) of the ICAC Act.

Briefs of evidence are being prepared and will be forwarded to the DPP.

Investigation into the conduct of a University of Sydney ICT manager (Operation Elgar) (May 2016)

| Name | Balu Moothedath |
|--|---|
| Offences recommended for DPP consideration | Offences under s 87 ICAC Act (false evidence) and s 89 ICAC Act (attempting to procure false evidence). |
| DPP advice | On 22 June 2016, a brief of evidence was provided to the DPP. |
| Status | The Commission is awaiting the DPP's advice. |

Table 37: Progress of disciplinary matters in 2015–16

There were no matters in 2015–16 in relation to which the Commission was of the opinion in all the circumstances that consideration should be given to the taking of action against any person for a specified disciplinary offence pursuant to s 74A(2)(b) of the ICAC Act, or the taking of action against any person as a public official on specified grounds, with a view to dismissing, dispensing with the services of, or otherwise terminating the services of the public official pursuant to s 74A(2)(c) of the ICAC Act

Appendix 6 – Implementation of corruption prevention recommendations

After an investigation report is made public, the Commission monitors the implementation of the action plans that public authorities develop in response to corruption prevention recommendations in accordance with s 111E(2) of the ICAC Act.

As a matter of practice, the Commission also liaises with agencies during the development of recommendations and the implementation period,

as appropriate. In this way, alternative but equally effective ways of implementing corruption prevention recommendations may be developed.

Tables 38 and 39 present the progress made by agencies during 2015–16 in implementing action plans developed in response to corruption prevention recommendations made by the Commission.

Table 38: Progress reports received in 2015–16

| Public inquiry | Agency | Number of recommendations | Date report received | Implemented as described in report | Implemented in an alternative way | Partially implemented | Not implemented | % partially implemented | % fully implemented |
|----------------|-------------------------|---------------------------|----------------------|------------------------------------|-----------------------------------|-----------------------|-----------------|-------------------------|---------------------|
| Drake | Corrective Services NSW | 5 | 6/10/15 | 4 | 0 | 1 | 0 | 20% | 80% |

Table 39: Final reports received in 2015–16

| Public inquiry | Agency | Number of recommendations | Date report received | Implemented as described in the report | Implemented in an alternative way | Partially implemented | Not implemented | % partially implemented | % fully implemented |
|----------------|---|---------------------------|----------------------|--|-----------------------------------|-----------------------|-----------------|-------------------------|---------------------|
| Misto* | Macquarie University | 1 | 12/10/2015 | 1 | 0 | 0 | 0 | 0% | 100% |
| Sonet* | TAFE NSW South Western Sydney Institute | 3 | 3/06/2016 | 3 | 0 | 0 | 0 | 0% | 100% |
| Jarek | Broken Hill City Council | 15 | 30/05/2016 | 10 | 1 | 1 | 3 | 7% | 73% |
| | Narrandera Shire Council | 15 | 27/06/2016 | 6 | 3 | 4 | 2 | 27% | 60% |
| | Walgett Shire Council | 15 | 30/06/2016 | 10 | 3 | 1 | 1 | 7% | 87% |
| Tilga | NSW Health | 3 | 12/02/2016 | 2 | 1 | 0 | 0 | 0% | 100% |
| | Western Sydney University | 10 | 8/02/2016 | 9 | 1 | 0 | 0 | 0% | 100% |
| | Port Authority of NSW | 10 | 12/02/2016 | 1 | 8 | 0 | 1 | 0% | 90% |

* With Operation Misto and Operation Sonet, all recommendations were fully implemented at the time the organisation's action plans were submitted to the Commission. As such, no further follow up was required and the action plan was accepted as the final report.

Appendix 7 – Report on ICAC’s obligations under the *Government Information (Public Access) Act 2009*

Section 125 of the *Government Information (Public Access) Act 2009* (“the GIPA Act”) requires an agency to prepare an annual report on the agency’s obligations under the GIPA Act. The *Government Information (Public Access) Regulation 2009* sets out what must be included in the report. This appendix contains the information required to be reported by the Commission.

Section 7(3) of the GIPA Act provides that an agency must, at intervals of not more than 12 months, review its program for the release of government information to identify the kinds of government information held by the agency that should in the public interest be made publicly available and that can be made publicly available without imposing unreasonable additional costs on the agency. During the reporting period, the Commission conducted one such review.

The Commission also reviewed and updated its information guide.

The Commission received no valid access applications during the reporting period.

Tables 40–47 provide statistical information about access applications – clause 7(d) and Schedule 2.

Table 40: Number of applications by type of applicant and outcome*

| | Access granted in full | Access granted in part | Access refused in full | Information not held | Information already available | Refuse to deal with application | Refuse to confirm/deny whether information is held | Application withdrawn |
|---|------------------------|------------------------|------------------------|----------------------|-------------------------------|---------------------------------|--|-----------------------|
| Media | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Members of Parliament | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Private sector business | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Not-for-profit organisations or community groups | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Members of the public (application by legal representative) | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Members of the public (other) | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

* More than one decision can be made in respect of a particular access application. If so, a recording must be made in relation to each such decision. This also applies to Table 41.

Table 41: Number of applications by type of application and outcome

| | Access granted in full | Access granted in part | Access refused in full | Information not held | Information already available | Refuse to deal with application | Refuse to confirm/deny whether information is held | Application withdrawn |
|--|------------------------|------------------------|------------------------|----------------------|-------------------------------|---------------------------------|--|-----------------------|
| Personal information applications* | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Access applications (other than personal information applications) | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Access applications that are partly personal information applications and partly other | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

* A "personal information application" is an access application for personal information (as defined in clause 4 of Schedule 4 to the GIPA Act) about the applicant (the applicant being an individual).

Table 42: Invalid applications

| Reason for invalidity | Number of applications |
|--|------------------------|
| Application does not comply with formal requirements (s 41 of the GIPA Act) | 0 |
| Application is for excluded information of the agency (s 43 of the GIPA Act) | 3 |
| Application contravenes restraint order (s 110 of the GIPA Act) | 0 |
| Total number of invalid applications received | 3 |
| Invalid applications that subsequently became valid applications | 0 |

Table 43: Conclusive presumption of overriding public interest against disclosure: matters listed in Schedule 1 to the GIPA Act

| | Number of times consideration used* |
|---|-------------------------------------|
| Overriding secrecy laws | 0 |
| Cabinet information | 0 |
| Executive Council information | 0 |
| Contempt | 0 |
| Legal professional privilege | 0 |
| Excluded information | 0 |
| Documents affecting law enforcement and public safety | 0 |
| Transport safety | 0 |
| Adoption | 0 |
| Care and protection of children | 0 |
| Ministerial code of conduct | 0 |
| Aboriginal and environmental heritage | 0 |

* More than one public interest consideration may apply in relation to a particular access application and, if so, each such consideration is to be recorded (but only once per application). This also applies in relation to Table 44.

Table 44: Other public interest considerations against disclosure: matters listed in table to s 14 of the GIPA Act

| | Number of occasions when application not successful |
|--|---|
| Responsible and effective government | 0 |
| Law enforcement and security | 0 |
| Individual rights, judicial processes and natural justice | 0 |
| Business interests of agencies and other persons | 0 |
| Environment, culture, economy and general matters | 0 |
| Secrecy provisions | 0 |
| Exempt documents under interstate Freedom of Information legislation | 0 |

Table 45: Timeliness

| | Number of applications |
|--|------------------------|
| Decided within the statutory timeframe (20 days plus any extensions) | 3 |
| Decided after 35 days (by agreement with applicant) | 0 |
| Not decided within time (deemed refusal) | 0 |
| Total | 3 |

Table 46: Number of applications reviewed under Part 5 of the GIPA Act (by type of review and outcome)

| | Decision varied | Decision upheld | Total |
|---|-----------------|-----------------|----------|
| Internal review | 0 | 0 | 0 |
| Review by Information Commissioner* | 0 | 1 | 1 |
| Internal review following recommendation under s 93 of the GIPA Act | 0 | 0 | 0 |
| Review by ADT/NCAT | 0 | 0 | 0 |
| Total | 0 | 1 | 1 |

* The Information Commissioner does not have the authority to vary decisions, but can make recommendations to the original decision-maker. The data in this case indicates that a recommendation to vary or uphold the original decision has been made.

Table 47: Applications for review under Part 5 of the GIPA Act (by type of applicant)

| | Number of applications for review |
|--|-----------------------------------|
| Applications by access applicants | 1 |
| Applications by persons to whom information the subject of access application relates (see s 54 of the GIPA Act) | 0 |

Appendix 8 – Chief executive officer and executive officers

The Hon Megan Latham is the ICAC Commissioner. Her five-year term expires in January 2019.

Ms Latham's conditions of employment are outlined in her instrument of appointment, and her salary is paid in line with the determination provided by the Statutory and Other Offices Remuneration Tribunal (SOORT) for puisne judges.

The Commissioner's salary is calculated at 160% of the remuneration of a NSW Supreme Court puisne judge. The total annual remuneration package for Ms Latham is currently \$689,856. In its annual determination, SOORT awarded a 2.5% increase, effective from 1 July 2016.

Theresa Hamilton was the Deputy Commissioner of the ICAC until 7 January 2016, when her term of appointment expired. The remuneration package of the deputy commissioner's position is equivalent to Band 2 NSW Senior Executive Band. At the time of Ms Hamilton's appointment her remuneration package was \$313,050. The position of deputy commissioner of the ICAC is currently vacant.

Executive management

In 2015–16, the Commission's Executive Management Team consisted of:

- the Hon Megan Latham, Commissioner, BA/LLB (University of NSW)
- Theresa Hamilton, Deputy Commissioner (until 7 January 2016), LLB (University of Queensland)
- Andrew Koureas, Executive Director, Corporate Services, BCom, MCom (University of NSW), LLB (University of Technology, Sydney), FCPA
- Sharon Loder, Executive Director, Investigations, LLB (Queensland University of Technology), BBus (HRM) (Queensland University of Technology), LLM (University of Queensland)
- Dr Robert Waldersee, Executive Director, Corruption Prevention, BA (University of Sydney), MA (University of Sydney), MA (University of Nebraska), PhD Management (University of Nebraska)
- Roy Waldon, Executive Director, Legal and Solicitor to the Commission, LLB Hons (University of Tasmania).

The percentage of total employee-related expenditure in the reporting period that relates to senior executives compared with the percentage at the end of the previous year was 11% in June 2015 and 10.3% in June 2016.

Table 48: Number and remuneration of senior executives

| Year | Band level | Average remuneration package | Gender | | Total |
|---------|--------------|------------------------------|--------|--------|-------|
| | | | Male | Female | |
| 2015–16 | Commissioner | \$689,856 | 0 | 1 | 1 |
| | Band 3* | – | 0 | 0 | 0 |
| | Band 2* | \$313,050 | 0 | 1 | 1 |
| | Band 1* | \$219,100 – \$248,850 | 3 | 1 | 4 |
| 2014–15 | Commissioner | \$673,024 | 0 | 1 | 1 |
| | Band 3* | – | 0 | 0 | 0 |
| | Band 2* | \$305,400 | 0 | 1 | 1 |
| | Band 1* | \$221,012 | 3 | 1 | 4 |

* Commission executive staff employed at the equivalent of the Senior Executive Band level.

Table 49: Number of female executive staff at 30 June 2016 compared to previous years

| Year | Number |
|---------|--------|
| 2015–16 | 2 |
| 2014–15 | 3 |
| 2013–14 | 3 |
| 2012–13 | 2 |

Appendix 9 – Workforce diversity

The Commission is committed to building a positive and diverse workplace and integrating workforce diversity objectives, strategies and programs into its planning. The Commission values and respects employees of different backgrounds, skills and experiences, and endeavours to eliminate all forms of discrimination, harassment and bullying.

Key objectives of the Commission's *Strategic Plan 2015–2019* are to:

- continue to develop as a learning organisation that embraces a culture of continuous improvement, excellence and sharing of knowledge
- provide a safe, equitable, productive and satisfying workplace
- be a lead agency in our governance and corporate infrastructure
- monitor our performance to ensure work quality and effective resource management.

Workforce diversity achievements in 2015–16 were:

- inclusion of workforce diversity as part of everyday Commission business
- inaugural review of all Commission-wide position descriptions to encompass generic performance accountabilities of quality, operational effectiveness, people and communication, and growth in line with the Commission's performance management system
- equitable access to staff for development and career opportunities in the form of higher duties, temporary appointments and attendance at training courses
- provision of support to staff in the form of flexible work arrangements and changes to flexible working hours to accommodate family responsibilities
- use of external recruitment sites to attract and recruit a diverse workforce
- provision of equal employment opportunity (EEO), and harassment and bullying prevention training by the Anti-Discrimination Board.

Key workforce diversity strategies proposed for 2016–17 are to:

- continue to include workforce diversity as part of everyday Commission business
- finalise the review of all Commission-wide position descriptions
- provide inclusion and diversity training to management and key staff
- promote major events (through internal resources) such as the National Aborigines and Islanders Day Observance Committee (NAIDOC) Week, International Women's Day and International Day of People with a Disability
- identify external resources to assist in attracting job applicants from diverse backgrounds
- provide EEO and harassment and bullying prevention training to all new staff and refresher training for identified staff.

Access and Equity Committee

The committee acts as the Commission's oversight body for activities related to EEO and workplace diversity and for monitoring the Commission's related plans and policies. The committee comprises both staff and management representatives from across the Commission's divisions.

In 2015–16, the Commission's Access and Equity Committee comprised of:

- Chris Bentley, Investigation Division
- John Biady, Corruption Prevention Division
- Kathleen Crilly (until August 2015), Legal Division
- Cindy Fong (until November 2015), Corporate Services Division
- Andrew Garcia (since November 2015), Assessments Section
- John Hoytink, Investigation Division
- Andrew Koureas, Corporate Services Division
- Nicholas Marney (until December 2015), Legal Division
- Catherine O'Brien, Corporate Services Division
- Michele Smith (until November 2015), Executive Unit
- Peter Thorne (until August 2015), Assessments Section
- Cathy Walsh, Corporate Services Division

Disability Inclusion Action Plan

The Commission is committed to the equitable inclusion of people with disability in all aspects of the Commission's business. The Commission's Disability Inclusion Action Plan aims to improve the delivery of accessible and inclusive services, facilities and employment and to eliminate discrimination. The Commission will allocate the financial and people resources required to implement any changes.

The following initiatives were undertaken in 2015–16:

- modifications to work areas to accommodate staff needs
- installation of braille and tactile signage on Commission premises
- adjustments to working hours to assist staff with temporary medical restrictions
- provision of EEO and harassment and bullying prevention training to staff
- delivery of education and training services addressing the needs of people with accessibility requirements.

Multicultural Policies and Services Program

The Commission's Multicultural Policies and Services Program (MPSP) outlines how it conducts its business within a culturally, linguistically and religiously diverse society and focuses on particular outcomes under the MPSP framework. This ensures that:

- multicultural goals are integrated into the overall strategic plan and business planning
- the Commission is enhanced by the employment of staff with a range of cultural and linguistic expertise.

The following initiatives were undertaken in 2015–16:

- continued implementation and promotion of the Community Language Allowance Scheme (CLAS)
- inclusion of three new staff members in the Commission's bilingual skills directory for the languages of Arabic, Greek, Hakka and Hokkien
- promotion of multilingual resources through the Commission's website, presentations, public displays and information brochures
- update of brochures translated into 13 languages

- promotion of the days of religious significance for 2016, as advised by Multicultural NSW
- engagement of accredited interpreters and translators to assist clients from non-English speaking backgrounds when needed (during the reporting period, there were 12 occasions in which the Commission utilised external services in the languages of Arabic, Macedonian and Polish)
- delivery of seven speaking engagements to participants of TAFE's Adult Migrant English Program, reaching a total of 267 people
- delivery of speaking engagements to outreach community leaders, which attracted 105 people, and participation in the Western Sydney Koori Interagency meeting, which attracted 40 people.

Table 50: Workplace diversity in 2015–16

| Remuneration level of substantive position | Total staff (men, women and unspecified) | Respondents | Men | Women | Unspecified gender* | Aboriginal and Torres Strait Islanders | People from racial, ethnic, ethno-religious minority groups | People whose language first spoken as a child was not English | People with a disability | People with a disability requiring work-related adjustment |
|--|--|-------------|-----------|-----------|---------------------|--|---|---|--------------------------|--|
| \$0 – \$44,683 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| \$44,683 – \$58,867 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| \$58,867 – \$65,608 | 1 | 1 | 0 | 1 | 0 | 0 | 0 | 1 | 0 | 0 |
| \$65,608 – \$83,022 | 18 | 18 | 3 | 15 | 0 | 0 | 7 | 5 | 1 | 0 |
| \$83,022 – \$107,362 | 28 | 28 | 8 | 20 | 0 | 0 | 17 | 13 | 2 | 0 |
| \$107,362 – \$134,202 | 47 | 46 | 29 | 18 | 0 | 1 | 11 | 7 | 7 | 1 |
| \$134,202 > (non-SES) | 21 | 21 | 13 | 8 | 0 | 0 | 2 | 2 | 1 | 0 |
| \$134,202 > (SES) | 5 | 4 | 3 | 2 | 0 | 0 | 1 | 1 | 0 | 0 |
| Total | 120 | 118 | 56 | 64 | 0 | 1 | 38 | 29 | 11 | 1 |

* Unspecified gender includes unknown, withdrawn, or indeterminate/intersex recorded values.

Appendix 10 – Work health and safety

The Commission is strongly committed to removing or reducing the risks to the health, safety and welfare of its staff and others on Commission premises. The Commission aims to provide a safe working environment and systems of work through effective safety management. Work health and safety (WHS) principles are incorporated into all facets of business planning and operational activities.

The following WHS initiatives were implemented by the Commission in 2015–16:

- engagement of health professionals to administer a flu vaccine program to interested staff
- installation of desk winders on workstations to allow staff to have the option of sitting or standing in order to lower the health risks associated with sitting for long periods
- modifications to workstations to accommodate staff with special needs
- engagement of an accredited occupational therapist to undertake ergonomic workplace assessments and the provision of special equipment to assist staff as recommended
- safety testing and tagging of electrical equipment
- inclusion of information in the staff newsletter on evacuation drill procedures and responsibilities
- provision of training to identified staff in relation to the WHS portal, advanced driver training, first aid and CPR re-certification.

In 2015–16, the Commission's Health and Safety Committee comprised:

- Heidrun Blackwood, Assessments Section
- Andrew Koureas, Corporate Services Division
- Mary Murabito, Corruption Prevention Division
- Catherine O'Brien, Corporate Services Division
- Georgina Ross, Legal Division
- Margaret Sutherland, Corruption Prevention Division
- Cathy Walsh, Corporate Services Division
- Chris Wightman, Investigation Division
- Aruni Wijetunga, Corporate Services Division.

Table 51: WHS incidents, injuries and claims in 2015–16

| | |
|---|----------|
| Body stress | 2 |
| Fall, trip, slip | 2 |
| Total | 4 |
| Number of workers compensation claims (provisional liability) | 1* |

* There has been a decrease in the number of workers compensation claims from two in 2014–15 to one in 2015–16.

Appendix 11 – Engagement and use of consultants

Table 52: Engagement and use of consultants

| | |
|---|-----------------|
| Consultancies equal to or more than \$50,000 | |
| Nil | |
| Consultancies less than \$50,000 | |
| Five engagements (all information technology) | |
| Total cost | \$56,365 |

Appendix 12 – Payment performance indicators

Table 53: Aged analysis at end of each quarter 2015–16

| Quarter | Current (i.e.) within due date (\$'000) | Less than 30 days overdue (\$'000) | Between 30 and 60 days overdue (\$'000) | Between 60 and 90 days overdue (\$'000) | More than 90 days overdue (\$'000) |
|---------------------------------|---|------------------------------------|---|---|------------------------------------|
| All suppliers | | | | | |
| September | 2,424 | – | 35 | – | – |
| December | 2,391 | 3 | 5 | – | – |
| March | 2,613 | 8 | 26 | – | 12 |
| June | 3,295 | 9 | – | – | 30 |
| Small business suppliers | | | | | |
| September | 18 | – | – | – | – |
| December | 21 | – | – | – | – |
| March | 29 | – | – | – | – |
| June | 35 | – | – | – | – |

Table 54: Accounts due or paid within each quarter

| Measure | September | December | March | June |
|--|-----------|-----------|-----------|-----------|
| All suppliers | | | | |
| Number of accounts due for payment | 700 | 664 | 573 | 743 |
| Number of accounts paid on time | 699 | 660 | 562 | 731 |
| Actual percentage of accounts due for payment | 99.86% | 99.40% | 98.08% | 98.39% |
| Dollar amount of accounts due for payment | 2,459,253 | 2,399,518 | 2,658,753 | 3,334,676 |
| Dollar amount of accounts paid on time | 2,423,773 | 2,390,945 | 2,613,220 | 3,295,000 |
| Actual percentage of accounts paid on time (based on \$) | 98.56% | 99.64% | 98.29% | 99.00% |
| Number of payments for interest on overdue accounts | – | – | – | – |
| Interest paid on overdue accounts | – | – | – | – |
| Small business suppliers | | | | |
| Number of accounts due for payment | 16 | 22 | 37 | 41 |
| Number of accounts paid on time | 16 | 22 | 37 | 41 |
| Actual percentage of accounts due for payment | 100% | 100% | 100% | 100% |
| Dollar amount of accounts due for payment | 17,692 | 21,228 | 29,364 | 35,119 |
| Dollar amount of accounts paid on time | 17,692 | 21,228 | 29,364 | 35,119 |
| Actual percentage of accounts paid on time (based on \$) | 100% | 100% | 100% | 100% |
| Number of payments for interest on overdue accounts | – | – | – | – |
| Interest paid on overdue accounts | – | – | – | – |

The Commission did not make any interest payments for late payment of accounts. Where there were delays in the payment of accounts, the reasons can be attributed to inaccuracies/incompleteness of the original invoices and/or minor disputes requiring the adjustment of invoice details prior to eventual payment.

All small business number of accounts were paid on time during the current reporting period.

Appendix 13 – Credit card certification

The Commissioner certifies that credit card usage in the Commission has met best practice guidelines in accordance with the Premier's Memoranda and Treasury Directions.

Appendix 14 – Overseas travel

Table 55: Overseas travel in 2015–16

| Name of officer | Date of travel | Destination | Purpose | Amount incurred by the ICAC | Amount incurred by other sources |
|---------------------|---|-------------|---|-----------------------------|---|
| Dr Robert Waldersee | 8–10 June 2016 (exclusive of travel time) | New Zealand | Speak at Serious Fraud Office (SFO), New Zealand, internal conference | Nil | \$1,797.14 (Host: SFO) and \$50 (Victoria University, Wellington) |
| | | | Speak at governance meeting of all New Zealand universities, hosted by the University of Auckland | Nil | Nil |

Appendix 15 – Major works

Some capital projects were not completed as at 30 June 2016. In light of the amounts involved, these were not considered to be major relative to the Commission's total assets value.

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