

Review of the ICAC 2014-2015 and 2015-16 Annual Reports

ICAC answers to questions taken on notice

Q1 Mr Paul Lynch (p6) – *I would like to go back to the cost of the capital equipment (for establishing a strategic intelligence capability). Do you have an estimate yet – even a ballpark estimate – of what that might involve?*

A1 It is estimated that the cost of additional software to enhance data analytics capability would be \$20,000. However, this capability is very likely to result in a need to further upgrade data storage and processing information technology infrastructure to improve computing speeds. An initial general ballpark estimate would be in the range of \$50,000 to \$200,000 to acquire faster computing servers and expand storage capacity.

Q2 Reverend the Hon Fred Nile (p8) – *Is there any need to consider whether there needs to be some promotion of the ICAC itself?*

A2 As noted by Commissioner McDonald during the hearing of 20 November 2017, the Commission recently co-hosted the sixth Australian Public Sector Anti-Corruption Conference. This event attracted approximately 500 attendees and some media coverage.

For many years, the Commission has also visited rural and regional areas as part of its Outreach program. This is an important part of the Commission's work that assists to highlight anti-corruption messages in non-metropolitan areas.

However, generally speaking, the Commission does not engage in activities solely aimed at promoting itself. As the Committee would be aware, the Commission's public inquiries, investigation reports and corruption prevention work tends to attract media attention, which serves to raise the Commission's profile.

The Commission's mandate and functions are well-known within the NSW public sector and the community. Our 2015 Community Attitudes Survey found that 83% of respondents had some awareness of the Commission. This is a positive response and is consistent with a strong recognition of the Commission over a number of years.

Q3 The Chair (pp9-10) – *What will ICAC do to address recommendation 3 in the Committee's report: Protections for people who make voluntary disclosure to the Independent Commission Against Corruption? The recommendation is that the ICAC examine whether more could be done to deter people from making false complaints to the ICAC, and to limit the damage caused where this does occur, including whether the ICAC Act should be amended to provide that it is an offence for a person to disclose or threaten to disclose to a third party or parties that they have made or intend to make a disclosure to the ICAC.*

A3 The Commission is currently considering the recommendations in the Committee's report, including its response to recommendation 3.

Q4 Reverend the Hon Fred Nile (pp11-12) – *Is there any explanation for the decline in reports made pursuant to s 11 of the ICAC Act?*

A4 In 2014-15 there were 641 s 11 reports. In 2015-16 there was a decline in the number of s 11 reports received to 605 reports. It should be noted however that in 2016-17 the number of s 11 reports had increased to 650.

The Commission is not aware of the reason for the decline in numbers between the 2014-15 and 2015-16 reporting periods. The number of section 11 reports received by the Commission since 2003-04 is, however, trending upward.

The Commission is proactive in educating the NSW public sector concerning section 11 reporting:

- each financial year, the Commission undertakes Rural and Regional Outreach visits (see p.41 Annual Report 2014-15 and p. 38, Annual Report 2015-16). During these visits, Commission representatives also met with Principal Officers and relevant staff of public authorities and discussed their reporting obligations under the ICAC Act;
- Commission representatives regularly meet or hold teleconferences with Principal Officers or their delegates for the purposes of educating them in, or answering questions concerning, reporting obligations under the ICAC Act;
- where the Commission identifies issues with a section 11 report, the Commission draws this to the attention of the Principal Officer or provides information concerning section 11 reporting generally in the Commission's communications.

Information is also specifically available on the Commission's website to both Principal Officers and Ministers concerning their reporting obligations under the ICAC Act.

Changes in the total volume of section 11 reports does not have a strong bearing on the Commission's corruption prevention activities. While we rely on the content and outcomes of section 11 reports to inform our thinking and establish productive working relationships with senior officials, there are many other sources of information that support our corruption prevention work.

Q5 The Chair (p12) – *What would be the expectation of the Commission for finalising a complaint? What is the general timeframe from first receiving the complaint and then dealing with it by way of a preliminary inquiry to its finalisation?*

A5 Matters are reported to the Commission's Assessments Section in the first instance. This Section has a target for finalisation of matters of 28 days for a straightforward matter and 42 days for a complex matter. The Investigation Division's targets are to complete 80% of preliminary investigations within 120 days and, in relation to the confidential phase of a matter escalated to full investigation, to complete 80% of such matters within a further 12 months. If a public inquiry is held as part of the investigation, the confidential phase of the investigation ends. The time taken to complete a public inquiry depends upon a number of factors including the complexity of the matter. Where a public inquiry has been held, the Commission aims to produce its report on the investigation within 60 days from the receipt of final submissions (where the duration of the public inquiry was five days or less) or within 90 days of the receipt of final submissions (where the duration of the public inquiry was more than five days).

Q6 Reverend the Hon Fred Nile (p13) – *Is there any explanation for (fewer decisions to investigate matters in the 2013-14, 2014-15 and 2015-16 reporting periods)? Has there been some change in ICAC’s assessment panel’s operation or the terms of reference?*

A6 In 2013-14, the Commission commenced 43 preliminary investigations and 10 full investigations. In 2014-15, the Commission commenced 42 preliminary investigations and 14 full investigations. In 2015-16, the Commission commenced 41 preliminary investigations and 10 full investigations.

There has been no change in the Assessment Panel’s operation or terms of reference. The variation in the numbers of matters investigated is due to the Commission’s assessment of whether reported matters justify investigation by the Commission.

The decision whether or not to investigate a matter will depend on a number of factors, including whether the matter involves or is likely to involve serious corrupt conduct or systemic corrupt conduct, whether the matter could be effectively dealt with by another public authority and whether the matter is too remote in time to justify investigation.

Q7 The Chair (p13) – *In 2014, the Commonwealth Ombudsman inspected the ICAC’s stored communication warrants and the preservation of those and found the ICAC compliant except for one minor issue. What was that minor issue?*

A7 During the course of the Commonwealth Ombudsman’s inspection, it was discovered that a telecommunications carrier had provided the Commission with stored communications that did not appear to be within the authority of the Commission’s stored communications warrant.

The minor issue was that the Commission had not quarantined that information and sought further advice from the carrier to clarify whether the stored communications related to the Commission’s stored communications warrant.

The Commission contacted the carrier and was informed that the stored communications related to another stored communications warrant and should not have been sent to the Commission. The Commission destroyed the relevant stored communications.

Commission work instructions were amended to require the section responsible for recording stored communications to monitor all product provided by carriers to ensure the stored communications provided by the carrier are those authorised by a stored communications warrant and to quarantine and destroy any that are not so authorised.