

Questions on Notice from the Commission's appearance at the ICAC Committee on Friday 14 May 2021

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The Hon. ADAM SEARLE: In terms of the matters that you have currently, and without compromising any of the details of those, are you able to give the Committee, either now or on notice, a list of the current matters that you have, your hoped-for completion dates and how they might be impacted by your resource constraints.

Mr HALL: Yes, we can do that and we will do it.

The investigations listed below relate to current investigation progress only. The tentative completion dates for investigations listed below do not take into account any public inquiry that might be held for the purpose of an investigation. Where a public inquiry is conducted, the actual completion date will extend beyond the tentative completion date.

In respect to the Preliminary and SIRU Preliminary investigations, a tentative completion date is difficult to assess, as any preliminary investigation completion only takes into account closure or discontinuation of a matter, the date does not consider escalation of a preliminary investigation to a full investigation.

The tentative date for the completion of a preliminary investigation or investigation does not consider the receipt of new matters, which may take priority over existing matters. Any new matters which take priority may result in a delay of the completion date of other matters.

Constraints to investigation completion dates and how they might be impacted by resource constraints include:

- Insufficient computer forensic staff to upload data, which is currently causing a backlog and delay to investigations;
- Insufficient resources to examine and analyse the computer and phone information and evidence;
- The availability of a case lawyer due to their competing work load priorities;
- The complexity of the investigation, which results in additional resources and time to conduct the investigation;
- The loss of current additional contract investigators; and
- New priority investigations received, which causes delay to ongoing investigations.

INVESTIGATION	TENTATIVE COMPLETION DATE
Investigation 1	Prior to 31 December 2021.
Investigation 2	Prior to 31 December 2021.
Investigation 3	Prior to 31 December 2021.
Investigation 4	Prior to 31 December 2021.
Investigation 5	Prior to 31 December 2021.
Investigation 6	Prior to 30 June 2022.
Investigation 7	Prior to 30 September 2021.

Investigation 8	Prior to 31 December 2021.
Investigation 9	Prior to 30 September 2021.
Investigation 10	Prior to 30 September 2021.
Investigation 11	Prior to 31 December 2021.
Investigation 12	Prior to 31 March 2022.

INVESTIGATION	TENTATIVE COMPLETION DATE
Preliminary Investigation 1	Prior to 31 December 2021.
Preliminary Investigation 2	Prior to 31 December 2021.

SIRU PRELIMINARY INVESTIGATION	TENTATIVE COMPLETION DATE
SIRU Preliminary Investigation 1	Prior to 30 September 2021
SIRU Preliminary Investigation 2	Prior to 30 September 2021
SIRU Preliminary Investigation 2	Prior to 30 September 2021

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Mr JUSTIN CLANCY: Just for clarity, the overall funding envelope including all supplementaries, what was the position compared to the previous period?

Mr HALL: We do have an analysis of that.

Mr JUSTIN CLANCY: I am happy to take that on notice.

Mr REED: Maybe we will come back to it. I think I have got the figures here. The 2019-20 funding—the recurrent funding through appropriation—was \$24,099,000. We then had the supplementation that came through of \$3.5 million of supplementary funding.

Mr JUSTIN CLANCY: I suppose the point of the question is I am interested in that whole funding envelope and the comparative period given that there were less matters received and managed over that same period and the average time to assess and close was increased over the last period compared to the period before that. I suppose, as a parliamentarian—and I appreciate the commissioner's report about the separation from the Executive—I would be interested in how we measure KPIs if we are receiving less matters and the time increased and how we then make an assessment around funding in that regard. As a parliamentarian, I also step back and look at size of agency.

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Mr HALL: We are happy to provide that documented material which probably answers your questions, some of them much more effectively than I can. Madam Chair, we will undertake to provide the analysis.

The Commission's budget for 2018/19 and 2019/20 both recurrent and capital and from appropriation and supplementary grants was as follows.

	2018/19	2019/20
Recurrent appropriation	\$24.463M	\$24.099M
Grant- Recurrent	\$1.566M	\$2.5M
Grant- Capital	\$0.15M	
Capital appropriation	\$0.944M	\$0.8M
Total	\$27.123M	\$27.399M

The variation between the years is 1.01%.

There appears to be an inherent assumption in the question that the Commission's need for funding is somehow related to the number of matters received and assessed on an annual basis. However, the number of matters the Commission receives in any year is only one indicator of how much funding the Commission requires each year. Other indicators include the number and complexity of preliminary investigations and investigations, the number and extent of education and corruption prevention projects and the level of corporate services support required to support our operational activities.

By way of background, whilst the number of matters received and assessed by the Commission decreased from 2743 to 2416 and the time taken to assess them increased from 24 to 28 days, this was within the Commission's assessment KPIs and is not a reflection of the Commission's effectiveness in fighting corruption in the NSW Public Sector. Only about 1% of all matters received are assessed as being potentially serious and systemic corruption so as to require further investigation by the Commission. In this regard, the number of preliminary investigation initiated in 2019/20 was 19, an increase from those initiated in 2018/19 (18). In addition, the number of matters referred to other agencies for investigation under s53 and s54 increased in 2019/20 to 13 from those referred in 2018/19 (9).

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The Hon. ADAM SEARLE: Two things, Chief Commissioner. I think in your evidence to the Public Accountability Committee last year, or maybe a little bit earlier, you were saying in order for ICAC to simply maintain, in terms of its general funding, where it had been, it needed an additional \$7.3 million in the 2019-20 year. Obviously that money was not forthcoming. Presumably there is a compounding erosion effect year by year. Perhaps if not now but could you on notice tell us what is the equivalent figure to 30 June this year that would represent an amount that would bring ICAC's general operation budget back to an even keel, if you are able to identify that?

Mr HALL: Certainly, Mr Searle. That will be done.

The simple answer to this question is \$8.0 million as outlined in the Commission's Parameter and Technical Adjustment (PTA) submitted to NSW Treasury in February 2021, as part of the 2021/22 budget process.

The PTA sought additional recurrent funding of \$8.0 million in 2021/22 and increasing in the forward years. This amount comprised \$5.6 million essential to maintaining its current or baseline level of

operations including public inquiries, compulsory examinations, investigations and corruption prevention related activities. The remaining amount (\$2.4 million) was to appropriately size and meet overall Commission needs as they currently stand.

The analyses supporting the PTA were based on a third KPMG report, dated 16 February 2021, that re-visited the 8 October 2018 KPMG recommendations to determine if they were still valid and to review the Commission's Corporate Services Division, as recommended by the Auditor-General in her October 2019 performance audit. A copy of the 2018 KPMG report is enclosed.

The Chief Commissioner tabled a copy of the PTA and the associated February 2021 KPMG report as part of his opening address to the Committee on 14 March 2021.

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The CHAIR: We will have time with the inspector later. In your annual report on page 49 under the heading "The Commonwealth Ombudsman", the Commonwealth Ombudsman indicated that there was a slight error in the report that you did provide to the Minister and he asked whether you could provide an addendum correcting that error. You indicated that you would do so. Has that been done?

Mr HALL: I am sure it probably has, but could I take that on notice?

The CHAIR: Sure, yes.

Mr HALL: We will respond, of course, to that question.

During the Commonwealth Ombudsman's March 2020 inspection of the Commission's Stored Communications records, the Commonwealth Ombudsman picked up an administrative error in which our report only indicated six records when there were in fact seven records for the 2018/19 reporting period. Following the recommendation of the Commonwealth Ombudsman, the Commission provided an amended stored communications report to the Commonwealth Minister via the Department of Home Affairs on the 31 July 2020.

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The CHAIR: My other question is in relation to the third paragraph on page 57 under the heading "Risk Management" on page 56. It states: In 2019–20, the Commission conducted risk assessments for all public inquiries to determine risks associated with witnesses and the level of security services required. You are currently developing protocols for the conduct of compulsory examinations and public inquiries. Could you provide the Committee with an update on the findings of your risk assessment and those protocols?

Mr HALL: Certainly, Madam Chair, that will be done.

The CHAIR: Are you taking that on notice?

Mr HALL: Yes, if I may.

The Commission conducts risk assessments on all public inquiries as a matter of course to ensure that appropriate actions are put in place to reduce the risks to the health and welfare of Commission staff, contractors, witnesses and visitors who will be associated with the public inquiry.

Since the beginning of the COVID-19 pandemic in March 2021, the Commission has prepared protocols for the conduct of Compulsory Examinations and Public Inquiries.

The protocols set out the remediation measures and strategies for known COVID-19 risks that have been put in place to minimise the risk to the health and safety of any person associated with the

Compulsory Examination and Public Inquiry processes. The protocols were developed with formal advice from: NSW Health on appropriate arrangements to minimise the risk of infection; and from the Crown Solicitor on the legal matters associated with its design and implementation.

The Compulsory Examination protocol has been updated on three occasions to ensure that it has taken into consideration the changing nature of the pandemic in the community.

The Public Inquiry Protocol has been updated and issued to staff and those attending the hearing rooms for each of the three Public Inquiries that have been undertaken since the commencement of the pandemic.

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The CHAIR: Querying the functionality of the ICAC in its operations, do you have document-tracking methodology so that when a person is logged into your system and they open up or forward a document that is tracked in terms of the IP address?

Mr HALL: Again, if I could take that on notice, we certainly will provide you with the information.

The current software systems employed by the Commission only enables part of the information that the question is seeking to be provided. However, the Commission is currently evaluating software that, when deployed on Commission devices, will enable tracking of all file and document movements on the systems accessed by Commission staff using Commission devices. This will enable the Commission to know the file names, source and destination locations, user name and IP address for internal users or logins. It is anticipated that the software will be deployed across the Commission early in the new financial year.

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The CHAIR: I have a couple more questions in relation to your financial statements. On page 76 under "Employee-related expenses" there is an item indicating a redundancy of \$95,000.

Mr HALL: Yes.

The CHAIR: Without disclosing anything confidential, are you able to provide information on what happened in that scenario? You can take that on notice as well if needs be.

Mr HALL: Yes. I might be able to provide some information at the moment if I can just check one detail.

The CHAIR: Sure.

Mr HALL: I am just being told—I thought it might have related to a particular employee but it does not, it relates to another. Perhaps if I could take that on notice also and provide the information about that.

The expense was a termination payment for a manager who resigned from the Commission following the completion of a managed performance improvement plan.

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The CHAIR: Knowing that we are near the end of our public hearing, I am also keen to get some further details on the make-up of the "maintenance" and "other" budgets. The maintenance budget is \$883,000 and everything that falls under "other" is over half a million. If I could get some more detail as to what made up those sums of money, I would appreciate that.

Mr HALL: Yes, certainly. Madam Chair, I will take that on notice and we will provide the information.

The following table lists the individual expense areas of the “Maintenance” and “Other” components on the 2019/20 budget totalling \$882,838 and \$533,727 respectively.

Maintenance Expenses FY 2019/20

Computer Equipment Maintenance	63,845
Security Equipment Maintenance	31,685
Other Equipment Maintenance	37,610
Computer Software Maintenance	672,313
Building Maintenance - General	64,663
Building Maintenance - IT Air Conditioning	12,722
	882,838

Other Operating Expenses FY 2019/20

Audit Fees

Audit Fees - Internal	103,071
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Bank Fees

588

Witness & Operational Expenses

Witness Expenses	9,965
Operational/Informant Expenses	997

Media - other

Media Monitoring	18,530
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Investigation - other

TIA Act Expenses	210,543
Communications licences	12,342
Searches	46,741

Other

General Legal Advice	77,177
Translation/Interpreter Service	18,314
Employee Services	32,354
Minor Expenses	3,105

TOTAL OTHER (OPERATING EXPENSES)	533,727
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Additional information in relation to answered questions

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The Hon. ADAM SEARLE: Chief Commissioner, I was both interested and disturbed by that part of your opening statement where you said that given the resourcing constraints, you were not really able to effectively operate the three-commissioner model, as set out by Parliament. Could you step us through in a practical sense what the operational effect of that has been? Does it mean a reduction in the number of investigations and the number of hearing days? Tell us what the practical result of that has been.

Mr HALL: Mr Searle, I am unsure whether we have provided this Committee with the KPMG report to which I made reference before. We are in a position to supply copies.

The Hon. ADAM SEARLE: That would be most useful.

As noted above, a copy of the KPMG report of 8 October 2018 is enclosed for the Committee's information.