

Question	ICAC Answer
<p><i>Hansard p 8</i></p> <p><b>The Hon. ADAM SEARLE:</b> Chief Commissioner, unless you feel constrained, would you be able to share that exchange of correspondence with the Committee?</p> <p><b>PETER HALL:</b> Yes. I think we can and ought to provide the Committee with the correspondence.</p> <p><b>The Hon. ADAM SEARLE:</b> If you need to take that on notice and reflect on that, please do.</p> <p><b>PETER HALL:</b> Yes, certainly. The only reservation—and it is really not a reservation but a disinclination—is that I think I owe the Premier at least the courtesy of advising him that this request has been made and that I would support the supply of correspondence.</p> <p><b>The Hon. ADAM SEARLE:</b> Of course. Absolutely. That is appropriate. Thank you.</p> <p><b>PETER HALL:</b> That will be attended to immediately.</p> <p><b>The Hon. ADAM SEARLE:</b> Even if it needed to be provided to us confidentially, of course that is something that can be done. If the correspondence needed to be provided to us confidentially, we would not publish it.</p> <p><b>PETER HALL:</b> Thank you.</p> <p><b>The Hon. ADAM SEARLE:</b> But we could at least have the benefit of that insight.</p> <p><b>PETER HALL:</b> I do not envisage any difficulty at all.</p> <p><b>The Hon. ADAM SEARLE:</b> Thank you for that.</p> <p><b>PETER HALL:</b> We will attend to it.</p>	<p><b>Question Answer</b></p> <p>A copy of the Chief Commissioner’s letter of reply to the Premier is attached below answers for the Committee’s information.</p> <div data-bbox="1193 448 1256 512" data-label="Image"> </div> <p>Letter to Premier re Funding Reform.pdf</p>
<p><i>Hansard p 8</i></p> <p><b>The Hon. ADAM SEARLE:</b> The obvious next question, given what the two other Commissioners have said in their statements, is: Given your nearly five years in the role of Chief Commissioner under the three Commissioner model, do you see that the three commissioner model is useful and appropriate going forward?</p>	<p><b>Question Answer</b></p> <p>The Chief Commissioner answered this question during the Committee hearing on 2 May 2022. Please refer to his answer on page 9 of the uncorrected Hansard of the ICAC Committee hearing.</p>

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<p><b>PETER HALL:</b> Mr Searle, I did not contemplate that this subject would be raised this morning.</p> <p><b>The Hon. ADAM SEARLE:</b> You can take any question on notice, of course.</p> <p><b>PETER HALL:</b> I would like to give it thought.</p>	
<p><i>Hansard p 16</i></p> <p><b>The Hon. ROD ROBERTS:</b> Certainly, Commissioner. If I may rudely interrupt, then, just so I have a good grasp of it. Are we saying that there are 59 individual issues that have been reported to the inspector or are there 59 pieces of correspondence? Is that what you are saying?</p> <p><b>PETER HALL:</b> I think it is—</p> <p><b>The Hon. ROD ROBERTS:</b> Please be prepared to take it on notice.</p> <p><b>PETER HALL:</b> Yes, sure.</p> <p><b>The Hon. ROD ROBERTS:</b> This is not a catch; it is something significant. There is a massive increase, I am assuming you would agree.</p> <p><b>PETER HALL:</b> If we may take it on notice, but I think, on the basis of information I presently have, 59 refers to pieces of correspondence back and forth between the Commissioner and the Commission.</p>	<p><b>Question Answer</b></p> <p>The figures reported in Table 3 on page 15 of the ICAC Annual Report 2020-21 are reflective of all “reports and responses”, which includes:</p> <ul style="list-style-type: none"> <li>- Responses to requests for quarterly statistical reports from the Assessments Section in relation to numbers of complaint allegations received by the Commission;</li> <li>- Copies of monthly Investigation Management Group reports;</li> <li>- Monthly reports on the use of the Commission’s use of Statutory Powers; and</li> <li>- Copies of quarterly Executive Management Group reports.</li> </ul> <p>By comparison the figures provided in Table 3 on page 15 of the ICAC Annual report 2019-2020 are reflective of responses the Commission provided to requests for information from the Inspector pertaining to complaints received by his office.</p>
<p><i>Questions by the Hon. Adam Searle to the Chief Commissioner and Assistant Commissioners:</i></p> <p><b>Operational impacts of Covid-19</b></p> <p>ICAC staff spent the first half of 2020-2021 working remotely. A staged return to the office began in December 2020 however by the end of the reporting period, the ICAC offices went again into lockdown.</p>	<p><b>Question 1 Answer</b></p> <p>The primary operational lesson learnt as a result of the COVID pandemic is that significant parts of the operational work of the Commission can be undertaken away from the office. Staff and management adapted to working effectively and efficiently from home and this drove technological changes within the Commission’s operations from the development of electronic forms that have improved the proceeding of information through</p>

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<p>Key operational work impacted by the lockdowns included: reduced witness availability for investigation and hearings, inability to execute search warrants and delays in obtaining information from agencies to assist investigations due to office closures and staff working from home.</p> <p>1. What has been learnt from the operational challenges associated with the COVID-19 lockdowns?</p> <p>2. How many investigations were delayed due to the operational impacts of the pandemic?</p> <p>3. How long were these delays?</p> <p>4. What processes implemented during the COVID-19 pandemic have remained after restrictions eased? How has this impacted the ICAC's operations?</p> <p>5. What impact did COVID-19 have on the ability to undertake compulsory examinations and public inquiries? What is the status of the protocols for the conduct of compulsory examinations and public inquiries developed in response to COVID-19?</p>	<p>to the ability to use audio-visual links for the conduct of private, compulsory examinations and public inquiry hearings.</p> <p>Further lessons are outlined below in answers to questions 2, 3, 4 and 5.</p> <p><b>Question 2 Answer</b></p> <p>All investigations were impacted during the COVID pandemic owing to the periods of time that staff were predominately working from home (also see the answer to Question 3 below). These impacts were referred to in the Chief Commissioner's Foreword (page 3) and in Chapter 3 (page 32) of the ICAC Annual Report 2020-2021.</p> <p>Five investigations were substantially impacted by the COVID pandemic resulting in a delay to the investigations associated with Operations Paragon, Witney, Galley, Keppel, and Hector.</p> <p><b>Question 3 Answer</b></p> <p>The first COVID pandemic lockdown period commenced in March 2020 and continued until August 2020. During that time period, no compulsory examinations or public inquiries could be held.</p> <p>Similarly, during that time NSW Government public health orders required all Commission staff to work from home therefore physical surveillance, search warrants, or interviews of witnesses or affected persons could not be conducted on any investigation.</p> <p>Due to the presence of COVID in the community, the requirements of the public health orders, and operational risk assessments, the execution of the first search warrants in Operation Galley were delayed until October 2020.</p>

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	<p>In mid to late 2021, staffing numbers were also affected by renewed public health orders that required staff living in “Stay at Home Areas” to work from home.</p> <p><b>Question 4 Answer</b></p> <p>Protocols for conducting compulsory examinations and public inquiries remain in place. The application of these requires ongoing additional staffing resources and the continued exclusion of the public and media from physical attendance at public inquiries.</p> <p>Historically, the Commission’s training and public speaking offerings have been delivered in-person. However, the pandemic prompted widespread adoption of online video-conferencing technology and the Commission was able to reformat most of its standard workshops to permit online delivery. Similarly, most public sector agencies were able to facilitate online speaking engagements. In addition to the obvious reduction in the risk of transmitting the Covid-19 virus, some of the advantages of online delivery include: greatly reduced time and cost of travel (which assists the Commission to reach rural and regional audiences), the ability to reach larger audiences, reduced cost of venue hire and catering and the ability to conveniently record and re-use content.</p> <p>These forms of online delivery will persist after the easing of pandemic conditions. For example, in November 2022, the Commission is co-hosting the Australian Public Sector Anti-Corruption Conference (APSACC). APSACC will use a hybrid delivery model whereby delegates will be able to attend either in-person or virtually.</p>

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	<p><b>Question 5 Answer</b></p> <p>Upon commencement of the first lock-down in March 2020 the Commission was unable to continue with its scheduled program of compulsory examinations and public inquiries. No compulsory examinations or public inquiries were able to be conducted in April, May, June or July 2020. As it became evident that COVID would be an ongoing issue the Commission commenced work on a protocol for conducting compulsory examinations by audio visual link (AVL) and ensuring that the Commission had systems in place to support such a protocol. This protocol was formally adopted in August 2020 and the first compulsory examination was conducted on 10 August 2020 (a further nine being held later that month).</p> <p>Based on the experience gained with conducting compulsory examinations via AVL, the Commission developed a separate protocol for the more challenging task of conducting public inquiries via AVL. Two versions were developed – a public version and a more detailed version for Commission officers. Both were adopted in September 2020. The first public inquiry commenced on 21 September 2020. Under the protocol, only those whose presence on Commission premises is deemed essential for the effective conduct of the public inquiry are permitted on Commission premises. Members of the public and media (with the case-by-case exception of a television pool camera to film Counsel Assisting’s opening address) are not allowed on Commission premises but have access to the public inquiry through live-streaming and can access transcript and exhibits through the Commission’s website.</p> <p>Since then the Commission has continually reviewed and updated both the compulsory examination and public inquiry protocols to ensure they appropriately reflect current health advice, changes in technology and experience gained by the Commission in the operation of the protocols.</p>

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	<p>The current April 2022 public version of the public inquiry protocol is published on the Commission’s website.</p>
<p><b>Independent Funding model</b></p> <p>6. Insofar as you are aware, will the new funding model proposed by the Premier in correspondence with you be implemented by the NSW Government this year?</p>	<p><b>Question 6 Answer</b></p> <p>On 9 May 2022, the Attorney-General, the Hon Mark Speakman SC MP, tabled the NSW Government’s response to the Legislative Council Public Accountability Committee inquiry report No 7 into budget processes of independent integrity agencies and in response to the Auditor-General’s performance audit of the financial arrangements and management practices of the integrity agencies. The response outlined a “funding model [that] will be implemented as part of the NSW Budget 2022-23”.</p> <p>On 10 May 2022, the Premier stated in response to a question without notice from Mr Jamie Parker MP regarding the funding of the Commission that “the majority of changes we will make to the funding model will come into play in this year’s budget”.</p> <p>The Commission will continue to monitor the NSW Government’s processes surrounding the budget process for 2022-23 before being able to give a definitive answer to the question.</p> <p>Please note that the Chief Commissioner’s 3 March 2022 letter of response to the Premier about the NSW Government’s proposed reforms to the funding arrangements for integrity agencies (attached to these answers) contains the following concerns still held by the Commission:</p> <p>“The Commission’s position with respect to what needs to be done to ensure that its actual and perceived independence is not compromised through Executive involvement in funding decisions affecting it is set out in its May 2020 and November 2020 special reports to the Parliament. In</p>

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	<p>particular, it is the Commission’s position that involvement of the Executive in funding arrangements for the Commission is incompatible with the Commission’s independence and that there is a need for an exercise of the NSW Parliament’s role and authority in implementing a new funding model that is independent of the Executive. This position is consistent with the observations made by the Auditor-General in her October 2020 Special Report – <i>The effectiveness of the financial arrangements and management practices in four integrity agencies</i> (“the Auditor-General’s Report”). It is also consistent with the legal Opinion of eminent Senior Counsel Bret Walker SC, a copy of which was annexed to the first of the Special Reports to Parliament referred to above.”</p> <p>Further, “Whilst the Proposal addresses a number of matters, including transparency that can improve on the present system, it, with respect, fails to address the risks to the Commission’s independence and the need for safeguards.”</p>
<p><b>Performance</b></p> <p>The last reporting period saw an increase in the number of reports/responses provided to the Inspector of the ICAC from 13 in 2019-2020 to 59 in 2020-2021.</p> <p>7. Why have the number of reports/responses provided to the Inspector substantially increased?</p> <p>8. What was the nature of these reports/responses?</p>	<p><b>Questions 7 and 8 Answers</b></p> <p>The figures reported in Table 3 on page 15 of the ICAC Annual Report 2020-21 are reflective of all “reports and responses”, which includes:</p> <ul style="list-style-type: none"> <li>- Responses to requests for quarterly statistical reports from the Assessments Section in relation to numbers of complaint allegations received by the Commission;</li> <li>- Copies of monthly Investigation Management Group reports;</li> <li>- Monthly reports on the use of the Commission’s use of Statutory Powers; and</li> <li>- Copies of quarterly Executive Management Group reports.</li> </ul> <p>By comparison the figures provided in Table 3 on page 15 of the ICAC Annual report 2019-2020 are reflective of responses the Commission</p>

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<p><b>Complaint trends</b></p> <p>In 2020, the Commission reviewed and amended its KPIs to reflect 'the increasing complexity of the Commission's investigations, and operational and technological changes over the past five years.</p> <p>9. Can you explain more about the review of KPIs conducted by the Commission in 2020?</p> <p>10. How is the Commission tracking against the new KPIs?</p> <p>This reporting year has seen an increase in complaints involving both NSW public officials and NSW Police.</p> <p>11. Why have these types of complaints increased?</p> <p>12. What is the process for referring police related complaints to the LECC?</p> <p>13. Is there a Memorandum of Understanding between the two agencies? If so, can you please provide a copy to this Committee?</p> <p>14. Health is still the most common sector to appear in allegations made in public interest disclosures: ICAC Annual Report 2020-2021, p23. Why is this?</p> <p>15. From p26 of your most recent Annual Report, around 50% of corrupt conduct in section 11 reports are 'improper use of records or information', and remains the most frequently reported. Why is this and what work is the ICAC undertaking to address this?</p>	<p>provided to requests for information from the Inspector pertaining to complaints received by his office.</p> <p><b>Question 9 Answer</b></p> <p>In March 2020 an analysis was conducted concerning the increasing amount of computer data received by the Commission and the impact of that increase on the Divisions KPIs. The analysis showed the amount of computer data received by the Commission continually and significantly increased since 2014, contributing to investigations not being able to meet current KPIs.</p> <p>Further analysis showed a corresponding increase in computer data and the number of documents saved in TRIM, the Commission's Record Management System (RMS) investigation files.</p> <p>Several reasons were considered, which contributed to the inability to meet KPIs including: -</p> <ul style="list-style-type: none"> <li>• Increase in data / evidence.</li> <li>• Increased complexity of operations since 2014 including: - <ul style="list-style-type: none"> <li>○ Financial – complex financial structures, multiple bank accounts, complex trust arrangements.</li> <li>○ Computer forensics - amount of data received, acquired, and requiring analysis,</li> <li>○ Advances in computer and telecommunication technology, used to advantage by persons involved in corrupt conduct, such as iCloud, chat applications and data encryption, to avoid detection.</li> <li>○ Seriousness of the offences.</li> <li>○ The extent of the timeframe of the corrupt conduct.</li> </ul> </li> </ul>



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	<ul style="list-style-type: none"> <li>○ Multiple affected persons – conspiracies.</li> </ul> <p>The May 2020 report of an internal audit undertaken by KPMG following a review of the Commission’s investigation process recommended the revision of the existing set of KPIs to ensure KPIs are focused on the overall performance of an investigation regarding achievement of outcomes. These KPIs should be measurable, achievable, and quantifiable. <sup>1</sup></p> <ul style="list-style-type: none"> <li>● Parliamentary Joint Committee</li> </ul> <p>In August 2020, the Parliamentary Joint Committee on the Independent Commission Against Corruption (Committee) reported on the Commission’s 2018-19 Annual Report. <sup>2</sup> The Committee heard evidence regarding the ICAC’s KPIs and observed: -</p> <ul style="list-style-type: none"> <li>● “It is important that the Key Performance Indicators of the ICAC reflect any significant changes to the environment in which the ICAC is carrying out its work”.</li> </ul> <p>The Committee questioned whether some of the ICAC’s KPIs and targets are too ambitious and noted for targets to be meaningful, they must consider the nature of the work being done by the ICAC. This includes ensuring that targets can adapt to any significant structural or environmental trends and changes when required. The Committee agrees targets are important but also supports KPIs being adjusted, if necessary, to reflect operational changes. <sup>3</sup></p> <ul style="list-style-type: none"> <li>● <b>Complex and Non-Complex investigations</b></li> </ul>

<sup>1</sup> KPMG Review of Investigation Process, Internal Audit Report, Independent Commission Against Corruption, May 2020. Recommendation 2.4.1, p11.

<sup>2</sup> Committee on the Independent Commission Against Corruption, Review of the 2018-19 annual reports of the ICAC and the Inspector of the ICAC, Report 2/57, Parliament of NSW, August 2020

<sup>3</sup> Review of the 2018-19 annual reports of the ICAC and the Inspector of the ICAC, p 23.

Question	ICAC Answer
	<p>In October 2020, the Commissioners approved a recommendation to amend the investigation KPIs based on non-complex and complex investigations.</p> <ul style="list-style-type: none"> <li>○ <b>Non-complex investigations</b> are less complex because: <ul style="list-style-type: none"> <li>• Only 1 to 2 public officials are implicated</li> <li>• Only 1 to 2 private individuals or organisations are implicated</li> <li>• Search warrants on 1 or 2 premises.</li> <li>• The seizure and examination of a small number of telephones and computers.</li> <li>• Surveillance.</li> <li>• S22 Notices to organisations to produce documents</li> <li>• Uncomplicated financial arrangements and limited number of bank accounts.</li> <li>• Interviewing of a small number of witnesses</li> <li>• Limited use of coercive powers – Compulsory Examinations.</li> <li>• Any prosecution brief to the Department of Public Prosecutions (DPP) will be limited in the number of persons and offences.</li> <li>• The conclusion of investigation may progress (none which can be anticipated at escalation) to <ul style="list-style-type: none"> <li>○ Closure due to lack of evidence to support corrupt conduct</li> <li>○ Briefs of evidence being forwarded to the DPP.</li> <li>○ Dissemination of material to another agency.</li> </ul> </li> <li>○ <b>Complex investigations</b> are more complex because: <ul style="list-style-type: none"> <li>• Multiple public officials</li> <li>• Multiple private individual implicated</li> <li>• Multiple and complicated financial arrangements.</li> <li>• Multiple and complicated company and trust structures.</li> <li>• Multiple search warrants (4 to 10)</li> </ul> </li> </ul> </li> </ul>

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	<ul style="list-style-type: none"> <li>• Seizure and examination of multiple telephones and computers</li> <li>• Telecommunication Interceptions – multiple interceptions.</li> <li>• Controlled Operations</li> <li>• Prolonged surveillance of multiple persons of interest.</li> <li>• Large number of witnesses.</li> <li>• Regional NSW travel to conduct multiple interviews.</li> <li>• Multiple Compulsory Examinations.</li> <li>• The conclusion of an investigation may progress (none which can be anticipated at escalation) to <ul style="list-style-type: none"> <li>○ Possible lengthy public inquiry</li> <li>○ Prosecution briefs involving multiple persons and offence.</li> <li>○ Large and complex briefs of evidence to the DPP.</li> </ul> </li> <li>• <b>Comparison with Australian anti-corruption agencies</b></li> </ul> <p>A comparison of investigation KPIs was also conducted of other anti-corruption and integrity agencies including the Queensland Crime and Corruption Commission (Qld CCC), the WA Corruption and Crime Commission (WA CCC) and the Victorian Independent Broad-Based Anti-Corruption Commission (IBAC).</p> <p>The QLD CCC and WA CCC have similar KPI investigation reporting to the Commission's. Based on the analysis of the Commission's investigations over the past 7 years the IBAC's system of categorising investigations into 'standard' or 'complex' investigations was considered more applicable to the Commission's investigations.</p> <p><b>Question 10 Answer</b></p> <p>The investigation KPI changed to a 2 tier system, based on complexity to: -</p> <ul style="list-style-type: none"> <li>• Tier 1 - Standard investigations - Completion of 70% of investigations within 16 months from the date of the assessment</li> </ul>

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	<p>panel decision. This KPI changed only in that the percentage decreased from 80% to 70%.</p> <ul style="list-style-type: none"> <li>• Tier 2 - Complex investigations - Completion of 70% of investigations within 24 months from the date of the assessment panel decision. This KPI created a new category and increased the investigation time by 8 months and reduced the percentage completion rate from 80% to 70%.</li> <li>• The new system of investigation categorisation only applies to matters escalated to an investigation from 1 July 2021.</li> </ul> <p>Since 1 July 2021 15 matters have been escalated to investigations. This consists of 15 investigations, only one matter has been escalated to a complex investigation. That matter will not be completed within the KPI.</p> <p>As at the date of this report 6 of the 14 standards investigations have been completed, five of which were completed within the KPI date, tracking at 83% completion. There are eight investigations currently open under the new KPI with varying escalation dates, however, it is anticipated the percentage completion date as of 30 June 2022 will be in the 70% to 80% range.</p> <p><b>Question 11 Answer</b></p> <p>The increase in complaints involving both NSW public officials and NSW police in 2020-21 can largely be attributed to one particular matter that arose during the year, which generated significant interest, and resulted in a large number of complaints being made to the Commission.</p>

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	<p><b>Question 12 Answer</b></p> <p>The Commission has a process for referring complaints involving NSW Police to the Law Enforcement Conduct Commission (LECC). It does so by emailing a copy of the complaint to a key contact at the LECC, and providing any relevant, additional information that may assist the LECC in exercising its statutory functions.</p> <p><b>Question 13 Answer</b></p> <p>The Commission does have a Memorandum of Understanding with the LECC however we are not in a position to provide it to the Committee without seeking formal agreement with the LECC.</p> <p><b>Question 14 Answer</b></p> <p>The main reason that health is the most common sector to appear in allegations made in public interest disclosures to the Commission is that health is a very large public sector that employs many staff and contractors. According to the NSW Health Annual Report for 2020-2021, the NSW health system employs 127,156 full time equivalent staff and consumes \$30.2 billion in funding for healthcare services.</p> <p>In addition, in recent years some Local Health Districts have become more adept at identifying alleged improper access to electronic health records. This can involve health staff allegedly accessing health information about friends, family and colleagues or patients not under their direct care. This has led to growth in reports to the Commission that are classified as “Improper use of records or information” (see Table 13 on page 23 and the case study on page 24 of the Commission’s Annual Report 2020-2021).</p>

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	<p>Although the health sector is large, it has not historically been the subject of many Commission investigation reports.</p> <p><b>Question 15 Answer</b></p> <p>Allegations of corrupt conduct involving the ‘improper use of records or information’ are amongst the most frequently reported to the Commission by principal officers under section 11 of the ICAC Act. Allegations of this nature could relate to a NSW public official’s use of confidential records for private purposes, the unauthorised release of confidential information, or providing misleading information.</p> <p>The frequency of reporting these allegations to the Commission could be based on a number of factors, including:</p> <ul style="list-style-type: none"> <li>• the relative amount of information and records held by NSW public authorities</li> <li>• the potential value of the information and records, having regard to the nature of the activities within the NSW public sector and services it delivers and</li> <li>• the maturity of the NSW public sector in having effective systems to identify and report to the Commission allegations of this type.</li> </ul> <p>The Commission adopts various approaches in response to these issues:</p> <ul style="list-style-type: none"> <li>• In response to specific circumstances arising in complaints and reports received by the Commission, the Commission provides targeted advice and guidance to NSW public authorities to lift the maturity of systems to detect and respond to these allegations.</li> <li>• In its investigations, the Commission has made recommendations to NSW public authorities to enhance controls over information and records, such as in its May 2022 report in Operation Ember.</li> <li>• The Commission provides advice to NSW public authorities on its website about managing the risks associated with confidential</li> </ul>

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	<p>information, and has responded to requests for advice from individual NSW public authorities about this topic.</p> <ul style="list-style-type: none"> <li>• In the Commission’s publications, the Commission provides general advice and guidance to the NSW public sector to prevent corruption in its various forms, including the ‘improper use of records or information’. For example, in its April 2022 publication titled <i>Fact Finder: a guide to conducting internal investigations</i>, the Commission aims to increase the ability of the NSW public sector to investigate corrupt conduct effectively. Further, in January 2021, the Commission published <i>Advise on developing a fraud and corruption control policy</i> which aims to assist NSW public authorities in developing a policy setting out its approach to controlling fraud and corruption.</li> <li>• The Commission uses the recommendations and advice from its investigations and publications to inform training workshops, delivered by the Commission, to the NSW public sector. These workshops aim to increase understanding about how and why corruption occurs, where the opportunities for corruption may be and how corruption can be prevented, detected, investigated and addressed.</li> </ul> <p>Finally, the Commission adopted a proactive liaison program to engage with the NSW public sector and work with it to prevent corruption, including in relation to handling information and records.</p>
<p><b>Assessment &amp; Investigations</b></p> <p>16. How does the ICAC prioritise investigations?</p> <p>17. Why has there been a considerable decrease in assessment enquiries conducted by the ICAC in 2020-21 (59 vs 87 in 2019-20)?</p>	<p><b>Question 16 Answer</b></p> <p>Investigation priorities are determined by the Commission’s Investigation Management Group (IMG), chaired by the Chief Commissioner, but priority investigation decisions are primarily made by the Chief Commissioner.</p>

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<p>18. The annual report describes the work of the Strategic Intelligence and Research Unit (SIRU), especially its development and transformation of actionable preliminary investigations as 'painstaking and methodical'. It also notes that its KPIs were amended to reflect its current workload. What is meant by this description of the SIRU's work?</p> <p>19. The ICAC reported that in the 8 month period after July 2020, 24 search warrants were issued compared to 2 in 2019/20. Why was there such a large increase?</p>	<p>The Commissioners have responsibility for the exercise of the Commission's investigation function under the Independent Commission Against Corruption Act 1988. The Chief Commissioner has authorised and/or delegated various commission officers to exercise functions and powers of the Commission for the purpose of conducting Commission investigations.</p> <p>The IMG is a panel comprising the Chief Commissioner, the Commissioners and the Commission's operational executive officers. The IMG is responsible for managing the Commission's investigation portfolio to ensure its resources are invested to provide optimal value in delivering the Commission's statutory objectives.</p> <p>The IMG is responsible for ensuring that:</p> <ul style="list-style-type: none"> <li>• there is a detailed IMG report providing sound justification for each investigation and only those investigations that are of potential investigative value in delivering the Commission's strategic objectives are continued and are resourced and prioritised consistently with those objectives;</li> <li>• the Commission's resources are efficiently and effectively deployed;</li> <li>• investigations remain focused and responsive to significant issues identified during the investigation and there is appropriate progress and completion of the investigation.</li> </ul> <p>The functions of the IMG include:</p> <ul style="list-style-type: none"> <li>• considering and reviewing the IMG report justifying the investigation, the scope and focus of exposure and corruption prevention activities</li> <li>• making or endorsing key decisions made in the course of a Commission investigation, including for example, decisions about investigation priorities, key strategies and results, whether to make a SIRU preliminary investigation and preliminary investigation, or a</li> </ul>



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	<p>particular investigation the subject of a full investigation or to progress a standard investigation to a complex investigation, which provides an extension to the timeframe in which an investigation can be completed to discontinue or close an investigation, or whether to recommend the Commission conduct a public inquiry</p> <ul style="list-style-type: none"> <li>• monitoring the delivery of investigation products and results including, public inquiries, investigation reports, briefs of evidence, the implementation of agency corruption prevention implementation and action plans, and the progress of criminal prosecutions arising from investigations assessing the benefits of a Commission investigation and considering post operational assessments</li> </ul> <p><b>Question 17 Answer</b></p> <p>In response to a complaint or report, the Commission may decide to conduct enquiries to gather further information to make an informed assessment. Such enquiries are called ‘assessment enquiries’. These enquiries are generally with NSW public authorities to establish facts as part of an assessment, to consider any relevant policies or procedures, or to obtain details about what action a public authority may have taken in relation to the matter.</p> <p>The reduction in the number of assessment enquiries conducted by the Commission in 2020-21 compared with the previous year is the result of statistical variations year to year, and having regard to the nature of the matters considered in 2020-21. Fewer matters were considered by the Commission where assessment enquiries would have advanced the Commission’s understanding and better informed its assessment.</p>

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	<p><b>Question 18 Answer</b></p> <p>To develop intelligence that may lead to preliminary investigations, SIRU must collect, collate, and analyse large volumes of information and data. Given the varying formats of data provided to the Commission, a significant amount of time is required for validation and reformatting before that material can be imported into the intelligence systems used by SIRU.</p> <p>Following this, SIRU employs several analytical techniques to identify patterns and trends, or issues that may require further interrogation. While the process of data interrogation is driven by structured queries, the resulting outputs produce refined, yet still substantial, amounts of information that must be assessed by an analyst.</p> <p>Once an issue has been identified through analytics that marks the commencement of the next series of steps. This includes reviewing the specifics of related complaints made to the Commission, making follow up inquiries with complainants and sourcing additional information if required. At the completion of this process, the intelligence is synthesised into a report with recommendations on how the Commission may wish to proceed on the matter.</p> <p><b>Question 19 Answer</b></p> <p>Investigations progress through different stages from a preliminary investigation, and if necessary, including a covert phase, until an investigation is at a stage the investigation needs to progress to the overt stage. The length of time an investigation takes to reach the overt stage varies depending on the complexity of the investigation and the number of search warrants required to be executed.</p> <p>The overt phase usually commences with the issue of Notices under the ICAC Act, interviews, statements, and if sufficient evidence exists, the execution of search warrants. The Commission has three investigation</p>

Question	ICAC Answer
	<p>teams, and several investigations ongoing at any time. The high number of search warrants (24) in 2020-21 was because three investigations reached the overt stage within one year (Operations Galley, Hector, and Aspen).</p> <p>This is compared to 2019-20 when only two search warrants were executed. This was attributable to the investigations either not being at the stage of executing search warrants, or there was insufficient evidence for a search warrant or other means of investigation to obtain the evidence, for example Notices to Produce or compulsory examinations.</p> <p>The pandemic impact on the execution of search warrants resulted in a break in the normal pattern of search warrant planning, however, an opportunity arose later in the 2020-21 to execute the search warrants.</p>
<p><b>Corporate structure of the ICAC</b></p> <p>20. Are there plans to review the ICAC's corporate structure in response to the Auditor General's report?</p> <p>As outgoing Commissioners, what views do you each have on what improvements could be made? (I am mindful of the observations made by Assistant Commissioner McDonald in her opening statement to the committee at the review hearing).</p>	<p><b>Question 20 Answer</b></p> <p>In December 2020, the Commission re-engaged KPMG to undertake a further analysis and review of the Commission's workforce. This work by KPMG included re-visiting their 8 October 2018 "Process and Workforce Review" report recommendations to determine if they were still valid, as well as undertaking a review of the Commission's Corporate Services Division as recommended by the Auditor-General in her October 2019 performance audit. KPMG provided their final report of this new work to the Commission on 16 February 2021 and it was submitted that month to the NSW Government as part of the Commission's 2021-2022 budget bid.</p> <p>The Commission referred to the review of its Corporate Services Division on page 4 of its answers to questions on notice that resulted from its appearance before the ICAC Committee's May 2021 hearing into the Commission's 2019-2020 Annual Report.</p>

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Question	ICAC Answer
	<p>A copy of the February 2021 KPMG report was also tabled by the Chief Commissioner during the May 2021 ICAC Committee hearing.</p> <p>The new staffing component of the Commission’s 2021-22 budget bid, including additional Corporate Services Division staffing, was not successful (this was referred to in the Chief Commissioner’s Foreword on page 5 of the Commission’s Annual Report 2020-2021).</p> <p>The Commission has resubmitted its budget bid for additional staffing, including for additional staff in the Corporate Services Division, as part of the 2022-23 budget process.</p>