

**Committee in the Ombudsman, Police Integrity Commission and the
Crime Commission
Eighteenth General Meeting with the NSW Ombudsman**

Answers to additional questions on notice

- 1. The Ombudsman notes in his opening statement at the last general meeting, and in the Annual Report, the office's participation, with other Australian and New Zealand parliamentary Ombudsmen, in a joint project to develop a review process (*Annual Report*, page 8). Has this collaborative work continued and what have been the benefits to the office of participation in the project?**

As noted in the Ombudsman's submission to the Committee's inquiry into integrity agency performance and accountability, the review process was confined to our office's Public Administration Division (PAD) and did not include the Human Services or Police and Compliance Branches. This was because the jurisdictional responsibilities of the PAD and those of the Victorian Ombudsman are similar.

A senior officer from our office reviewed the Victorian Ombudsman's complaint handling processes in July 2011 and provided a report including a number of recommendations. A staff member from the Victorian Ombudsman then did the same in September 2011.

The greatest benefit to the PAD has come from having someone outside the office, with a strong understanding of the work of an Ombudsman, review our process. The Victorian Ombudsman staff member made a number of recommendations, including greater integration between our case (Resolve) and document (TRIM) management systems, reviewing the way we deal with electronic complaints and changing our incoming call management software. The PAD is currently trialling paperless responses to complaints, we are working to improve the integration between TRIM and Resolve, and we are currently working to update our telephone exchange system. Implementation of these recommendations is being monitored by our Audit and Risk Committee.

Staff from our office and the Victorian Ombudsman have continued to work together to develop an effective approach to conducting similar reviews in other offices. Several other Parliamentary Ombudsmen have shown interest in having similar reviews conducted in the future.

- 2. Page 19 of the Annual Report says the office is in the process of developing and implementing 'a more robust risk management framework, taking into account increasing workloads and additional pressure on staff as a result of our shrinking budget'. Can you provide the committee with more detail about the particular risks referred to here?**

All government agencies are required under NSW Treasury policy to have an enterprise risk management framework in place that complies with the relevant international standard (ISO 31000). We approached complying with this requirement as an opportunity to review our processes for identifying and taking action to deal with the risks we face in performing our various functions. These will include the impact of increasing workloads, and the challenges posed by budgetary restrictions. These risks largely relate to ensuring we complete our work in a timely manner and allocate our resources appropriately.

The review has involved all business areas reviewing their major risks. We have engaged an external consultant to work with us, and we are currently in the process of finalising a schedule of the key risk scenarios for the office.

3. The Annual Report notes that Mr Kinmond implemented more streamlined internal processes in the human services branch, improving how it deals with agencies. Can you provide the committee with more detail about these implementations? (Annual Report, page 29)

In October 2009, the Ombudsman merged the Employment Related Child Protection Division with the Office's Community Services Division to form the Human Services Branch under the leadership of the Deputy Ombudsman/Community and Disability Services Commissioner. This provided greater opportunity for a sophisticated, holistic, and strategic approach to child protection concerns.

We have increased the number of Principal Investigators in our Employment Related Child Protection Division from one to four. We have also increasingly recruited staff with a mix of relevant human services experience and strong analytical and investigative skills.

We have implemented a range of policy and practice changes in recent years to ensure that we add value to agency investigations in a practical way, and to identify and address inhibitors to good practice. Key initiatives that we have undertaken to support agencies in responding to allegations of serious reportable conduct include:

- developing a training course that provides agencies with practical advice about how to deal with the challenges associated with investigating matters involving multiple agencies
- revising our reportable conduct definitions in August 2010, prompted in large part by the difficulties agencies were facing in investigating, and making findings of, sexual misconduct
- reviewing the range of findings available to agencies and allowing agencies, in appropriate circumstances, to find that an allegation is 'not sustained – [due to] a lack of evidence of weight', rather than 'false'
- engaging with Police on a frequent basis in relation to significant reportable conduct matters (in the past 12 months this approach has resulted in prosecutions involving multiple victims), and having a much greater emphasis on engaging with Police in relation to taskforces
- taking an increasingly proactive role in relation to serious allegations, including substantially increasing our 'in-house' access to Police and Community Services databases in order to obtain a holistic understanding of the prevailing risks in particular matters and to better inform our assessment of any action that may be required
- facilitating meetings with key stakeholders involved in serious and/or complex cases to identify the nature and extent of collective holdings and to collectively plan the best way forward
- promoting and strengthening the mechanisms for greater interagency collaboration and information exchange
- actively promoting and utilising Chapter 16A of the *Children and Young Persons (Care and Protection) Act 1998* in relation to reportable conduct matters to strengthen interagency information exchange
- reaching an agreement with the Police Commissioner in 2009 regarding Standard Operating Procedures (SOPS) which clearly outline the responsibilities of local police in providing practical support to agencies responding to allegations of reportable conduct, and
- organising a roundtable with Victim's Services and stakeholders to establish best practice in responding to victims of reportable conduct.

4. The Joint Consultative Committee is referred to in pages 28, 29 and 32 of the Annual report. Who are the members of this committee and what role do they have in the organisation?

The Joint Consultative Committee (JCC) is established as a mechanism for achieving effective consultation between management, staff and the relevant union(s). This is to ensure the efficient and effective operation of the office and to meet the consultation requirements of the Crown Employees (Public Service Conditions of Employment) Award 2009. The office's consultative arrangements policy outlines the makeup and role of the JCC.

The Committee is currently made up of three representatives from management, who are appointed by the Ombudsman, and three workplace delegates nominated by the PSA Workplace Group. There is a standing invitation for a PSA official to attend. The JCC meetings are held regularly, with nine meetings held in 2012.

The JCC reviews and comments on new and updated office policies that have an impact on staff, as well as discussing a range of issues, including proposed structural changes, workplace health and safety and award provisions. It is a forum to discuss any matter affecting staff and to identify possible solutions.

5. The Annual Report notes on page 54 that the office would be conducting a review of discipline hearings finalised during a 3-month period up to February 2012 at the three Corrective Services centres which generated the highest number of complaints during 2011. Were any systemic deficiencies identified as a result of the review and if so, have appropriate steps been taken to remedy them?

Our review found some specific issues with the way in which inmate discipline is administered and we believed a much wider project needed to be completed to fully review inmate discipline. We set down our outcomes and views and referred that information to the Commissioner of Corrective Services NSW (CSNSW). We suggested the Commissioner undertake a more wide-ranging review of inmate discipline, specifically relating to some of the procedural issues we identified, such as procedural fairness issues – and then advise us of the outcome and any action he intends to take.

The Commissioner agreed with this course of action and work is being done by CSNSW in this regard. We have met twice with staff from CSNSW to discuss the issues we identified and the action they are taking.

6. A case study on page 70 of the Annual reports highlighted in-going confusion for property owners about the roles of local councils and the Principal Certifying Authority in ensuring compliance with development consents. Another case on the same page gave an example of confusion about the roles of police and council following a dog attack. These would be common problems across the state's local government areas. Does your office have procedures in place with the Department of Local Government so that information about issues like these can be circulated to councils? For example, on page 7 of the Annual Report the Committee notes that the office holds regular liaison meetings with the Department. Are these kinds of systemic issues raised in those meetings?

Regular liaison meetings with staff from the Division of Local Government within the Department of Premier and Cabinet (DLG) are used as an opportunity to share information about some of the systemic issues we see arising through our local government work. We also work closely with the DLG on a range of other issues, including the handling of public interest disclosures in a local government setting, with the Chief Executive of the DLG serving as a member of the public interest disclosures steering committee.

7. How has the technology been working which the office introduced to collect information on public interest disclosures? (Annual Report, page 26)

The stand-alone reporting portal established to allow agencies to provide their public interest disclosures statistics every six months is working very well. We experienced some challenges at times when there was a large demand, particularly in the days leading up to the end of the first reporting period. By providing clear guidance materials outlining how the portal works and ensuring our staff were available to talk with agencies about their reports, we were able to ensure we received the information required and agency staff were not inconvenienced.

Receiving information electronically allowed us to collate and analyse what we received far more easily. Public authorities are also able to log in and view their previous reports through the portal.

- 8. The Public Interest Disclosure annual report (page 4) notes that, in response to work conducted with the NSW Police Force, the Force has now identified more than 20 staff who are able to receive public interest disclosures. Are you satisfied with this number and are you confident that the regional Professional Standards Managers are fully cognisant of their responsibilities?**

We are very pleased that the NSW Police Force (NSWPF) chose to amend its internal reporting policy to provide for the Professional Standards Managers in each Region to be named as disclosure officers. The relevant changes came into force from 1 January 2013. It is difficult to assess the adequacy of the number of disclosures officers so soon after the change has been made. We will continue to monitor the way in which public interest disclosures are handled by the NSWPF to assess whether the number of staff able to receive disclosures is appropriate.

We have been working with NSWPF on this issue for some time. In August, staff from our Police Division and Public Interest Disclosures Unit facilitated a training and information session for staff from NSWPF Professional Standards Command. In September 2012, a member of staff from our Public Interest Disclosures Unit attended a public interest disclosures information session, run by the Manager of the NSWPF Internal Witness Support Unit, involving the Professional Standards Managers. This was an opportunity to provide them with information about the Act and for them to discuss practical considerations in its implementation. The NSWPF internal reporting policy also clearly states the roles and responsibilities of disclosures officers. This policy has been provided to all disclosures officers, and is available on the NSWPF intranet. Finally, an item was included in the January NSWPF Gazette in relation to the changes to the internal reporting policy, with a particular focus on the roles of disclosures officers. This will ensure officers looking to report wrongdoing will have an understanding of who they can go to and what to expect.

- 9. The Public Interest Disclosures annual report (page 10) notes that some public authorities are not complying with their obligations. Has there been some improvement at the end of the subsequent six-month reporting period?**

Section 6CA of the *Public Interest Disclosures Act 1994* provides that agency statistical reports are to be provided to our office within 30 days after the end of the 6 month period to which the report relates, or by such later time as the Ombudsman may approve. We realised that the public sector closure over the Christmas and New Year period would make it challenging for agencies to provide their reports to us by 31 January. To ensure agencies met their reporting requirements by the cut off date, the Ombudsman extended the date for providing information to 14 February. At the time of writing, we are still in the process of compiling and collating the responses.

- 10. Based on information from public authorities, it has been observed (*PID Annual report, page 10*) that the larger the public authority is, the fewer are the number of public interest disclosures which are finalised. Is there any indication as to why that is?**

While the statistical information we receive in relation to public interest is extremely useful, it can only present part of the picture. This is why we are focussing on the development and implementation of an audit program. These audits will involve staff from our office going to public authorities, speaking with those staff responsible for handling public interest disclosures, and most importantly, reviewing the records relating to the handling of disclosures. This work is in its early stages, and further information about the audits conducted this year will be included in the next public interest disclosures annual report.

- 11. The NSW Ombudsman Annual Report 2011/2012 notes on page 13 that the Public Interest Disclosures Unit was re-organised to allow a greater focus on managing and investigating disclosures, rather than the emphasis, in the first twelve months of the unit's operation, in education and policy. However, in the foreword to the Annual Report on the oversight of the PID Act the Ombudsman says that there is a need to continue to focus on awareness and training. Does the office have the resources to adequately perform both the educational and investigative functions?**

The Ombudsman sought additional funds to support the work of the public interest disclosures unit within the forward estimates submission at the end of 2012. The Ombudsman was then provided with an opportunity to submit requests for exceptional funding for consideration by the Expenditure Review Committee of Cabinet in March 2013. The Ombudsman limited his request for funding to the priority areas of the Child Death Review Team and Operation Prospect, and did not seek funding for our public interest disclosures work. We will continue to look for ways of performing both our investigative and educational work as efficiently and effectively as possible in these circumstances.

- 12. Has the office's investigation into the Strike Force Emblem matter had an impact on its capacity to oversight other police matters?**

The Ombudsman has worked hard to ensure this investigation, known as Operation Prospect, does not have an impact on the other work of office, particularly the Police Division. He has sought and received additional funding, and is in the final stages of recruiting a dedicated investigation team. Despite this work, the nature of the investigation has meant that it has involved both the Ombudsman and the Deputy Ombudsman (Police and Compliance), along with the office's General Counsel and Principal Legal Officer. All of these staff will have some level of ongoing involvement in the operation at various times.

- 13. Please provide the Committee with a copy of the Office of the NSW Ombudsman's Corporate Plan.**

The Ombudsman's Statement of Corporate Purpose (attached) provides high level direction to the work of the office. It is supported by detailed Branch and Divisional Plans, and these in turn inform individual work plans. The Statement is currently under review. This process is expected to be completed in the coming months, and we will provide the Committee with a copy of the new Statement once it is finalised. The Ombudsman would welcome any comments and suggestions the Committee may have on the statement to inform this review.