

PERFORMANCE MEASURES AND ACCOUNTABILITY OF OVERSIGHT AGENCIES

Organisation: Corruption and Crime Commission
Name: Mr Roger Macknay
Position: Commissioner
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Submission 7



CORRUPTION
AND CRIME
COMMISSION

Your Ref: D12/32914
Our Ref: 03509/2012 RM:KE.

14 January 2013

Hon. Catherine Cusack MLC
Chair
Committee on the Ombudsman,
the Police Integrity Commission
and the Crime Commission
Parliament of New South Wales
Macquarie Street
SYDNEY NSW 2000

Dear Ms Cusack

**SUBMISSION TO THE PARLIAMENTARY COMMITTEE INQUIRY – MEASURING
AND REPORTING ON THE PERFORMANCE OF INTEGRITY AGENCIES**

I refer to your letter of 10 December 2012 concerning your committee's current inquiry into the ways in which performance is measured and reported on in those agencies within the committee's jurisdiction.

I thank you for providing the Corruption and Crime Commission with the opportunity to make submissions to the inquiry. Please find these submissions enclosed.

Should you have any further questions in relation to these matters, please contact [REDACTED], Executive Director on [REDACTED].

Yours faithfully

Roger Macknay, QC
COMMISSIONER

Encl.

CORRUPTION AND CRIME COMMISSION SUBMISSIONS TO THE NEW SOUTH WALES PARLIAMENTARY COMMITTEE INQUIRY – MEASURING AND REPORTING ON THE PERFORMANCE OF INTEGRITY AGENCIES

A. The reporting requirements of each agency

The Corruption and Crime Commission's ("the Commission's") primary statutory reporting obligations are based in the *Corruption and Crime Commission Act 2003* ("the CCC Act") and the *Financial Management Act 2006* ("the FMA").

It is a requirement of the FMA that the accountable authority of an agency prepare an annual report at the end of each financial year. Part 5 of the FMA establishes the requirements for that report. Section 91 of the CCC Act establishes additional annual reporting requirements specific to the Commission. These primarily relate to the functions of the Commission and the use of statutory powers pursuant to the CCC Act and other legislation including the *Telecommunications (Interception) Act 1979* (Cwlth) and *Surveillance Devices Act 1998*.

Specifically section 91(1) of the CCC Act states that the Commission is to prepare a report as to its general activities during the year. Section 91(2) states that the report is to include:

- (a) a description of the types of allegations received or initiated by the Commission;
- (b) a description of the types of investigations carried out by the Commission;
- (c) an evaluation of the response of appropriate authorities to recommendations made by the Commission;
- (d) the general nature and extent of any information furnished under the Act by the Commission to independent authorities;
- (e) the extent to which investigations carried out by the Commission have resulted in prosecution of public officers or other persons or disciplinary action against public officers;
- (f) the number of exceptional powers findings made under section 46;
- (g) the number of fortification warning notices issued by the Commission under section 68;
- (h) the number of notices to produce a statement of information issued under section 94;
- (i) the number of search warrants issued to the Commission under section 101;
- (j) the number of approvals for the acquisition and use of an assumed identity given by the Commission under section 103;
- (k) the number of authorities to conduct controlled operations granted by the Commission under section 121;
- (l) the number of authorities for integrity testing programmes granted by the Commission under section 123;
- (m) the number of warrants of apprehension issued by the Commission under section 148;
- (n) the number of warrants and emergency authorisations issued to the Commission under the *Surveillance Devices Act 1998*;
- (o) the number of warrants issued to the Commission under the *Telecommunications (Interception) Act 1979 of the Commonwealth*;

- (p) a description of the Commission's activities during that year in relation to its prevention and education function; and
- (q) any recommendations for changes in the laws of the State that the Commission considers should be made as a result of the performance of its functions.

Additional reporting requirements relevant to the Commission's performance are legislated by the:

- *Surveillance Devices Act 2004* (Cwlth);
- *Surveillance Devices Act 1998*;
- *Telecommunications Act 1997* (Cwlth);
- *Telecommunications (Interception and Access) Act 1979* (Cwlth);
- *Telecommunication (Interception) Western Australia Act 1996*;
- *Electoral Act 1907*;
- *State Records Act 2000*;
- *Occupational Safety and Health Act 1984*;
- *Workers' Compensation and Injury Management Act 1981*;
- *Public Interest Disclosure Act 2003*; and
- *Public Sector Management Act 1994*.

The Commission is also subject to performance reporting requirements of Treasurer's Instructions including:

- *TI 903: Agency Annual Reports*; and
- *TI 904: Key Performance Indicators*.

Reporting obligations relevant to the Commission's performance are also found in Policy Statements such as Premier's Circular's, Public Sector Commissioner's Circular's and Public Sector Commissioner's Instructions. These include:

- *Public Sector Commissioner's Circular 2009-13: Contact with Lobbyists*;
- *Public Sector Commissioner's Circular 2009-11: Occupational Safety, Health and Injury Management targets*;
- *Public Sector Commissioner's Circular 2009-23: Implementation of the Policy Framework for Substantive Equality*;
- *Public Sector Commissioner's Circular 2009-11: Code of Practice: Occupational Safety and Health in the Western Australian Public Sector*;
- *Public Sector Commissioner's Circular 2009-09: Workforce Data Reporting*;
- *Public Sector Commissioner's Circular 2009-19: Risk Management and Business Continuity Planning*; and
- *Premier's Circular 2005-08: Report on Consultants Engaged by Government*.

Additional public sector performance reporting requirements affecting the Commission include:

- the Public Sector Commissioner's *Annual Agency Survey*.

Although not formally obliged to develop and report on a Disability Access and Inclusion Plan (DAIP) under the *Disability Services Act 1993*, the Commission has developed and reports against its DAIP 2011-2015.

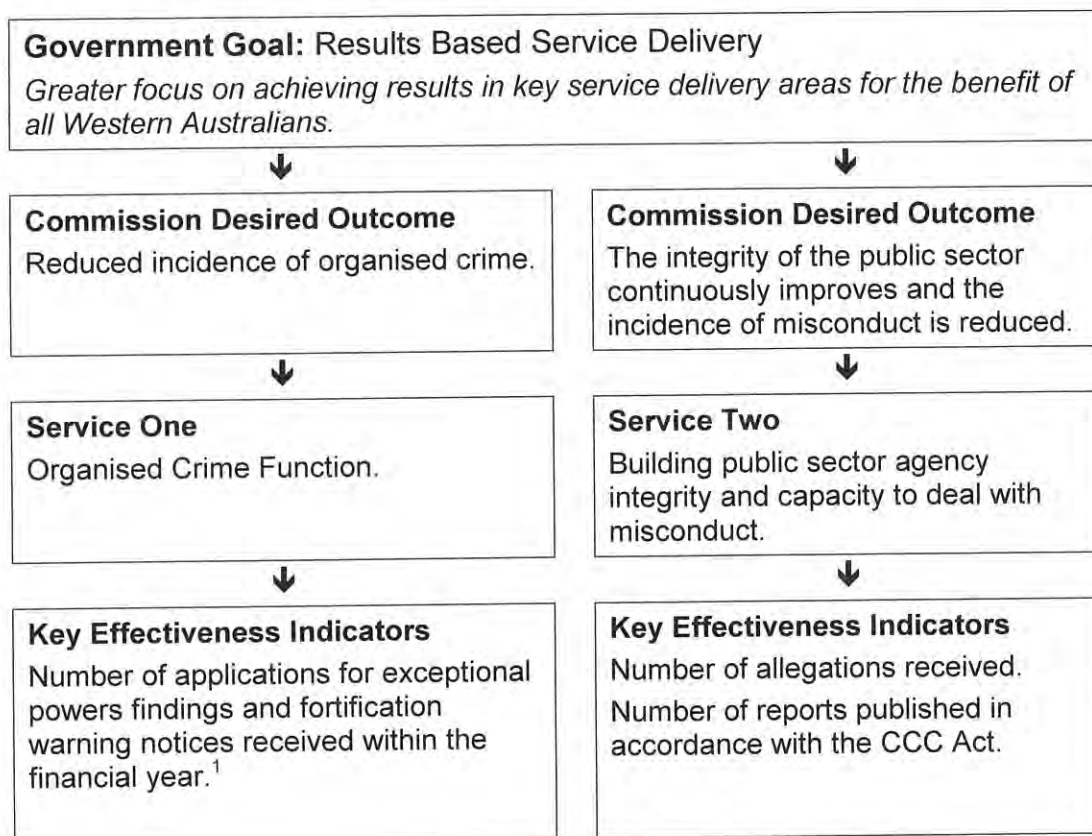
Pursuant to sections 84 and 85 of the CCC Act, the Commission may at any time prepare a report to the Parliament of Western Australia ("the Parliament") on any matter that has been the subject of investigation or other action in respect of misconduct, or action of an appropriate authority in respect of an allegation referred to that authority by the Commission. Pursuant to section 88 of the CCC Act, the Commission may also at any time prepare a special report to Parliament on any administrative or general policy matter relating to the functions of the Commission. An important purpose of Commission reports to Parliament is to provide an account of the Commission's activities, the performance of its functions and the achievement of its purposes under the CCC Act.

B. What measures are currently being used by agencies to assess their performance and effectiveness

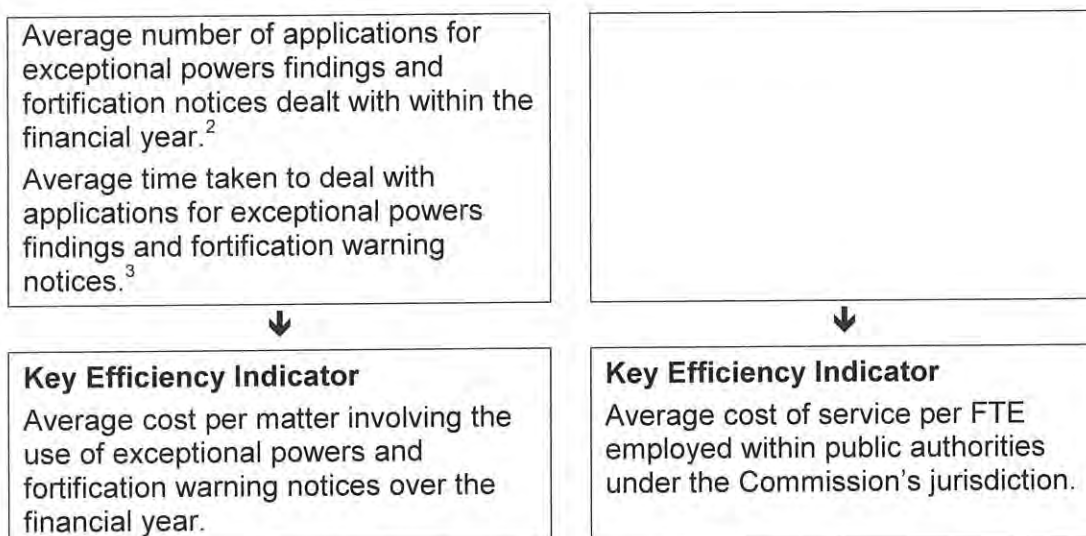
The Commission is subject to the Western Australian Government's performance management framework, referred to as Outcome Based Management (OBM).

The Commission's OBM framework (illustrated below) links to the Government's strategic planning framework. It contains two agency level Desired Outcomes which link to the Government Goal of "Results Based Service Delivery". The Commission's two services contribute to the achievement of these outcomes. Each service has Key Performance Indicators (KPIs) of effectiveness and efficiency.

OUTCOME BASED MANAGEMENT FRAMEWORK



¹ Number of applications for exceptional powers findings and fortification warning notices received from the Commissioner of Police and recorded on the Commission's Organised Crime Register. The onus lies with the Commissioner of Police to initiate and make applications.



The Commission's OBM framework provides the basis against which the Commission reports on its performance in the Commission Annual Report and provides the framework for internal performance measurement and business planning.

C. How these measures are determined

The Commission's OBM framework was developed in consultation with the Department of Treasury and the Office of the Attorney General and is consistent with the *Outcome Based Management – Guidelines for use in the Western Australian Public Sector*.

During 2011-2012 the Commission reviewed and received approval from the Under Treasurer to amend its OBM structure. As of 2012-2013 the Commission is reporting against the revised services and KPIs (detailed above).

To measure its performance against the OBM structure the Commission uses internal statistical and financial data sourced from a range of internal management systems.

D. How effective these measures are considered to be

As noted already, the Commission recently revised its OBM framework, including the desired outcomes, services and KPIs, and is reporting against these as of 2012-2013. The rationale for change to the OBM framework provides an understanding of some of the challenges and issues associated with measuring and reporting performance generally and ensuring that these keep pace with the evolution of the business.

For a number of years the Commission sought to amend its OBM structure due to concerns it had with the relevancy of the KPIs and the ability to translate them internally to measure key business activities. Developments in the Commission's

² Number of applications for exceptional powers findings and fortification warning notices received and granted by the Commission.

³ Average time taken to deal with applications for exceptional powers findings or fortification warning notices from the date the Commission received the written application from the Commissioner of Police until the date the Commission's decision is recorded and approved by the Commissioner.

activities and methods, and shifts in focus and structure, meant that performance measures were, in effect, out of step with the business. The Commission therefore sought to make changes that would ensure more relevant and meaningful information is available, externally and internally, to inform decision making. The revised framework is more consistent with the Commission's structure, focus and activities and therefore facilitates improved business planning and allocation of resources and effort.

The OBM services and outcomes, in particular, were amended to make them more relevant to the Commission's business and to have more direct links to and greater congruence with the purposes of the CCC Act.

A separate issue to the effectiveness of the OBM reporting framework is the effectiveness of the various statutory reporting requirements affecting the Commission. This, in the end, is a matter for the Parliament. One means by which Parliamentary oversight of the Commission, as an independent agency reporting directly to Parliament, is achieved is through the range of legislated reporting requirements. While the Commission can, to a degree, shape and influence the OBM framework for measuring performance, legislated requirements for reporting are not a matter for the Commission.

E. Any significant overlap or difference in approach between agencies

In terms of comparing the effectiveness of the Commission's performance with other agencies, this is possible and, to an extent, useful. Disparate legislation, differences in the level of maturity in prevention systems and different modes of operation constrains the extent to which valid comparisons may be made.

F. Any other relevant matter

The issue of measuring and reporting on performance remains a complex and difficult one. It is an issue that has, and continues, to occupy the focus of the Commission.

With respect to measuring and reporting on its performance, the Commission is subject to an overall regime which is complex, rigorous and resource intensive. For the most part, the reporting requirements affecting the Commission are based in legislation and are not easily subject to change. The challenge is to ensure that statutory reporting requirements, both as a public sector agency and as an integrity agency with access to considerable statutory powers, are met and that the measures which inform internal business decisions and priorities are relevant and meaningful to the business.