



I·C·A·C

INDEPENDENT COMMISSION
AGAINST CORRUPTION
NEW SOUTH WALES

**annual
report**

2022-23

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Contents

TRANSMISSION LETTER	3	Capability enhancement	36
CHIEF COMMISSIONER'S FOREWORD	4	How we investigate	36
SNAPSHOT 2022–23	6	Our investigations	36
CHAPTER 1: OVERVIEW	8	Use of statutory powers	39
Organisational chart	9	Public inquiries and compulsory examinations	39
Structure of the Commission	10	Investigation outcomes	40
What we do	12	Proceeds of crime	40
Exposing corruption	12	Referrals and other disseminations	40
Preventing corruption	12	Financial Investigation Unit	40
Accountability	14	National Investigations Symposium	40
Our organisation	14	Digital transformation strategy	41
Strategic Plan 2022–2025	14	National Anti-Corruption Investigation Network	41
Financial overview	16	CHAPTER 4: PREVENTING CORRUPTION	42
CHAPTER 2: ASSESSING MATTERS	17	Corruption prevention projects	43
Performance in 2022–23	18	Educational videos	44
Profile of matters received	19	Advice	44
Anonymous complaints	20	Education	44
Complaints from the public	21	Operation Keppel case study	48
Public interest disclosures	23	Operation Skyline case study	49
Reports from public authorities and ministers	24	Operation Paragon case study	50
The assessment process	26	CHAPTER 5: COMPLIANCE AND ACCOUNTABILITY	52
CHAPTER 3: INVESTIGATING CORRUPTION	32	The Commission's compliance framework	53
Investigations summary	33	Internal governance	54
Challenges impacting investigations in 2022–23	33	External governance	55
Workforce and Process Review	34	Principal legal changes	59
Strategic initiatives	35	Litigation	60
		Complaints against Commission officers	61

Privacy and personal information	62	APPENDICES	107
Access to information	63	Appendix 1 – Complaints profile	108
Report publicly about the work of the Commission	63	Appendix 2 – Public interest disclosures	111
Corrupt conduct findings and recommendations for prosecution/disciplinary action	67	Appendix 3 – Statutory reporting	112
CHAPTER 6: OUR ORGANISATION	68	Appendix 4 – Outcomes of matters	113
Our people	69	Appendix 5 – Adoption of corruption prevention recommendations	114
Staff performance development	70	Appendix 6 – Strategic alliances to optimise investigative outcomes	115
Governance and risk	70	Appendix 7 – Prosecution and disciplinary action in 2022–23 arising from ICAC investigations	116
Finance	72	Appendix 8 – Report on the ICAC's obligations under the <i>Government Information (Public Access) Act 2009</i>	137
Internal committees	72	Appendix 9 – Commissioners, Chief Executive Officer and executive officers	140
Information management and technology	74	Appendix 10 – Workforce diversity	142
<i>Modern Slavery Act 2018</i> (NSW) reporting requirements	74	Appendix 11 – Work health and safety	143
FINANCIALS	77	Appendix 12 – Engagement and use of consultants	144
Statement by Chief Executive Officer	78	Appendix 13 – Payment performance indicators	145
Statement of comprehensive income for the year ended 30 June 2023	81	Appendix 14 – Credit card certification	146
Statement of financial position as at 30 June 2023	82	Appendix 15 – Overseas travel	146
Statement of changes in equity for the year ended 30 June 2023	83	Appendix 16 – Major works	146
Statement of cash flows for the year ended 30 June 2023	84	INDEX	147
Notes to and forming part of the financial statements for the year ended 30 June 2023	85		

The Hon Chris Minns MP
Premier of NSW
Parliament House
SYDNEY NSW 2000

The Hon Benjamin Cameron Franklin MLC
President
Legislative Council
Parliament House
SYDNEY NSW 2000

The Hon Greg Piper MP
Speaker
Legislative Assembly
Parliament House
SYDNEY NSW 2000

Mr Premier
Mr President
Mr Speaker

In accordance with the requirements of the *Government Sector Finance Act 2018* and the *Independent Commission Against Corruption Act 1988*, the Commission hereby furnishes to you the Commission's annual report for the year ended 30 June 2023.

The report has been prepared in accordance with the requirements of those Acts.

Pursuant to s 78(2) of the *Independent Commission Against Corruption Act 1988*, it is recommended that this report be made public immediately. This recommendation allows either presiding officer of the Houses of Parliament to make the report public whether or not Parliament is in session.

Yours sincerely



The Hon John Hatzistergos AM
Chief Commissioner



Darrin Moy
Chief Executive Officer

Chief Commissioner's foreword



In August 2022, when I commenced as Chief Commissioner of the NSW Independent Commission Against Corruption (“the Commission”), the Commission had five long-standing investigations underway. By the end of the 2023 calendar year, we will have delivered all of those investigation reports and closed each of these legacy projects, sharing critical lessons and recommendations to improve the integrity of the NSW public sector. The five reports furnished in 2022–23 contain 45 serious corrupt conduct findings against 22 people and recommended the advice of the Director of Public Prosecutions be sought in relation to prosecuting 21 people for various criminal offences.

During the period we also escalated five preliminary investigations to full investigations and delivered our best KPI result for investigations timeliness in five years.

Our staff also conducted 215 speaking presentations and workshops, reaching almost 12,700 people, and published five new guidance publications providing practical advice for public officials on reducing corruption risks. We developed new educational video material providing easy-to-understand guidance explaining the role of the Commission and how public officials and individuals can help prevent corruption. Our Rural and Regional Outreach Program will also return after four years’ hiatus due to the COVID-19 pandemic, when we visit the Hunter and Central Coast region this November.

All of this, while managing over 3,000 reports and complaints from the public and NSW public sector agencies.

One of our critical functions is to share the lessons learnt from our investigations and proactively support the implementation of our findings and recommendations to prevent future corruption.

The findings of Operation Keppel, for example, send a clear message to all public officials that there are necessary restraints in the use of public power. Our investigation stressed the importance of public officials declaring and addressing conflicts of interest, using public resources only for the purposes for which they are intended (rather than in pursuit of private interest) and reporting suspected corrupt conduct.

These matters have been the subject of follow-up activities. We have revised our reporting guidelines. We are targeting our outreach work to sectors and agencies at risk of under-reporting to ensure their reporting obligations under s 11 of the ICAC Act are being met and understood. In our experience, the greatest risk comes not from those reporting too much, but from those not reporting enough or in some cases at all. Educating those agencies and relevant public officials about the consequences of under-reporting, and the failure to meet their obligations, is one of the best means of preventing corruption and stopping its progress.

Another is the implementation of our recommendations for change. One recommendation in particular that the Commission is keen to see implemented (and is detailed in the Operation Keppel report) is that the NSW Government considers amending s 111E of the ICAC Act to set requirements for the premier on behalf of the government and Presiding Officers of each House of Parliament to respond to the Commission’s corruption prevention recommendations. This would help to address the lack of clarity concerning whether and how the legislature and the government should respond to our recommendations.

While we welcome informed analysis of all our reports, it is important that messages – which go to the heart of ethical practice in the public sector – are not diluted. In particular, those in leadership positions have a responsibility to set an example and make clear the expectation that public officials meet their ethical and procedural obligations to protect the public interest.

A key initiative in the reporting period was the launch of the *Strategic Plan 2022–2025*. This prioritises the achievement of outcomes over activity. Readers will see references throughout this report highlighting work to implement the plan.

Pursuant to the strategic plan we are proactively targeting key areas of concern for corruption risk. We acknowledge that more needs to be done to communicate the lessons learnt particularly in areas of high risk. One example is our work with new and departing members of Parliament (MPs) leading to and following the 2023 NSW State Election. In this respect we engaged positively with parliamentary privileges committees and produced a series of publications and education sessions which sought to reinforce key messages.

Improved timeliness is another component of the strategic plan. It is a subject that has attracted much public comment. It has focused our attention, acknowledging the legacy of unfinished investigation reports, their complexity accompanied by resource constraints. A submission was provided to the Parliamentary Joint Committee (PJC) on 22 July 2022 and oral evidence was given on 4 November 2022. Additional resources and a re-examination of our own processes enable us to address some of the issues that have arisen. We also acknowledge the reports both of the Inspector and the PJC on this topic as well as the need for improved reporting on benchmarks consequent to legislative changes.

Transparency underpins the Commission's effectiveness. We have proactively sought to expand our communications with both the PJC and the Inspector as well as respond to their recommendations. We have also revised and where appropriate made our memoranda of understanding with other agencies public, to ensure there is a clear understanding of our interactions. Additionally, we have updated our procedures so that in cases where prosecutions have not proceeded following recommendations from our investigations, we explain why in more detail. Wherever practical we have also broadened our communications where we have determined to discontinue investigations.

Working effectively with agencies in the NSW public sector and other Australian jurisdictions is critical to delivering outcomes from our investigations and improving the capacity of the sector as a whole to prevent corruption. In 2022–23, we referred 265 matters to other public authorities better placed to respond to them.

The Commission has also facilitated three National Intelligence Network meetings with representatives from all Australian anti-corruption agencies. This network helps the Commission maintain a broader view of emerging corruption issues and keep pace with best practice intelligence gathering techniques.

In November 2022, we co-hosted the Australian Public Sector Anti-Corruption Conference (APSACC), bringing together over 600 practitioners, experts and academics who are advancing public sector integrity and exposing corrupt conduct, misconduct and serious crimes in the public and private sectors. Of the delegates who

completed the evaluation survey, 98 per cent responded that attending the conference improved knowledge of corruption prevention and integrity systems and approaches.

We also co-hosted the National Investigations Symposium (NIS) in May 2023, which saw over 565 attendees from more than 180 organisations come together to learn about and share the latest information and techniques to help keep us at the forefront of investigation practice. Eighty-six per cent of those who provided feedback responded that they agreed or strongly agreed that they were able to update or improve knowledge and skills through attending the NIS and 90 per cent confirmed they would attend the NIS again and recommend it to colleagues.

The Commission appreciates and welcomes the funding sought from, and granted by, the NSW Government in 2022–23, which enabled us to increase our staffing levels and better fulfil our statutory duties.

The Commission also acknowledges that its re-baselining funding proposal and business case submission has been approved by the NSW Government, following two independent reviews, as discussed in chapter 6.

This is also an appropriate opportunity to particularly thank and acknowledge the contribution of our outgoing CEO Philip Reed who, after four years' service, departed from the Commission to take up the CEO role with the newly-established National Anti-Corruption Commission.

The Commission's staff are to be commended for their performance under difficult conditions, including staff shortages, temporary arrangements as we recruited for a new CEO, and the rolling impacts of past COVID-19 delays on legacy projects

Much has been achieved in the year past. This annual report demonstrates the breadth of work completed by the Commission.

It is hoped readers will find this *Annual report 2022–23* to be an informative and interesting journey through the last financial year. As we embark on this new strategic direction, along with Commissioners the Hon Helen Murrell SC and His Honour Paul Lakatos SC, our executive and staff, I look forward to continuing our critical work of investigating, exposing and preventing corruption to keep delivering improved outcomes for the people of NSW.



The Hon John Hatzistergos AM
Chief Commissioner

Snapshot 2022–23

Public inquiries



conducted
3

over
42
days

Compulsory examinations



conducted
28

over
27
days

3,004

Matters received and managed

5

Investigation reports furnished to Parliament

Corrupt conduct

45 serious corrupt conduct findings made against 22 people

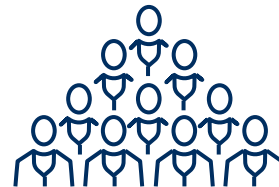


Prosecution advice

21 recommended the advice of the Director of Public Prosecutions be sought regarding the prosecution of 21 people



12,700



Almost 12,700 people were reached through anti-corruption speaking presentations and training workshops

Corruption prevention



presentations and training

215 anti-corruption speaking presentations and training workshops reaching almost 12,700 people

215



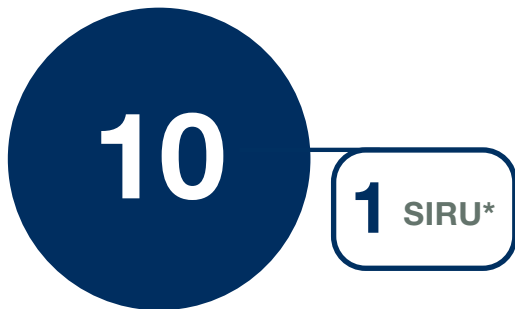
advice provided

160
occasions

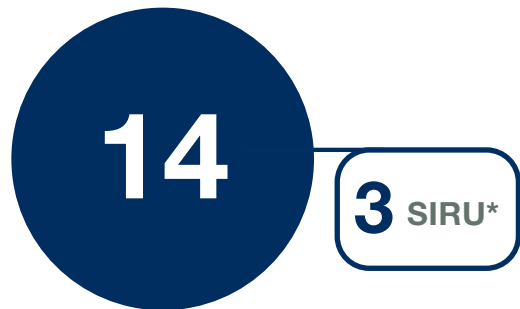
Preliminary investigations



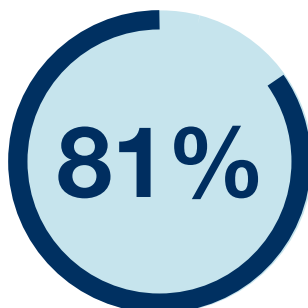
commenced
(new)



completed



completed
within 120-day
target



Operations

commenced (new)



completed



Recorded 687 staff attendances at learning activities, equating on average to each staff member participating in 29 hours of formal development



Recorded over 1.88 million external visitor sessions to the ICAC website, more than double the previous year



Published one edition of the *Corruption Matters* e-newsletter, reaching over 1,280 subscribers, with readers located in Australia and overseas



Recorded over 42,600 views on the ICAC's YouTube channel

*The Strategic Intelligence and Research Unit

Chapter 1: Overview

Organisational chart.....	9
Structure of the Commission	10
What we do.....	12
Exposing corruption	12
Preventing corruption	12
Accountability.....	14
Our organisation.....	14
Strategic Plan 2022–2025	14
Financial overview.....	16

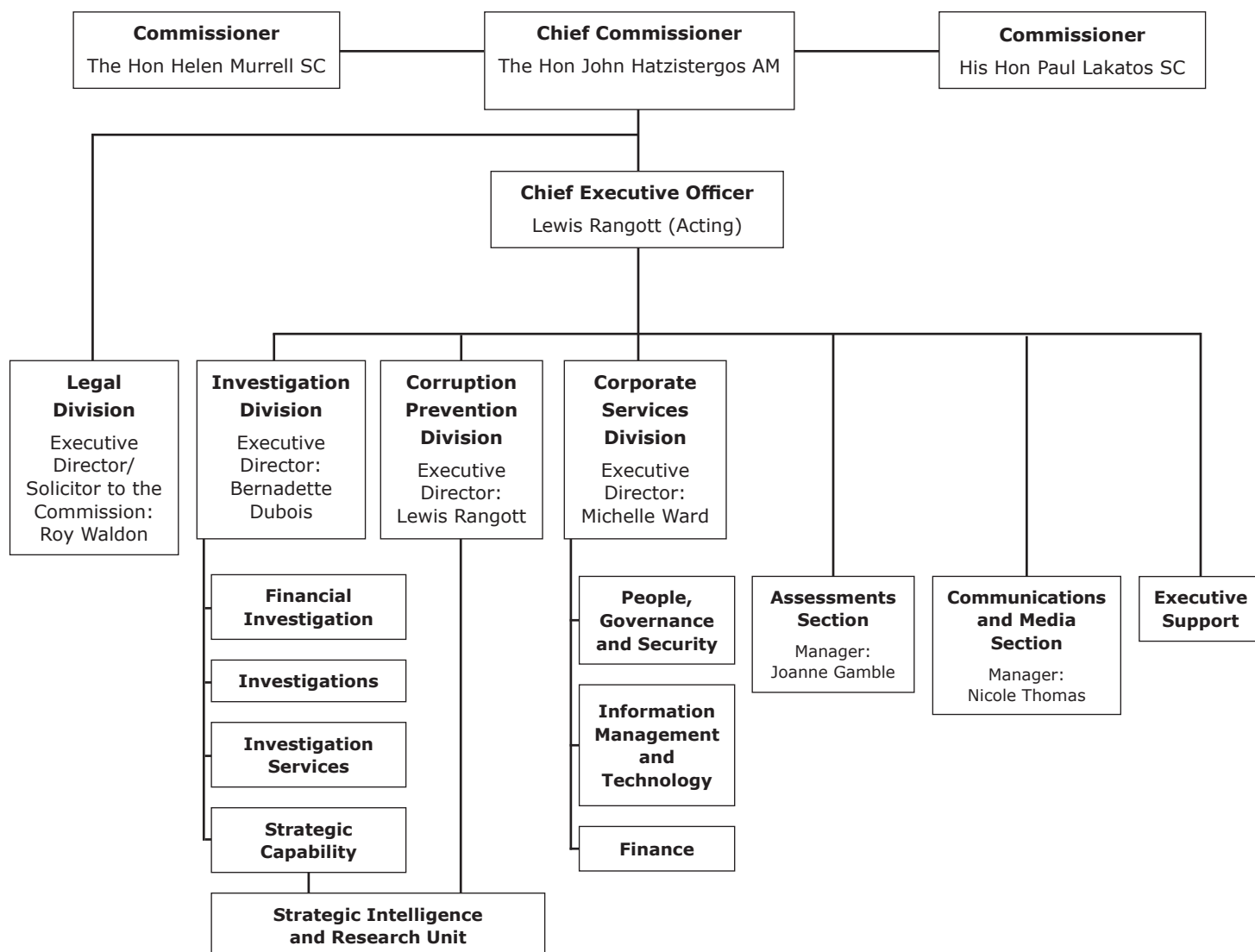
Our mission is to
combat corruption
and improve the
integrity of the
NSW public sector.

The NSW Independent Commission Against Corruption (“the Commission”) was established as an independent and accountable body by the *Independent Commission Against Corruption Act 1988* (“the ICAC Act”) in response to community concern about the integrity of public administration in the state.

The principal functions of the Commission as set out in the ICAC Act are:

- to investigate and expose corrupt conduct in the public sector
- to actively prevent corruption through advice and assistance, and
- to educate the NSW community and public sector about corruption and its effects.

Organisational chart*



* As at 30 June 2023

Structure of the Commission

Commissioners

The Commission is led by the Chief Commissioner, who oversees the Commission's work and ensures that it meets the objectives of, and complies with the requirements set out in, the ICAC Act and all other relevant legislation.

The Commission also has two part-time commissioners. The Chief Commissioner's and the part-time Commissioners' roles include participating in determining if a matter will proceed to a public inquiry. The Chief Commissioner and the part-time Commissioners can also preside at compulsory examinations and public inquiries.

The Hon John Hatzistergos AM was appointed Chief Commissioner for a five-year term from 7 August 2022. Before this, the Hon Peter Hall KC was the Chief Commissioner (7 August 2017 to 5 August 2022).

The Hon Helen Murrell SC and His Honour Paul Lakatos SC were each appointed part-time Commissioners for a five-year term from 7 August 2022 and 12 September 2022. Before this, the part-time Commissioners were Patricia McDonald SC (7 August 2017 to 5 August 2022) and Stephen Rushton SC (7 August 2017 to 5 August 2022).

Chief Executive Officer

The Chief Executive Officer (CEO) leads and directs the day-to-day management of the affairs of the Commission and is responsible for the implementation of the decisions of the Commissioners (and Assistant Commissioners).

The CEO provides advice to assist the Commissioners in their decision-making, resource allocation and strategic planning, and provides leadership and guidance to the executive management team.

Philip Reed was the CEO from July 2018 to April 2023. Since his departure, members of our executive team have taken on the role of Acting CEO, including Roy Waldon, from April 2023 to May 2023, and Lewis Rangott, from May 2023 to June 2023. By 30 June 2023, a talent assessment process for a new CEO had commenced.

Investigation Division

The Investigation Division comprises the Investigation Section, the Strategic Capability Unit and the Investigation Services Section. The Investigation Section consists of a Financial Investigation Unit and three operational investigation teams and includes investigators, intelligence analysts and support staff. The division's Investigation Services Section provides the Commission with surveillance, forensic, property services and technical personnel.

The Commission takes a multidisciplinary approach to its investigation function and investigative teams include staff from other divisions. Since early 2023, the Strategic Intelligence and Research Unit (SIRU) has been part of the Strategic Capability Unit. SIRU's functions include proactively identifying suspected corruption for referral for investigation and developing strategic intelligence products and reports. It is linked to both the Investigation and the Corruption Prevention divisions.

Bernadette Dubois was the Executive Director of the Investigation Division during 2022–23. In the reporting period, the division had an average of 52.30 FTE staff.

Corruption Prevention Division

The Corruption Prevention Division's principal functions include examining the laws, practices and procedures of public officials that may be conducive to corrupt conduct, while educating, advising and assisting public authorities and the community on methods to eliminate corrupt conduct. The division's role also includes promoting the integrity and good repute of public administration.

Lewis Rangott was the Executive Director of the Corruption Prevention Division during 2022–23. In the reporting period, the division had an average of 15.58 FTE staff.

Legal Division

The Legal Division assists the Commission to perform its principal functions and to exercise its statutory powers in a lawful, effective, ethical and accountable manner by providing high-quality, accurate and timely legal services. To achieve this, a lawyer is assigned to each investigation.

Commission lawyers assist in the planning and conduct of all investigations and provide advice, as required, to other sections of the Commission. They may also act as counsel in compulsory examinations. Commission lawyers prepare briefs for and instruct counsel at public inquiries. They also assist with the preparation of investigation reports, oversee the preparation of briefs of evidence for submission to the Director of Public Prosecutions (DPP) and liaise with DPP lawyers in relation to answering requisitions for further evidence and the conduct of any prosecutions.

Roy Waldon was the Executive Director of the Legal Division and Solicitor to the Commission during 2022–23. In the reporting period, the division had an average of 12.48 FTE staff.

Corporate Services Division

The Corporate Services Division partners with all divisions and organisational units of the Commission to provide corporate support. It delivers human resources, administrative, security, facilities, financial and information management and technology services. Other functions provided to support the Commission's activities include recruitment, payroll, risk management and procurement.

Andrew Koureas was the Executive Director of this division until November 2022. Michelle Ward was appointed Director of Corporate Services Division in May 2023. In the reporting period, the division had an average of 19.05 FTE staff.

Assessments Section

The Assessments Section is the first point of contact for complaints and reports made to the Commission. Assessments receives and registers all complaints, reports (whether from external agencies or internally generated) about alleged corrupt conduct, general enquiries and feedback. It also manages and reviews matters that the Commission refers for investigation by public sector agencies under s 53 and s 54 of the ICAC Act.

Andrew Garcia was the Manager, Assessments until January 2023. Joanne Gamble was appointed as Manager, Assessments, in March 2023. In the reporting period, the section had an average of 10.66 FTE staff.

Communications and Media Section

The Communications and Media Section manages the Commission's internal and external communications functions with various interested parties, including the media, other agencies and ICAC staff via media liaison, publications and resources, social media, corporate identity and branding, major events management, and the ICAC's internet and intranet sites.

Nicole Thomas was the Manager of the Communications and Media Section during 2022–23. In the reporting period, the section had an average of 3.58 FTE staff.

Executive Support Section

The Executive Support Section provides administrative and associate support to the Chief Commissioner and Commissioners, and acts as a point of contact to the CEO.

It also provides secretariat services to executive management groups, and provides reception and switchboard services.

In the reporting period, the Executive Support Section had an average of 4.14 full-time equivalent (FTE) staff.

What we do

The Commission's overarching aims are to protect the public interest, prevent breaches of public trust, and guide the conduct of public officials.

Its functions comprise investigating allegations of corrupt conduct in and affecting the NSW public sector, and driving programs and initiatives to minimise the occurrence of such conduct in the state. The Commission also investigates conduct that may involve specified criminal offences referred to it by the NSW Electoral Commission.

The Commission receives and analyses complaints from members of the public and public officials, and reports made by the principal officers of public sector agencies and ministers of the Crown. The Commission may also initiate its own investigations.

It has extensive investigative powers and may conduct hearings to obtain evidence of, and to expose, serious corruption and systemic corruption. The Commission can make findings of corrupt conduct, may make recommendations for disciplinary action and is able to obtain the advice of the DPP with respect to the prosecution of individuals.

The Commission's corruption prevention functions include providing advice and guidance to public sector agencies to address existing or potential corruption issues, via information, resources and training. It also conducts research to identify and help remedy specific areas of corruption risk.

The Commission helps organisations to identify and deal with significant corruption risks. Using various communication tools, including social media, it provides advice and guidance to the wider community about corruption and how to report it.

The Commission is a corporation and is independent of the government of the day. It is accountable to the people of NSW through the NSW Parliament and is also overseen by the Inspector of the ICAC.

The Commission's *Strategic Plan 2022–2023* sets out four key result areas for 2022–23:

- exposing corruption
- preventing corruption
- accountability
- our organisation.

Each division and section develops and works to an individual annual business plan aligned with the Commission's strategic plan. During the year,

each division and section reported quarterly to the Executive Management Group against its operational business plan.

Exposing corruption

The objectives in the *Strategic Plan 2022–2023* for exposing corruption are to:

- detect and investigate corrupt conduct
- identify any methods of work, practices or procedures that allow, encourage or cause the occurrence of corrupt conduct
- ensure a good practice approach for all investigations
- maintain an efficient and effective complaint-handling service
- maintain strategic alliances with other relevant agencies to optimise investigative and preventative outcomes
- maintain a proactive and reactive strategic intelligence capacity.

The Commission's activities and results relating to this key result area are detailed in chapter 2 (Assessing matters) and chapter 3 (Investigating corruption). Table 1 sets out the key quantitative results for workload, work activity and performance for this key result area in 2022–23.

Preventing corruption

The objectives in the *Strategic Plan 2022–2023* for preventing corruption are to:

- encourage government to address corruption risks of state-wide significance and public concern
- ensure public authorities revise practices or procedures to reduce the risk of corrupt conduct occurring, and promote the integrity and good repute of public administration
- raise awareness in the community of corrupt conduct and encourage reporting of corrupt conduct
- ensure good practice for all corruption prevention work.

The Commission's activities and results for this key result area are detailed in chapter 4 (Preventing corruption). Table 2 sets out the key quantitative results for workload, work activity and performance for this key performance area in 2022–23.

Table 1: Key quantitative results for corruption exposure activities

Measure	Target*	2022–23	2021–22	2020–21
Matters received	n/a	3,004	3,570	2,916
Average time to deal with matters (days) in Assessments Section	68	33	26	32
Preliminary investigations commenced	n/a	10	13	16
Preliminary SIRU investigations commenced**	n/a	1	6	4
Full investigations commenced	n/a	5	7	7
Percentage of full investigations completed within 16 months	>70%***	66%	64%	20%
Number of public inquiries	n/a	3****	5*****	3
Number of public inquiry days	n/a	42	59	68
Number of compulsory examinations	n/a	28	77	85
Number of persons subject to serious corrupt conduct findings	n/a	22	11	7
Number of investigation reports to Parliament	n/a	5	3	5
Percentage of investigation reports furnished within the ICAC's target	80%	20%	0%	20%
Number of persons against whom prosecutions commenced	n/a	4	8	10
Number of persons against whom disciplinary action commenced arising from investigations	n/a	0	0	0

* For measures that reflect incoming work or activity beyond the control of the Commission, targets are not set and not applicable (n/a) appears in the column.

** Commencing 2019–20, SIRU preliminary investigations are reported separately from general preliminary investigations.

*** In 2020, the Commission commenced a new two-tiered system that reflects the complexity of investigations. This target has been revised to 70% rather than 80%, with the results for this year and 2021–22 a hybrid of matters reported under both the previous and new systems. The historical figure for 2020–21 refers to the previous 80% target. See chapter 3 for more information.

**** Two of these public inquiries (operations Galley and Tolosa) were continued from the previous year.

***** This included a further public inquiry in Operation Keppel and the re-opening of the Operation Witney public inquiry.

Table 2: Key quantitative results for corruption prevention activities

Measure	Target	2022–23	2021–22	2020–21
Requests for corruption prevention advice	125	160	160	150
Rural and regional outreach visits	2	0*	0*	0*
Training sessions delivered	80	127	106	100
Corruption prevention recommendations in investigation reports published during the period	n/a	78	28**	85
Percentage of corruption prevention recommendations in investigation reports accepted in action plans as at 30 June 2022	80%	90%	100%	100%
Percentage of public inquiries that resulted in the making of corruption prevention recommendations	100%	100%	100%	100%
Number of prevention reports published	n/a	5	4	2

* The program is on hold due to the COVID-19 pandemic and related public health orders.

** Includes policy recommendations made in Operation Aero.

Accountability

The objectives in the *Strategic Plan 2022–2023* for accountability are to:

- provide timely, accurate and relevant reporting to the Inspector of the ICAC and the Parliamentary Committee on the ICAC
- ensure our work complies with all relevant laws and procedures
- report publicly about the work of the Commission
- keep the public informed about the work of the Commission through the publication of its reports and by sharing current information on its website and via its social media channels
- assist the Parliamentary Committee on the ICAC.

The Commission's activities and results for this key result area are detailed in chapter 5 (Compliance and accountability). Table 3 sets out the key quantitative results for accountability activities in 2022–23.

Our organisation

The objectives in the *Strategic Plan 2022–2023* for our organisation are to:

- continue to develop as a learning organisation that embraces a culture of continuous improvement, excellence and sharing of knowledge
- provide a safe, equitable, productive and satisfying workplace
- be a lead agency in our governance and corporate infrastructure
- monitor our performance to ensure work quality and effective resource management.

The Commission's activities and results for this key result area are detailed in chapter 6 (Our organisation).

Strategic Plan 2022–2025

This document is structured to report against our *Strategic Plan 2022–2023*, which was published in July 2022.

In February 2023, we introduced our *Strategic Plan 2022–2025*, which superseded the previous plan. Table 4 outlines where in this document we report against the key elements of our current strategic plan.

Table 3: Key quantitative results for accountability activities

Measure	2022–23	2021–22	2020–21
Parliamentary Committee on the ICAC meetings	1*	1	2
NSW LECC Inspector/Commonwealth Ombudsman inspections of telecommunications intercepts and accesses, surveillance devices and controlled operation records	3	2	3
Number of reports/responses provided to the Inspector of the ICAC	14	9	59
Number of audits conducted by the Inspector of the ICAC	1	0	0
Number of assumed identity audits	1	1	1

* As 2022–23 was an election year, there were limited opportunities for the Committee to conduct its business.

Table 4: Reporting against the *Strategic Plan 2022–2025* in this annual report

Goals from the <i>Strategic Plan 2022–2025</i> (what we plan to achieve)	Key elements of the <i>Strategic Plan 2022–2025</i> (how we plan to achieve our goals)	Where the report addresses this element
Influence and effectiveness Build public sector integrity through: <ul style="list-style-type: none"> – education and prevention – risk-based, targeted approaches 	Establish a more targeted approach to lead public service decision-makers, particularly in high-risk areas	Chapters 2 and 4
	Focus on emerging corruption issues, while maintaining emphasis on long-standing corruption risks	Chapter 3
	Expand and recalibrate the existing education function to allow broader reach, improved customisation of information and a risk-based targeted approach	Chapters 3 and 4
Impact and awareness Streamline operations and more effectively communicate lessons learned <ul style="list-style-type: none"> – raise awareness of investigations, reports, and of people brought to account 	Streamline investigations by applying risk-based decision-making	Chapter 3
	Work more effectively with stakeholder agencies, including the DPP, to bring people to account	Chapter 2
	Better communicate lessons learnt	Chapters 2, 3, 4 and 5
Organisational capability Nurture and support people <ul style="list-style-type: none"> – improve Commission management of human resources and welfare of witnesses – focus on staff talent and development 	Implement a more systemic approach to witness welfare	Chapter 5
	Build our organisational capability through training, mentoring and engagement	Chapter 6
A fair and trusted integrity agency Develop a transparent and accountable organisation <ul style="list-style-type: none"> – improve the use of learning processes – reform business processes – introduce ICT improvements 	Better explain our powers and how they are applied	Chapter 5
	Continually focus on streamlining business processes and measuring outcomes	Chapters 3 and 6
	Keep pace with digital technology and collaborate with like agencies to adopt best practice investigative techniques	Chapter 3
	Improve ICT systems and analytical capability	Chapter 3

Financial overview

Statement of comprehensive income

The Commission has achieved a net result of (\$1.287) million, which was \$2.821 million unfavourable to budget.

Table 5: Operating result 2022–23

	\$'000
Expenses	32,188
Revenue	30,900
Loss on Disposal	(1)
Net Result	(1,287)

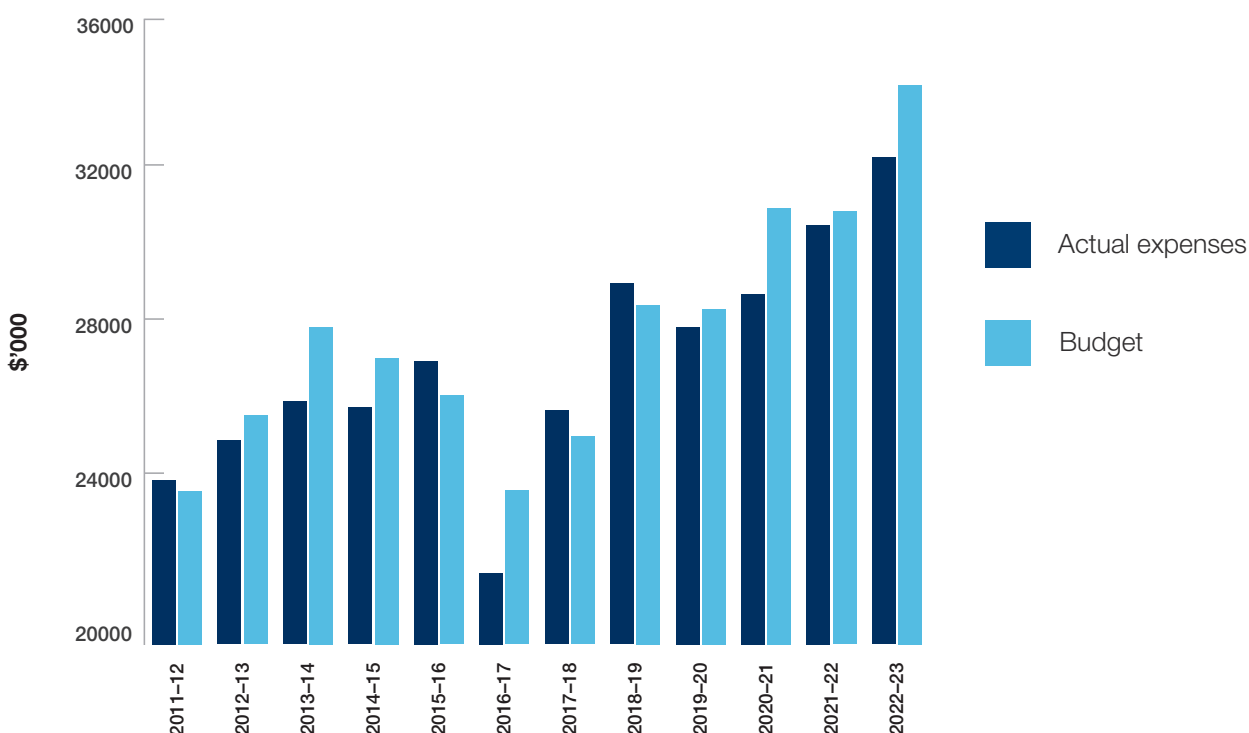
Table 6: Financial position 2022–23

	\$'000
Assets	12,302
Liabilities	14,512
Net Assets	(2,210)

Revenue

The main sources of revenue were recurrent allocations (\$30.084 million or 97%). The capital appropriation received was \$1.384 million, compared to the previous year of \$0.687 million.

Figure 1: Total expenditure budget and actuals



Expenses

Total expenses were \$32.188 million, representing an increase of \$1.753 million, or 5.8%, on the previous year.

Employee-related expenses were \$21.630 million, an increase of \$1.213 million, or 5.9%, compared to last year.

Other operating expenses were \$0.540 million (5.4%) higher than the previous year, which was mainly incurred across depreciation and finance costs.

Assets

Total assets decreased by \$1.874 million (13.2%), due largely to reduced cash balances and right of use asset (lease).

Liabilities

Total liabilities decreased by \$0.587 million (3.9%), due largely to reduced non-current lease liabilities offset by increased creditors and provisions.

Net equity

The Commission's equity decreased by \$1.287 million, resulting in a negative equity of \$2.210 million.

Chapter 2: Assessing matters

Performance in 2022–23	18
Profile of matters received	19
Anonymous complaints	20
Complaints from the public	21
Public interest disclosures	23
Reports from public authorities and ministers	24
The assessment process	26

All complaints and reports within the Commission’s jurisdiction are reported to the Assessment Panel, which comprises the Commissioners and members of the Commission’s senior executive. The panel’s role is to make decisions about how each matter should proceed. A matter is not reported to the Assessment Panel if it is assessed as being a query only, outside the Commission’s jurisdiction or considered simply feedback. Such matters are managed within the Commission’s Assessments Section.

The Commission can also take action on an “own initiative” basis. In these situations, the Assessment Panel considers recommendations from an internally generated report outlining reasons for commencing an investigation. These reports may be based on information from various sources, including information that is in the public domain or that emerges from the analysis of complaints received from the public or via reports from NSW public authorities.

Further details of the assessment process are provided at the end of this chapter.

Performance in 2022–23

In 2022–23, the Commission received and managed a total of 3,004 matters, compared with 3,570 received in the previous year. The decrease in the total number of matters received by the Commission from 2021–22 (the highest received since 1996–97) was due to a particular event in 2021–22 which generated a large number of feedback matters and which is discussed below.

Achieving turnaround targets

The Assessments Section has internal targets for turnaround times at key stages during the complaint assessment process. Table 7 reports on a number of these targets and achievements during the reporting period where the Assessments Section exceeded internal timeliness targets.

Table 7: Some internal targets and achievements of the Assessments Section in 2022–23

Measure	Target	Achievement
Average days to present a “straightforward” matter to the Assessment Panel	28	20
Average days to present a “complex” matter to the Assessment Panel	42	40
Average days to review an s 54 report from a public authority and report a matter back to the Assessment Panel	42	28

Table 8: Matters received by category in 2022–23, compared to the previous two years

Category	2022–23		2021–22		2020–21	
	Count	Percentage	Count	Percentage	Count	Percentage
Complaint (s 10)	1,222	41%	1,244	35%	1,500	51%
Report (s 11)	875	29%	798	22%	726	25%
Query	483	16%	436	12%	359	12%
Outside jurisdiction	236	8%	289	8%	222	8%
Feedback	148	5%	740	21%	74	3%
Referrals (s 16(1))	37	1%	56	2%	22	1%
Own initiative (s 20)	3	< 1%	7	< 1%	13	< 1%
Referral (s 73)	0	0%	0	0%	0	0%
Referral (s 13A)	0	0%	0	0%	0	0%
Total	3,004		3,570		2,916	

Profile of matters received

In the reporting period, the majority of the 3,004 matters received and assessed by the Commission came from two sources:

1. People making complaints under s 10 of the ICAC Act (s 10 complaints) represented 41% of all matters.
2. Principal officers of NSW public sector authorities and ministers, who each have a duty to report suspected corrupt conduct under s 11 of the ICAC Act (s 11 reports), represented 29% of all matters.

Table 8 shows all matters received in 2022–23 by category, compared with the previous two years.

The most significant change between 2021–22 and 2022–23 is the decrease in the number of “feedback” matters received. Feedback matters are those in which people provide unsolicited advice or commentary to the Commission, which may relate to

a Commission public inquiry, a Commission project, or the Commission generally. They typically represent a low proportion of total matters received by the Commission. However, in 2021–22, an issue arose that attracted significant interest from members of the public, resulting in the Commission receiving over 600 feedback matters in one calendar month.

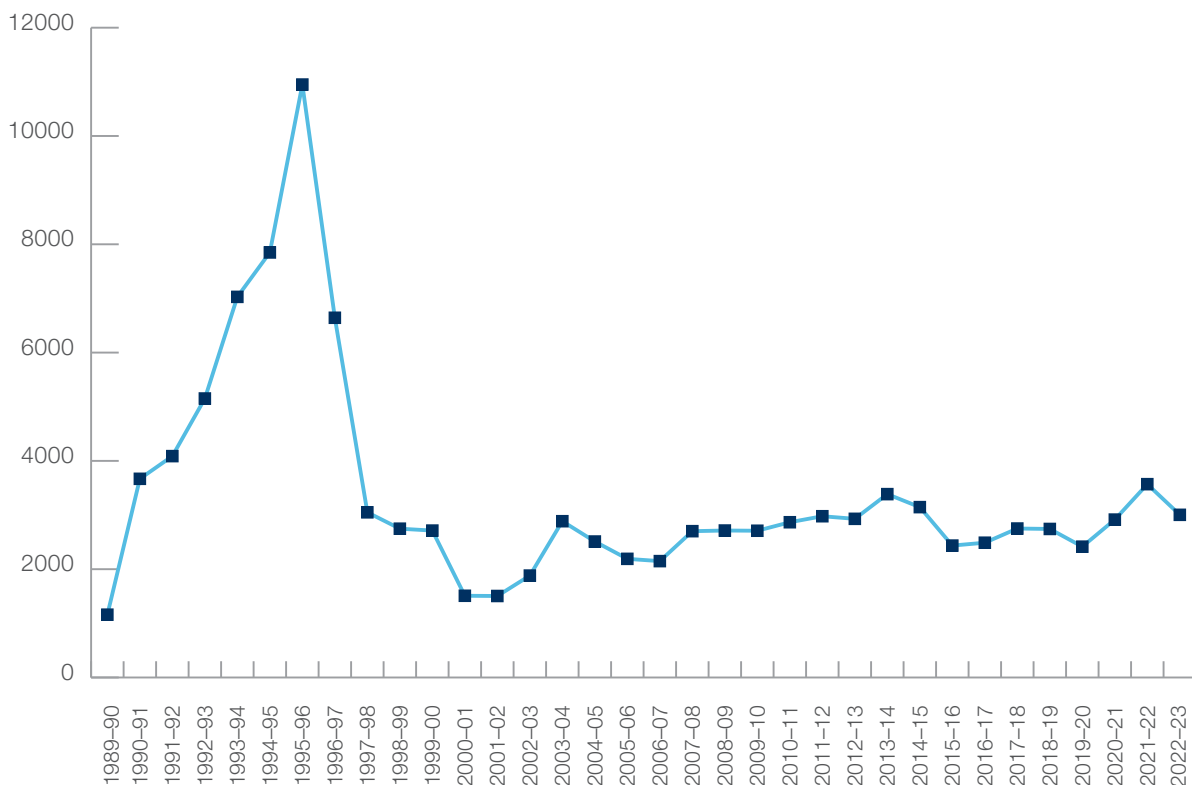
The Commission also observed an increase in the number of s 11 reports received in 2022–23 (875 received), compared with the previous financial years (798 in 2021–22 and 726 in 2020–21).

Figure 2 provides an overview of the number of matters received since the Commission was established.

The Commission strives to be accessible to those who submit complaints and reports. It provides a number of methods for members of the public and public sector employees to contact the Commission, including in writing, by telephone or email, or online via the Commission’s website at www.icac.nsw.gov.au.

In 2022–23, the methods used most frequently by individuals to contact the Commission were the ICAC website (32%), email (27%) and telephone (21%),

Figure 2: Number of new matters received by financial year



Note: In 1997, the NSW Police Integrity Commission was established and assumed responsibility for investigating allegations of police corruption. This was superseded by the Law Enforcement Conduct Commission in 2017.

Allegations that don't stack up

In July 2022, the Commission received an anonymous report alleging that a CEO had misused their position to secure employment for their relatives, A and B. Both A and B were named.

The complainant provided information on the background and qualifications of A and B, when the events described took place, a description of the inequity and the manner in which A and B secured positions within the agency.

The Commission considered that the allegations were fairly serious, on the basis that they involved a CEO, and also compelling given the details provided. Further, the Commission was able to confirm some of the information provided using open-source information and the Commission's information holdings.

The Commission therefore decided to conduct enquiries with the agency to assist in assessing the matter further. The information provided by the agency when considered alongside that provided by the complainant was in stark contrast. The Commission concluded that the complainant's allegations were not supported and their information was in part inaccurate.

The Commission closed the matter on the basis that it did not appear to involve corrupt conduct.

as shown in Table 9. This is relatively consistent with the previous reporting period, apart from the percentage of individuals contacting the Commission by telephone, which has increased from 7% in 2021–22 to 21% in 2022–23. This increase is almost certainly due to the Commission's offices being closed between July 2021 and March 2022 as a precautionary measure during the COVID-19 pandemic. While the Commission's offices were closed, individuals could not contact the Commission by telephone or in person.

Table 9: Methods of initial contact for all matters received in 2022–23

Method	No. of matters received	% of matters received
ICAC website	949	32%
Email	806	27%
Telephone	633	21%
Schedule	497	17%
Letter	115	4%
Other	3	<1%
Visit	1	<1%

Anonymous complaints

The Commission accepts anonymous complaints. The Commission appreciates that there are a range of reasons why people may choose to make a complaint without providing information that could be used to identify them. People may fear reprisal action and prefer to remain anonymous. In some circumstances, people may not see the value in providing their details, particularly when drawing the Commission's attention to an issue that is in the public domain. It is also possible that some people may value their privacy when interacting with government. Regardless of their motivations, the Commission treats all matters it receives, including anonymous complaints, seriously.

Where people contacting the Commission by telephone wish to remain anonymous, the Commission provides advice about the various protections afforded under the ICAC Act and/or the *Public Interest Disclosures Act 1994* ("the PID Act"). That information is also available on the Commission's website.

In 2022–23, 27% of complaints from people (302 matters) were made anonymously. The proportion of anonymous complaints has increased slightly since 2021–22 (in which 24% of complaints were anonymous). Of those anonymous complaints, 93 (28%) were classified as public interest disclosures (PIDs).

For the past two years, the Commission has seen a notable increase in the number of anonymous complaints that were classified as PIDs (64 anonymous complaints were classified as PIDs in 2021–22 and 38 in 2020–21).

There are some challenges in receiving and assessing anonymous complaints. For instance, the Commission is unable to clarify the particulars of the information and notify the complainant of the outcome. Where a matter has been classified as a PID, there is the added risk that any enquiries or action taken by the Commission may inadvertently reveal the identity of the person who made the PID. To mitigate such risks, where a PID is made anonymously, any action (such as the making of assessment enquiries or conducting a preliminary investigation) will occur only with the approval of the Chief Commissioner or a Commissioner. In deciding whether to approve such actions, the Commission weighs the risks of exposing the discloser's identity against the public interest in having the allegations further explored.

Complaints from the public

Under s 10 of the ICAC Act, any person may make a complaint to the Commission about a matter that concerns, or may concern, corrupt conduct as defined in the ICAC Act. Complaints made by employees and contractors of NSW public authorities that meet the criteria set out in the PID Act are also classified as s 10 complaints.

Many matters reported to the Commission are not made the subject of a formal Commission investigation, either because the matters raised are speculative or because the Commission takes the view that there is no real likelihood that corrupt conduct has occurred. Further, the Commission is required under its legislation to focus its attention on serious and systemic corrupt conduct.

The Commission may refer allegations to a NSW public authority that is the subject of a complaint for its information, often for the authority to address a perception on the part of the complainant of unfairness or wrongdoing. Perceptions of wrongdoing are often borne, in the Commission's experience, of poor communication or consultation, or a lack of consistency or transparency on the part of public authorities. Such a referral also allows the public authority to conduct its own enquiries and report back to the Commission in the event it finds any evidence indicative of corrupt conduct.

Nevertheless, the Commission carefully considers all complaints it receives. The case study on page 20 provides examples of the enquiries the Commission might typically make to determine whether the Commission would investigate an anonymous complaint.

Table 10 shows the different government sectors about which allegations of corrupt conduct were made in complaints under s 10 in 2022–23.

Table 10: Complaints from people in 2022–23, showing allegations in the top five government sectors

Sector	Section 10 complaints	% of s 10 complaints
Local government	482	39%
Government and financial services	165	14%
Health	105	9%
Law and justice	96	8%
Custodial services	75	6%

As in previous years, the sector most frequently complained about in 2022–23 was local government, with s 10 complaints relating to this sector accounting for 39% of the total volume received (almost the same proportion as in 2021–22 and 2020–21).

The Commission notes, however, the large number of local councils in NSW, and that over-representation of local government in the complaints statistics may be due to the high level of people's interaction with local government and the personal interest many take in the decisions of their local council.

The most significant change between 2022–23 and 2021–22 was that custodial services replaced community and human services as the fifth-most complained about sector.

The five most frequent workplace functions about which the Commission received complaints from the public, as well as the five most frequent types of corrupt conduct alleged, are shown in tables 11 and 12 respectively.

Favouring your mates and misusing agency resources

In August 2022, the Commission received a report from a NSW public official, alleging that a supervisor in a council was engaging in a range of misconduct and that this had been going on for some time without any action being taken.

It was alleged that the supervisor:

- was treating one of the members of their team (who they were friends with) more favourably, in that they were signing them in when they weren't in fact working
- was using council resources to get rid of their own household waste when moving home
- was watching TV while supposed to be working and using the internet for personal use
- did not have the appropriate qualifications to do the job.

The Commission considered that some of the allegations were lacking in detail and others did not suggest a likelihood of involving corrupt conduct. As such, the Commission did not investigate the matter and decided to refer details of the alleged conduct to the council for its information and appropriate action. The Commission did so without identifying the public official who made the PID.

The council advised the Commission some months later that it had conducted a fact-finding investigation and, although it did not consider that the supervisor had engaged in corrupt conduct, found that they had breached the agency's code of conduct. The council also identified that some of the supervisor's conduct was "custom and practice", in that the supervisor considered that it was acceptable as they had observed others engaging in similar conduct. Council advised it planned to take disciplinary action.

On that basis, the Commission pursued the matter no further.

Table 11: Complaints from people in 2022–23, showing the five most frequent types of workplace functions mentioned

Workplace function	Section 10 complaints	% of total s 10 complaints
Allocation of funds, materials and services	521	43%
Reporting, investigation, sentencing and enforcement	376	31%
Human resource and staff administration	324	27%
Development applications and land rezoning	246	20%
Procurement, disposal and partnerships	209	17%

Note: While the order of the workplace functions has changed, the top five workplace functions mentioned in s 10 complaints are consistent with those reported in 2021–22. There was an increase in the proportion of s 10 complaints that referred to "Allocation of funds, materials and services"; from 34% in 2021–22 to 43% in 2022–23. The Commission also observed an increase in the proportion of s 10 complaints that referred to "Human resource and staff administration"; from 20% in 2021–22 to 27% in 2022–23.

Table 12: Complaints from people in 2022–23, showing the five most frequent types of corrupt conduct alleged

Types of corrupt conduct	Section 10 complaints	% of total s 10 complaints
Partiality	677	55%
Improper use of records or information	460	38%
Improper use or acquisition of funds or resources	455	37%
Personal interests	448	37%
Failure to perform required actions not already listed	299	24%

The most noticeable difference from last year is the increase in the number of s 10 complaints involving allegations of "Partiality". The proportion of s 10 complaints involving these issues increased from 47% in 2021–22 to 55% in 2022–23. The Commission also noted an increase, though to a lesser extent, in s 10 complaints alleging "Improper use or acquisition of funds or resources" (from 32% in 2020–21 to

37% in 2022–23) and an increase in “Improper use of records or information” (from 31% in 2021–22 to 38% in 2022–23).

Appendix 1 provides a full breakdown of the workplace functions and types of conduct about which the Commission received s 10 complaints.

Public interest disclosures

NSW public sector employees or contractors who report allegations of corrupt conduct about a NSW public sector authority or official may, provided they meet certain criteria, be entitled to protection under the PID Act. Under the PID Act, it is an offence to take reprisal action against someone because that person has made a PID or is believed to have made a PID.

In 2022–23, the Commission classified 997 matters as meeting the criteria in the PID Act. Of these, 190 were complaints under s 10 of the ICAC Act, 805 were reports under s 11 of the ICAC Act and two were reports under s 16 (1) of the ICAC Act.

During the reporting period, 945 PIDs were finalised that related to corrupt conduct. Where appropriate, under s 25 of the PID Act, the Commission refers any misdirected PIDs to the relevant investigating authority.

Table 13 shows the top five government sectors that received PID allegations in 2022–23. In 2022–23, “Health” became the most common sector referred to in PIDs (24%), replacing “Custodial services” (26% in 2021–22). “Transport, ports and waterways” became the fifth-most common sector in 2022–23 (6%), replacing “Emergency services”. Before last year “Emergency services” had not been in the top five most common government sectors referred to in PIDs in the previous five reporting periods.

Table 13: PID allegations by government sector in 2022–23

Sector	No. of PIDs received	% of PIDs received
Health	240	24%
Custodial services	176	18%
Education (except universities)	177	18%
Local government	152	15%
Transport, ports and waterways	62	6%

Table 14: Types of conduct reported as PIDs in 2022–23

Types of conduct reported as PIDs	No. reported	% of all reported PIDs
Improper use of records or information	530	53%
Improper use or acquisition of funds or resources	469	47%
Personal interests	427	43%
Partiality	326	33%
Failure to perform actions not already listed	178	18%

Note: The order of the most common types of conduct reported in PIDs in 2022–23 is reasonably consistent with that reported in 2021–22. However, the Commission noted slight changes in the proportion of PIDs referring to “Partiality” (from 25% in 2021–22 to 33% in 2022–23) and “Improper use or acquisition of funds or resources” (from 38% in 2021–22 to 47% in 2022–23). Percentages in the table above add to more than 100% as PIDs may relate to multiple types of conduct.

Where the Commission intends to make enquiries about matters raised in a PID, it will generally do so without revealing information that would disclose, or tend to disclose, the identity of the person who made the PID. If the Commission’s enquiries could reveal the identity of the person who made the PID, the Commission seeks written authority from the complainant for his or her identity to be disclosed. When consent is not given, the Commission may, under s 22 of the PID Act, disclose confidential information if it is considered necessary to investigate a matter effectively or if it is in the public interest to do so. This will occur only with the approval of the Chief Commissioner or a Commissioner.

PIDs are received by the Commission from all levels of the NSW public sector. According to the provisions of the PID Act, both the public authority and the officer making the complaint are responsible for ensuring that confidentiality is maintained.

PIDs contribute significant value to the Commission’s work and minimising corruption more generally. Even if the allegations made are not substantiated, they may highlight system or process deficiencies, which the public authority concerned can address. Where this occurs, it can minimise corruption risks and eliminate perceptions of corruption.

The case study on page 22 is an example of action taken in relation to a PID, including the steps the Commission took to protect the identity of the person who made the PID. It also demonstrates

Leaking confidential information

In September 2022, the Commission received a report from a regional council, alleging that a councillor was sharing confidential council information with a lobby group. Further, the lobby group was sending emails to the councillor suggesting what they should say in council meetings when certain matters were discussed.

Following an audit, the council was able to confirm that the councillor had sent certain emails disclosing confidential information and also received directions from the lobby group. The council advised the Commission that it intended to appoint an external investigator and had also notified the Office of Local Government.

The Commission noted that, ultimately, the councillor did not inappropriately sway the council's decision-making, as clearly sought by the lobby group, and that, overall, the matter was not indicative of serious or systemic corrupt conduct.

Further, as the council was dealing with the matter appropriately, intended to take action against the councillor and had notified the Office of Local Government, the Commission decided to pursue the matter no further.

the effectiveness in terms of outcomes in referring information to other agencies.

Figure 3 shows the five most frequent workplace functions reported in PIDs to the Commission, as a proportion of all PIDs received. These were fairly consistent with last year's figures. "Human resource and staff administration" remained the most common workplace function to feature in PIDs, comprising just over half of all PIDs received (51% in 2022–23, compared with 53% in 2021–22 and 48% in 2020–21). The next most common was "Allocation of funds, materials and services" at 43% (which was an increase from 28% of PIDs concerning this function in 2021–22). "Procurement, disposal and partnerships" overtook "Reporting, investigation, sentencing and enforcement" to become the fourth-most frequent workplace function reported in 2022–23 at 15%. "Reporting, investigation, sentencing and enforcement" and "Miscellaneous" accounted for, respectively, 13% and 15% of PIDs in 2022–23.

Appendix 2 provides further information on PIDs made by public officials and the types of allegations made in PIDs.

A new *Public Interest Disclosures Act 2022* will commence on 1 October 2023 and the Commission is preparing to meet its responsibilities under the new Act, in conjunction with the NSW Ombudsman and other agencies. Until then, the *Public Interest Disclosures Act 1994* is still in effect.

The Commission has links on its website providing advice for complainants who wish to make PIDs.

Reports from public authorities and ministers

Section 11 of the ICAC Act requires principal officers of NSW public authorities to report matters to the Commission where they hold a reasonable suspicion that corrupt conduct has occurred or may occur. Principal officers include secretaries and chief executives of state government agencies, and general managers of local councils. NSW ministers have a duty to report suspected corrupt conduct either to the Commission or to the head of an authority responsible to the minister.

Principal officers and ministers are encouraged to report suspicions of corrupt conduct promptly, as delays can impair the Commission's ability to detect and expose corrupt activity. A prompt report means that witnesses' recollections are fresh and there is less likelihood of evidence being compromised or lost.

When assessing an s 11 report, it assists the Commission for the head of an authority to advise on a proposed course of action, in the event the Commission determines not to take action itself. In many instances, even if the matter is not sufficiently serious for the Commission to conduct an investigation, the Commission will ask the public authority to advise it of any disciplinary or remedial outcomes. Such information can inform trend analysis and the Commission’s corruption prevention work generally, as well as enable the Commission to track disciplinary outcomes in relation to individual public-sector employees.

The case study on page 24 is an example of a matter where the principal officer of a public authority reported a matter under s 11 and the steps the public authority took in response to the issue.

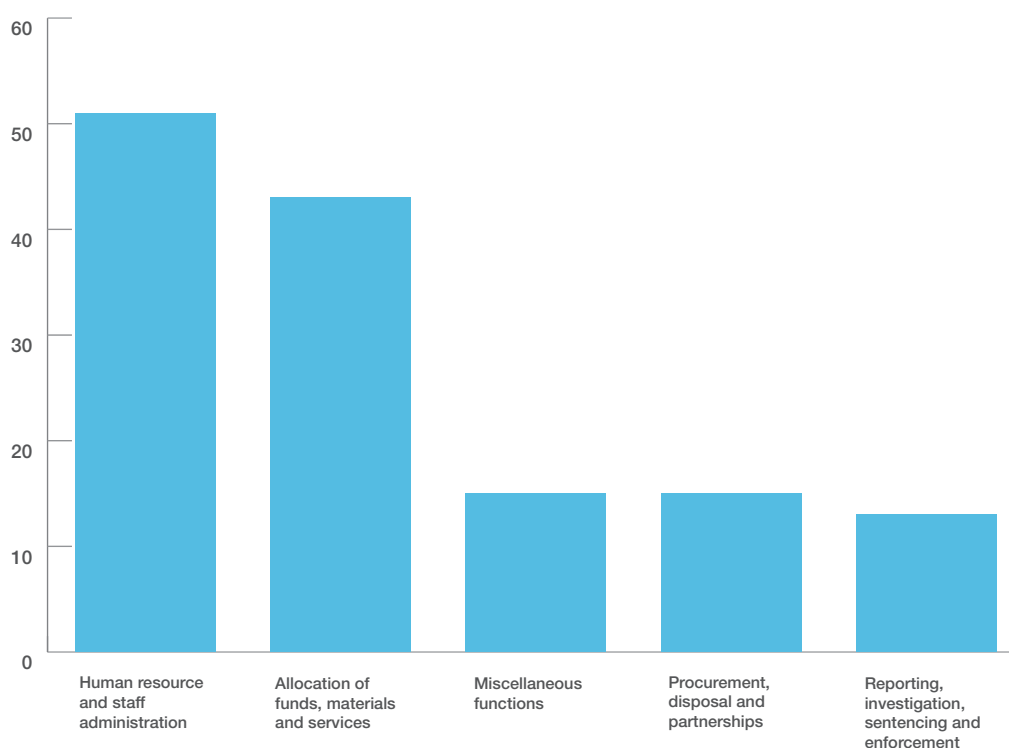
Table 15 shows the number of s 11 reports that include allegations concerning a particular sector. The Commission noticed some shifts in sectors this year, with “Health” replacing “Custodial services” as the most frequently reported sector in 2022–23 compared with the previous reporting period. The Commission also observed reduced proportions in s 11 reports concerning “Custodial services” (from 32% in 2021–22

to 22% in 2022–23). Similar to the trend in PIDs, “Transport, ports and waterways” replaced “Emergency services” as the fifth-most common government sector for s 11 reports. Interestingly, allegations from PIDs and s 11 reports were from the same top five sectors and in the same order.

Table 15: Section 11 reports received in 2022–23, showing the five most frequently reported government sectors

Sector	Section 11 reports	% of s 11 reports
Health	208	24%
Custodial services	190	22%
Education (except universities)	165	19%
Local government	105	12%
Transport, ports and waterways	49	6%

Figure 3: Top five most frequent workplace functions reported in PIDs (%)



Note: Percentages in the figure above add to more than 100%, as PIDs may relate to multiple workplace functions.

Figure 4 shows the most common workplace functions involved in s 11 reports received by the Commission in 2022–23. The most common workplace function was again “Human resource and staff administration”, comprising 45% of s 11 reports received (relatively consistent with previous years, with 50% in 2021–22, 46% in 2020–21 and 48% in 2019–20). This was followed by “Allocation of funds, materials and services” (41%), “Miscellaneous functions” (20%), “Procurement, disposal and partnerships” (12%) and “Reporting, investigation, sentencing and enforcement” (12%).

Figure 5 shows the five most frequent types of corrupt conduct alleged in s 11 reports received by the Commission. “Improper use of records or information” remains the most frequently reported, comprising 52% of s 11 reports in 2022–23 (relatively consistent with 45% of s 11 reports in 2021–22, 47% in 2020–21 and 47% in 2019–20). It was followed by “Improper use or acquisition of funds or resources” at 45% (up from 36% in 2021–22) and then “Personal interests” at 39% (compared to 38% in 2021–22). “Partiality” and “Failure to perform required actions not already listed” made up, respectively, 22% (up from 17% in 2021–22) and 16% of s 11 reports received in 2022–23.

Appendix 1 provides a full list of the workplace functions and types of conduct about which the Commission received s 11 reports.

The assessment process

The Commission’s Assessments Section is responsible for conducting the initial assessment of a complaint or information to determine what action, if any, the Commission will take.

Staff analyse all matters received, taking into account:

- whether or not corrupt conduct is likely to be involved
- whether the matter is serious and/or systemic, including factors such as the seniority of public officials involved, the nature of the impugned conduct, whether it is isolated or widespread, and the potential monetary value
- whether there is a viable line of enquiry to pursue
- what information has been provided or could be obtained
- whether existing information supports the allegations
- any risks to persons or public money in the Commission acting or not acting
- any prior or current related matters.

Staff also consider whether there are trends across a particular sector or within a particular public authority. Consideration is also given to whether there are appropriate systems in place for the public authority involved to minimise opportunities for corruption. Complaints and reports that highlight corruption risk areas and trends are drawn to the attention of the Corruption Prevention Division to enable the Commission to target its work in this area (see chapter 4). This is in line with a key goal of our *Strategic Plan 2022–2025* to build public sector integrity through risk-based, targeted approaches.

All matters that concern or may concern corrupt conduct are decided by the Commission’s Assessment Panel. The Assessment Panel comprises the manager of the Assessments Section (who acts as the panel convenor), the Chief Commissioner or one of the Commissioners, the Chief Executive Officer, and the executive directors of the Commission’s Investigation Division, Legal Division and Corruption Prevention Division.

The panel is governed by a charter, which provides that it meets electronically twice a week, and is responsible for determining what action, if any, should be taken on every matter received. If a matter is complex or needs further enquiries before an appropriate course of action can be determined, it may be reported to the Assessment Panel on several occasions.

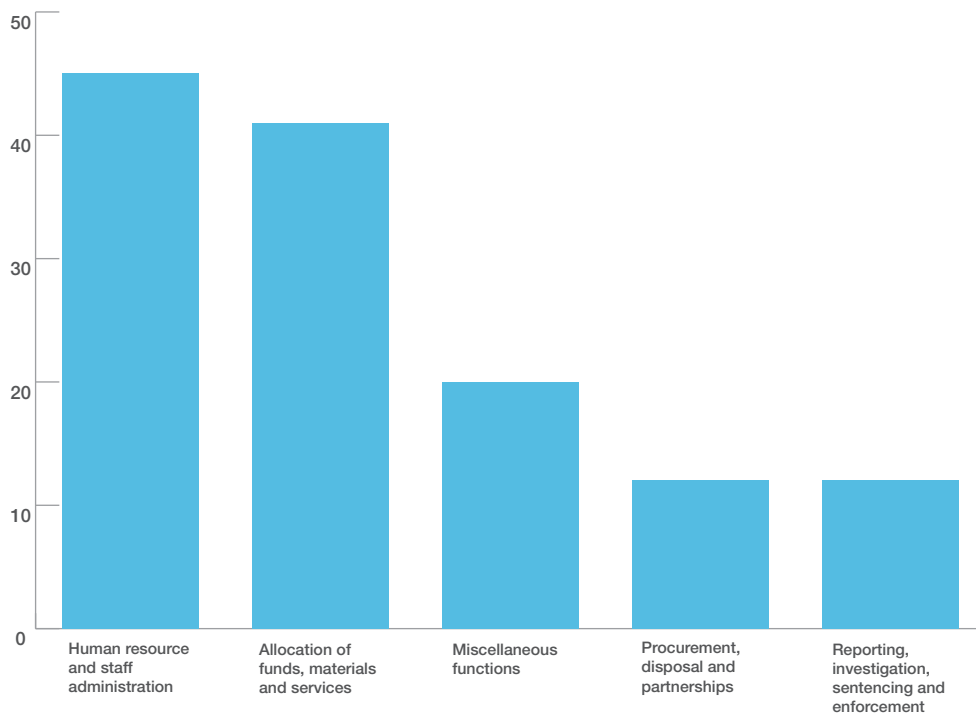
Reports submitted to the Assessment Panel include the allegations, supporting information, the outcome of any enquiries, an assessment of the matter, and recommendations for further action.

For each matter, the Assessment Panel considers whether it presents opportunities for identifying serious and systemic corrupt conduct, whether it is being (or could be) adequately handled by another public authority and, even if corrupt conduct is not apparent, whether a public authority’s systems and controls put the agency at risk of corruption. After considering a matter, the Assessment Panel makes one of four decisions, as follows.

1. Close the matter without referral

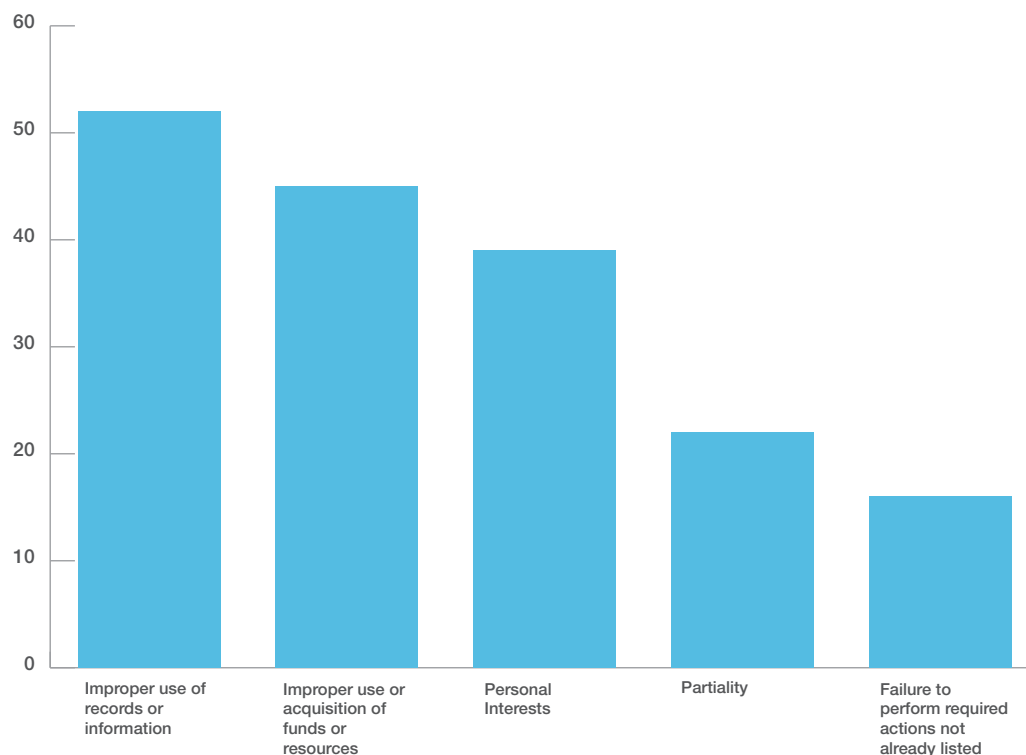
Some of the allegations that the Commission receives may not be suitable for investigation by the Commission, even if true, because they are relatively minor. Under s 12A of the ICAC Act, the Commission is required to focus its attention and resources on serious and systemic corrupt conduct, as far as practicable. In addition, many complaints the Commission receives are speculative in nature or lack specific information tending to disclose a likelihood that corrupt conduct has occurred. These matters are usually closed.

Figure 4: Top five most frequent workplace functions reported in s 11 reports 2022–23 (%)



Note: Percentages in the figure above add to more than 100%, as reports may relate to multiple workplace functions.

Figure 5: Top five most frequent types of corrupt conduct in s 11 reports in 2022–23 (%)



Note: Percentages in the figure above add to more than 100%, as reports may relate to multiple types of corrupt conduct.

Whistleblowers taken seriously

In 2021, the Commission received two public interest disclosures from public officials alleging that a senior manager held a conflict of interest in relation to a business they owned and that they were also promoting their business in the workplace.

Specifically, the public officials alleged the senior manager was promoting their own business during staff meetings and encouraging staff to sign up to the services that it offered. The public officials stated staff were uncomfortable with the senior manager's conduct but were concerned about speaking out.

The public officials also alleged that the senior manager was favouring former colleagues in recruitment and failing to follow recruitment and procurement policies.

The Commission searched open source (publicly available information) and the Commission's information holdings to obtain further information about the senior manager, business, contracts and council tenders identified in the complaint. Open sources did not disprove any of the information provided by the complainants.

As the information had come from several sources, was detailed in terms of naming those favoured and appointed in the recruitments and also provided details of the procurements, the Commission considered it compelling.

Having regard to the potential seriousness of this matter, the Commission made enquiries with the agency involved, without providing details that could tend to identify the complainants.

The agency's response confirmed there appeared to be failures by this senior manager across fundamental operational areas of the agency. The Commission considered that the matter was fairly serious as it involved a senior public official and the issues permeated a number of high-risk areas, including recruitment, procurement, secondary employment and conflicts of interest.

However, as the Commission's investigative powers were not required to properly consider this matter, the Commission referred the allegations back to the agency for investigation and required it to report back to the Commission under s 53 and s 54 of the ICAC Act.

The investigation conducted by the agency did not conclude that the senior manager had engaged in corrupt conduct, but rather identified a recurring deviation from proper practice across a range of key functions. This presented a corruption risk to that agency if left to continue unfettered. The investigation report included recommendations for the agency to implement to address the deficiencies and risks identified. The Commission

sought an implementation action plan from the agency to document how and when it intended to implement the recommendations.

The Commission was satisfied that the action plan, which included the agency's various remedial and preventive actions, went some way to satisfying the Commission's concerns about systemic weaknesses in processes. These actions detailed a combination of policy review and amendment, audits, changes to processes, external consultation and staff education and training.

Overall, the investigation, though not making a finding of anyone engaging in corrupt conduct, resulted in raised staff awareness of corruption risks and strengthened human resources, recruitment and procurement processes.

Having regard to the limited information available to establish with reasonable certainty that corrupt conduct was involved, and the action being taken by the agency concerning the corruption risks, the Commission decided not to investigate this matter.

Many complainants who report matters to the Commission have expectations that their concerns will be investigated by the Commission, and managing those expectations is a key part of its role. When the Commission decides not to investigate a matter, staff explain to the complainant the reason or reasons for this decision.

In 2022–23, the Assessment Panel made 1,711 (78%) decisions to close matters and take no further action. This is slightly lower than in the previous year, where the Commission decided to close 85% of matters and take no further action (1,873 decisions).

2. Close the matter and refer externally

Some matters the Commission receives can be appropriately referred to other oversight bodies, such as the NSW Ombudsman. In addition, the Commission may appropriately refer some disciplinary or administrative matters to the public authority concerned. In its *Strategic Plan 2022–2025*, the Commission is committed to working more effectively with stakeholder agencies to bring people to account.

In 2022–23, 265 matters (12%) were closed and referred on this basis. This is significantly higher than last year, in 2021–22, when 212 matters (10%) were closed and referred. This reflects both the increase in matters received, which are deemed relevant to other agencies, and also the increased focus of the Commission to share relevant information to other agencies to improve their operations and to further “corruption proof” their systems and processes.

3. Refer the matter internally but not investigate

In 2022–23, the Assessment Panel made 196 decisions (comprising 9% of matters before the panel) to carry out further work internally to obtain additional information and assist its assessment of a matter. This is a significant increase from 2021–22 when the Assessment Panel made 112 decisions (comprising 5% of matters) to carry out further work internally. After making such a decision, the Commission may undertake assessment enquiries in a matter, or request that a relevant public authority provide a copy of its report on a matter, or require an authority to conduct an investigation and report its findings to the Commission. Again, this is in line with the Commission’s strategic focus on improving coordination with stakeholder agencies. In addition, the Commission’s Corruption Prevention Division may review the matter.

If the Commission decides that there is insufficient information to determine an appropriate course of action, it will conduct assessment enquiries – usually with the public authority that is the subject of the allegations – and the matter will be re-reported to the Assessment Panel. Assessment enquiries may involve contacting parties for more information, carrying out research, and obtaining and considering relevant policy and/or procedural documents to determine whether there are procedural deficiencies.

Where enquiries have been conducted and the Commission determines not to pursue the matter further, the material obtained can enable the Commission to provide more detailed reasons to complainants as to why a matter is not being pursued.

In 2022–23, there were 109 decisions by the Commission to conduct assessment enquiries, which is a significant increase from the figure of 46 reported in 2021–22.

Where a public authority reported a matter under s 11 and has commenced an investigation, or is preparing to embark on one, the Commission may request a copy of the report to inform the Commission’s assessment. In the reporting period, the Commission made 46 requests for investigation reports from agencies, compared to 21 such requests reported in the previous year.

Under s 53 and s 54 of the ICAC Act, the Commission has the power to require that a public authority or an appropriate oversight body conduct an investigation and report its findings to the Commission. This power is usually reserved for relatively serious matters and allows the Commission to oversee the investigation, including reviewing the investigation plan and progress reports. The Commission can determine the scope of the investigation and, in consultation with the authority, will agree on a timeframe for its completion.

The Commission refers matters under s 53 and s 54 only if it considers that the public authority will, following consultation, be able to investigate the matter. The Commission will not make a referral if it considers the public authority might be compromised or lacks the capacity to conduct the investigation and adequately report on it. Under the ICAC Act, the Commission has powers to deal with investigations or reports by a public authority that it considers unsatisfactory.

In 2022–23, five matters were the subject of referral under s 53 and s 54 of the ICAC Act. This is an increase on the one referral made in 2021–22.

The Assessment Panel reviews the outcomes of matters referred to public authorities under s 53 and s 54 of the ICAC Act.

The case study on page 28 is an example of a referral under s 53 and s 54 to a NSW public authority to conduct an investigation into allegations of corrupt conduct. During the investigation, the public authority enhanced its procedures in relation to procurement, recruitment and managing conflicts of interest, as well as reducing the risk of such conduct occurring again.

If a matter appears to involve mainly systemic issues, rather than specific instances of corrupt conduct, or the corrupt conduct has been dealt with but wider problems appear to exist, the Commission may evaluate the situation and give advice to the public authority concerned. This may involve advice on enhancing a public authority's capacity to minimise the risk of corruption, and on how to prevent the problem from happening again.

4. Undertake an investigation

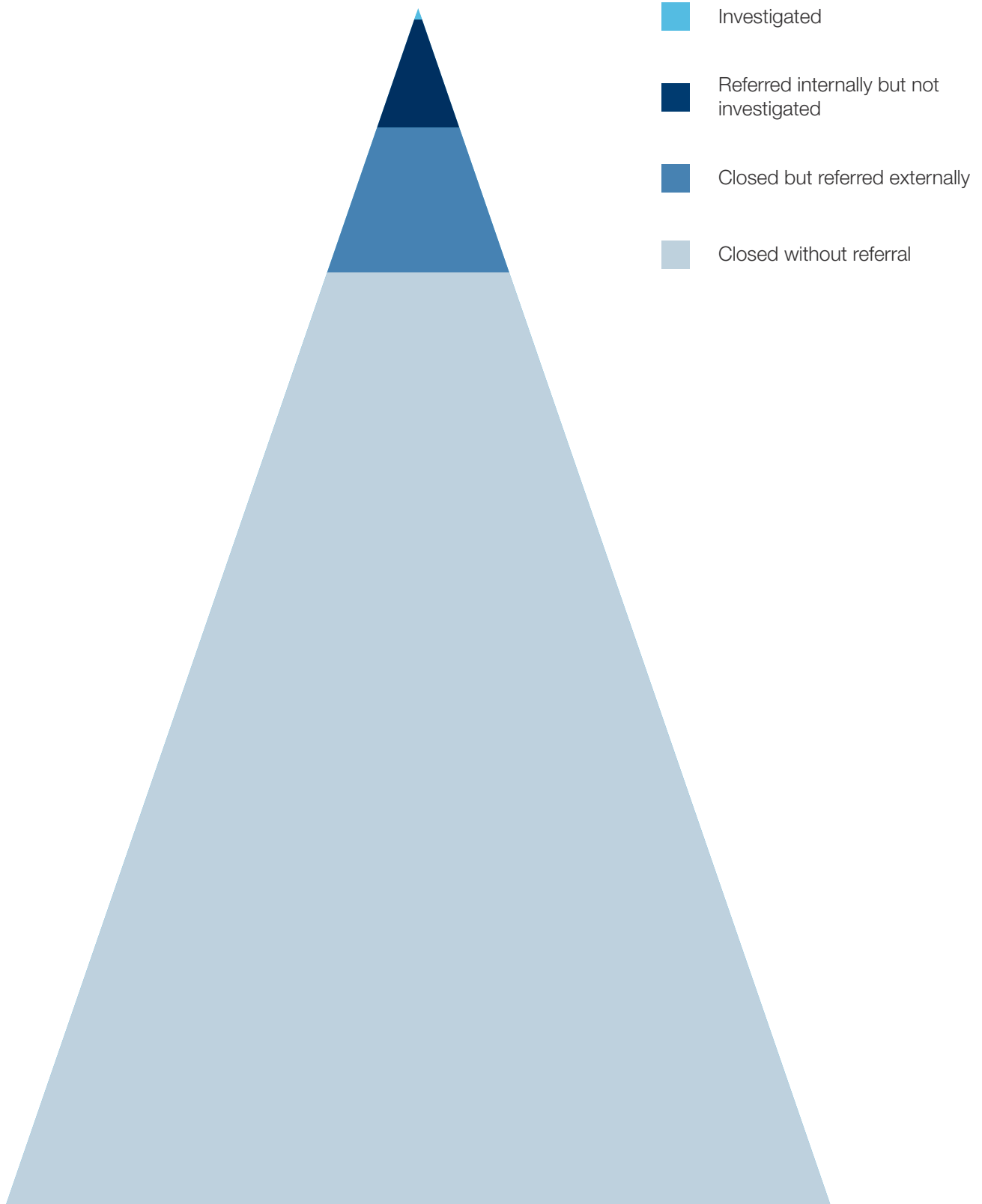
If a matter is serious and likely to need the Commission's special powers to investigate – such as requiring the production of documents or information, executing a search warrant or conducting covert operations – the Commission will usually investigate the matter itself (see chapter 3). These matters are referred to the Investigation Division for preliminary investigation.

Only a small number of matters with the potential to expose serious and systemic corrupt conduct will meet the criteria for a full investigation. Once a decision to investigate has been made, the matter is overseen by the Investigation Management Group, which also gives direction on each investigation.

In 2022–23, 10 matters (less than 1%) were referred to the Investigation Division for preliminary investigation, which is the same as last year.

Decisions made by the Assessment Panel in 2022–23 are shown in Figure 6.

Figure 6: Decisions made by the Assessment Panel in 2022–23



Chapter 3: Investigating corruption

Investigations summary	33
Challenges impacting investigations in 2022–23	33
Workforce and Process Review	34
Strategic initiatives	35
Capability enhancement	36
How we investigate	36
Our investigations	36
Use of statutory powers.....	39
Public inquiries and compulsory examinations	39
Investigation outcomes.....	40
Proceeds of crime	40
Referrals and other disseminations	40
Financial Investigation Unit.....	40
National Investigations Symposium.....	40
Digital transformation strategy	41
National Anti-Corruption Investigation Network.....	41

A principal function of the Commission is to investigate and publicly expose serious and systemic corruption with a view to educating public authorities, officials and the public and to reducing corruption in the NSW public sector. The Commission deploys overt and covert investigation techniques to detect corruption and uses coercive powers available to the Commission under the ICAC Act and other Acts.

The Commission also has the function of investigating matters referred to it by the NSW Electoral Commission under the s 13A of the ICAC Act that may involve possible criminal offences under the *Electoral Funding Act 2018* or the *Lobbying of Government Officials Act 2011*.

Investigations summary

As of 30 June 2022, there were three operations and two preliminary investigations active (one of which was a preliminary investigation of the Investigation Division's Strategic Intelligence Research Unit). As with previous years, there were fewer investigations (operations) but a greater number of preliminary investigations. During the reporting period, five matters, which commenced as preliminary investigations, were escalated to full operations.

Challenges impacting investigations in 2022–23

During 2022–23, the Commission continued to investigate complex matters, three of which progressed to a public inquiry during the reporting period, and a number of which are still in progress.

The Commission's investigations continue to be complex, with a significant reliance on financial investigation and computer forensics (see the subsequent section "Workforce and Process Review" for more detail). The receipt and seizure of computer data increased substantially from the previous reporting year, rising from 16.7 terabytes of data to 48 terabytes (see figure 7).

The increase in the amount of data received is directly related to the increase in the number of search warrants executed during the reporting period.

The number of search warrants executed in any reporting year can be attributed to the operational life cycle of an investigation and/or the evidence available to apply for such warrants.

There were 33,103 documents saved into investigation complaint files in the Commission's TRIM recordkeeping system, higher than all previous reporting years, except for 2019–20.¹ This reflects the increase in search warrants executed in the reporting period and the amount of data the Commission is receiving and analysing.

Resourcing

During the reporting period, the Investigation Division has been critically under-resourced due to long-term leave, secondments and resignations, resulting in up to eight vacancies for an extended time. There has also been an inability to recruit suitable candidates, due to a skill shortage in key positions, requiring the Commission to go back to the market.

Recruitment for permanent and temporary staff is ongoing and it is anticipated the Division will be back to strength in the next three-to-six months.

Brief preparation

Alongside the increasing complexity of investigations, there is a corresponding complexity in prosecution briefs of evidence. This has placed pressure on the capacity of investigators, who often need to manage investigations, briefs and a variety of other internal functions concurrently. Over time, the number of persons involved in investigative operations has increased. In the reporting year, four investigators had to be quarantined to work exclusively on brief preparation. This placed additional capacity constraints on the remaining investigation teams, who also have brief preparation duties. Two temporary staff have been recruited to assist in enhancing brief preparation.

¹ The Commission's *Annual Report 2021–2022* reported 13,772 documents were saved into the Commission's TRIM recordkeeping system, lower than 2020–21. This was incorrectly reported and should have been 29,992 documents.

Workforce and Process Review

In 2022–23, the Investigation Division developed its capacity and processes to meet the challenges outlined above and those identified in an earlier Workforce and Process Review. This aligned with a key goal in the *Strategic Plan 2022–2025*, to streamline investigations by applying risk-based decision-making.

In 2020–21, a workforce and process review was conducted by KPMG to understand the Commission’s future capacity and capability. The review found that Commission investigations are more complicated than they have been in previous years (in terms of the number of people involved, the complex nature of the crimes investigated and the number of public inquiry days needed) and increasingly challenging to investigate (in terms of the number of involved persons, volume of data and the proliferation of encryption).

As a result of the review, the Commission sought funding from the NSW Government for additional positions, across the Commission. Funding was granted in 2022–23. Relevant to the Investigation Division, recurrent funding was granted for: three Assistant Investigator positions; an additional forensic accountant; an equivalent 1.5 FTE contracted investigator workforce; an equivalent 1.5 FTE contracted telecommunications interceptions

monitors and a strategic capability officer to drive the Commission’s capability development and process reform.

Three assistant investigators and a director, strategic capability have been appointed. Two brief preparation contractors have been engaged through the contracted investigator workforce model and telecommunications interception monitors have been contracted to assist in reviewing a large volume of telecommunication interceptions disseminated to the Commission by another agency.

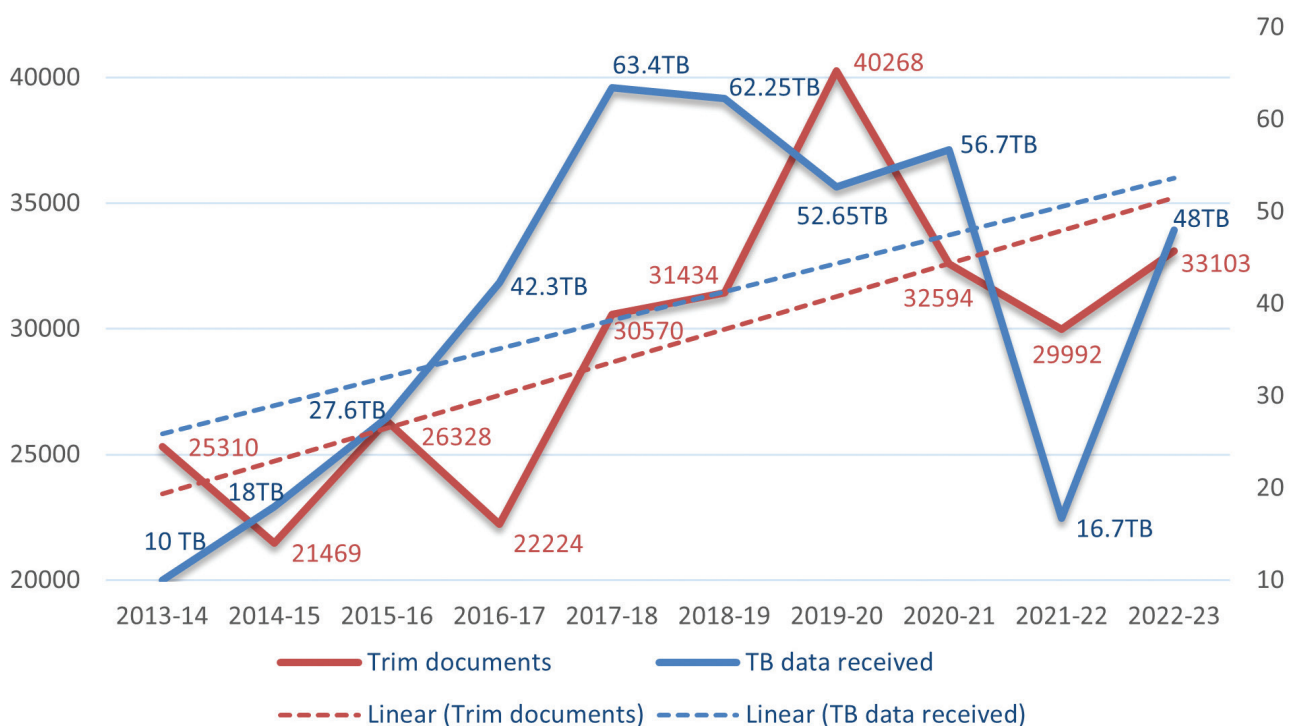
These additional resources have enhanced the Commission’s capability to deliver process reform and other reform activity to accelerate the division’s work.

Whether the increased funding has shortened the time in which investigations are undertaken cannot be fully measured yet, as the division has had significant staff shortages in the reporting year.

What can be reported is the funding allowed the division to create the Strategic Capability Unit and appoint a director to that position, to lead this reform of the division’s procedures and policies and improve the preparation of prosecution briefs (see below for more detail).

In late 2022 and early 2023, two temporary staff members were engaged through the investigator workforce model to assist with the preparation of

Figure 7: Computer data received and analysed, and documents created between 2013 and 2023



advisory briefs for the Director of Public Prosecutions (DPP). This has resulted in:

- the completion of one advisory brief
- the progression of two additional advisory briefs
- the first steps towards the standardisation and improved quality of the division’s advisory briefs.

Strategic initiatives

The Commission has established a number of strategic initiatives in the Investigation Division to ensure the division is delivering against organisational objectives.

The Strategic Capability Committee

The Strategic Capability Committee (SCC) was formed in March 2022 and operated throughout the reporting period. Its primary function is to identify gaps in the Investigation Division’s ability to plan strategically by:

- reviewing the division’s investigation policy and procedures, including the need for standardisation of investigation practices
- using a risk-based approach to build and address the technical, data and investigative capabilities required by the division (in line with the *Strategic Plan 2022–2025*)
- researching innovation and trends in investigations and technology with other agencies
- assisting in developing a Strategic Workforce Framework, which details the key skills and knowledge required of divisional staff, including processes and tools, one of which will be a divisional planning tool that identifies learning and development needs to meet the requirements of investigations now and in the future.

The SCC consists of representatives from across the division.

Strategic Capability Unit

The Strategic Capability Unit was formed in early 2023 and is managed by the newly created director, strategic capability (Director SC). The SCC is now led and chaired by the Director SC.

The Director SC has several responsibilities, including leading the Commission’s Strategic Intelligence and Research Unit (SIRU), overseeing the division’s strategic capability projects, the development and

review of investigation policies and procedures, and overseeing the preparation of briefs of evidence for referral to the DPP.

The key outcomes for the Strategic Capability Unit achieved during the reporting period have been:

- leading the division’s input into the digital transformation strategy, including delivering an organisational survey on the functionality of the Commission’s case management system
- using analysis of these survey results to formulate in-house training to staff from the Investigation and Legal divisions
- revising the Commission’s human source policy and procedure
- revising the Commission’s hearing brief preparation procedure
- creating a procedure and learning tools for the Commission’s primary analytical software.

Strategic Intelligence and Research Unit

SIRU was established in 2018 and provides the Commission with a proactive corruption prevention and investigation capability.

In accordance with directions of the Commission’s *Strategic Plan 2022–2025*, the primary functions of SIRU are focused on the identification of emerging and long-standing corruption risks.

SIRU undertakes sector-based strategic intelligence projects to identify current and emerging corruption risks in areas of the NSW public sector and, if information is obtained that suggests the occurrence of corrupt conduct, generates and investigates “own initiative” (s 20 of the ICAC Act) SIRU preliminary investigations.

To date, SIRU has initiated three sector-based intelligence projects. The initial project has been completed.

In the reporting period, SIRU had carriage of two SIRU preliminary investigations that arose from the initial sector-based project. Both matters were closed, and the information provided to the Commission’s Corruption Prevention Division.

The unit’s second sector-based strategic intelligence project commenced in the 2021–22 financial year and is close to completion. SIRU’s engagement with key stakeholders in this sector has resulted in an

observable increase in the quality and frequency of the reporting of suspected corrupt conduct, and in the case of one agency within the sector, improvements to its governance framework and processes. An s 14 report is being prepared, in relation to another of the sector agencies, for the relevant public authority and minister. An arising SIRU preliminary investigation was escalated to preliminary investigation status.

During the reporting period, the unit's third sector-based project was initiated.

Capability enhancement

SIRU plays a key role in fostering relationships with partner anti-corruption and integrity agencies. The National Intelligence Network, established by SIRU in 2019, facilitates the exchange of methodologies, tradecraft and current and emerging trends witnessed across the Australian anti-corruption landscape. During the reporting period, SIRU facilitated three National Intelligence Network meetings with representatives from all the Australian anti-corruption agencies.

In May 2023, SIRU accepted an invitation to join an intelligence practitioners working group established by Commonwealth agencies to assist the continued development of intelligence functions within government agencies. SIRU attended two of the group's workshops.

SIRU administers the Commission's intelligence database and helps to develop the systems used in intelligence analysis to support the broader work of the Commission. The unit continues to support the work of the Investigation and Corruption Prevention divisions, as well as the Assessments Section. This takes the form of:

- sourcing data and providing written analysis to support formal advice issued to NSW public authorities
- integrating bulk data holdings into analytical platforms and providing tailored intelligence products to support the range of cross-divisional priorities
- producing specialist intelligence tradecraft contributions to the Commission's external publications.

How we investigate

The Commission has KPIs for the timeliness of its investigations. In 2022–23, the division's KPIs on timeliness of investigations have again improved, delivering the division's best KPI result for five years for preliminary investigations and investigations (see Table 16 and Table 17).

The Commission aims to complete 80% of its preliminary investigations within 120 days, and SIRU preliminary investigations within 300 days, of the Commission's decision to commence the investigation.²

The Commission introduced a two-tiered KPI system for full investigations in 2020, based on their complexity. "Standard" investigations have a KPI of 70% completion within 16 months from the date of the Assessment Panel decision. "Complex" investigations have a KPI of 70% completion within 24 months from the date of the Assessment Panel decision. This more accurately reflects the time to properly complete an investigation. The Commission commenced internal reporting against this change in the 2020–21 reporting year.³

At the commencement of the reporting year, there was only one outstanding investigation under the previous KPI system. The previous system required 80% of all investigations, no matter the complexity, to be completed in 16 months. At the end of this reporting period, the remaining investigation under that system was finalised by way of public inquiry (see Table 18).⁴

In chapter 5, we report on the period between the commencement of public inquiries and the publication of the investigation reports.

Our investigations

At the commencement of the 2022–23 reporting period, a total of three SIRU preliminary investigations, two preliminary investigations and eight operations were carried over from the previous period. A total of 14 preliminary investigations (three of which were undertaken by SIRU) and 10 operations were completed in 2022–23. At the end of the reporting period, there were two ongoing preliminary

² Decisions to conduct preliminary investigations are made by the Commission's Assessment Panel (see chapter 2).

³ The new standard or complex categories commenced on 1 July 2020. Any matters prior to 1 July 2020 continue to be reported under the previous KPI system.

⁴ Operation Hector

investigations (one of which was a SIRU preliminary investigation) and three operations.⁵

The percentage of preliminary investigations completed by the Commission within 120 days increased from 73% in 2021–22 to 81% in 2022–23 (see Table 16 and Figure 8). The average time taken to complete preliminary investigations increased from 134 days in 2021–22 to 136 days in the reporting period.

In 2022–23, SIRU did not complete any preliminary investigations within 300 days and the average time taken to complete a SIRU preliminary investigation was 549 days. In the previous period, 2021–22, SIRU completed 33% of SIRU preliminary investigations within 300 days and the average time taken to complete SIRU preliminary investigations was 271 days. This drop in timeliness reflects the significant resourcing issues facing the division, as discussed earlier in this chapter.

Of the 10 investigations completed in this reporting year, one was completed under the previous KPI system and the remaining nine under the new KPI system. Of those nine investigations, eight investigations were “standard”, and one was classified as a “complex” investigation.

The previous and current KPI outcomes are reported in this annual report (see Table 18 and Table 19).

Pre-July 2020 KPI – target 80% completion within 485 days

In this reporting period, only one matter remained under the previous KPI system. The matter, Operation Hector, was a complex investigation, which took 1,146 days to complete. Operation Hector commenced in January 2020 as a preliminary investigation and its progress was impacted by the onset of COVID-19, and specifically challenged by:

- delay in the execution of search warrants
- reduced witness availability
- delays in obtaining information from agencies due to office closures and staff working from home.

Post-July 2020 KPI – target 70% completion within 485 days (standard) and 70% close within 730 days (complex)

In this reporting period, regarding the eight “standard” investigations and one “complex” investigation under the new KPI targets, 66.6% of all investigations were completed within their KPI timeframe. The average time to complete “standard” investigations was 466 days. The time taken to complete the “complex” investigation was 915 days.

Since the introduction of the two-tiered KPI system of standard and complex investigations, close-monitoring of KPI performance shows a continued improvement in the completion of investigations, increasing from 64% completed within their KPI timeframe in 2021–22 to 66.6% in this reporting period (see Figure 8).

Table 16: Preliminary investigation statistics for 2022–23

Number current as at 1 July 2022	2
Number referred by Assessment Panel	10
Number current as at 30 June 2023	1
Days on average taken to complete	136
Number completed within 120 days	9
% completed within 120 days	81%

Table 17: SIRU preliminary investigation statistics for 2022–23

Number current as at 1 July 2022	3
Number referred by Assessment Panel	1
Number current as at 30 June 2023	1
Days on average taken to complete	549
Number completed within 300 days	0%

Table 18: Full investigation (operation) old KPI statistics for 2022–23

Number current as at 1 July 2022	1
Number escalated from preliminary investigation	0
Number discontinued/concluded	1
Number current as at 30 June 2023	0
Days on average taken to complete	1,146
Number completed within 16 months	0
% completed within 16 months	0%

⁵ Six of the operations are standard investigations and were escalated to investigations after 1 July 2020.

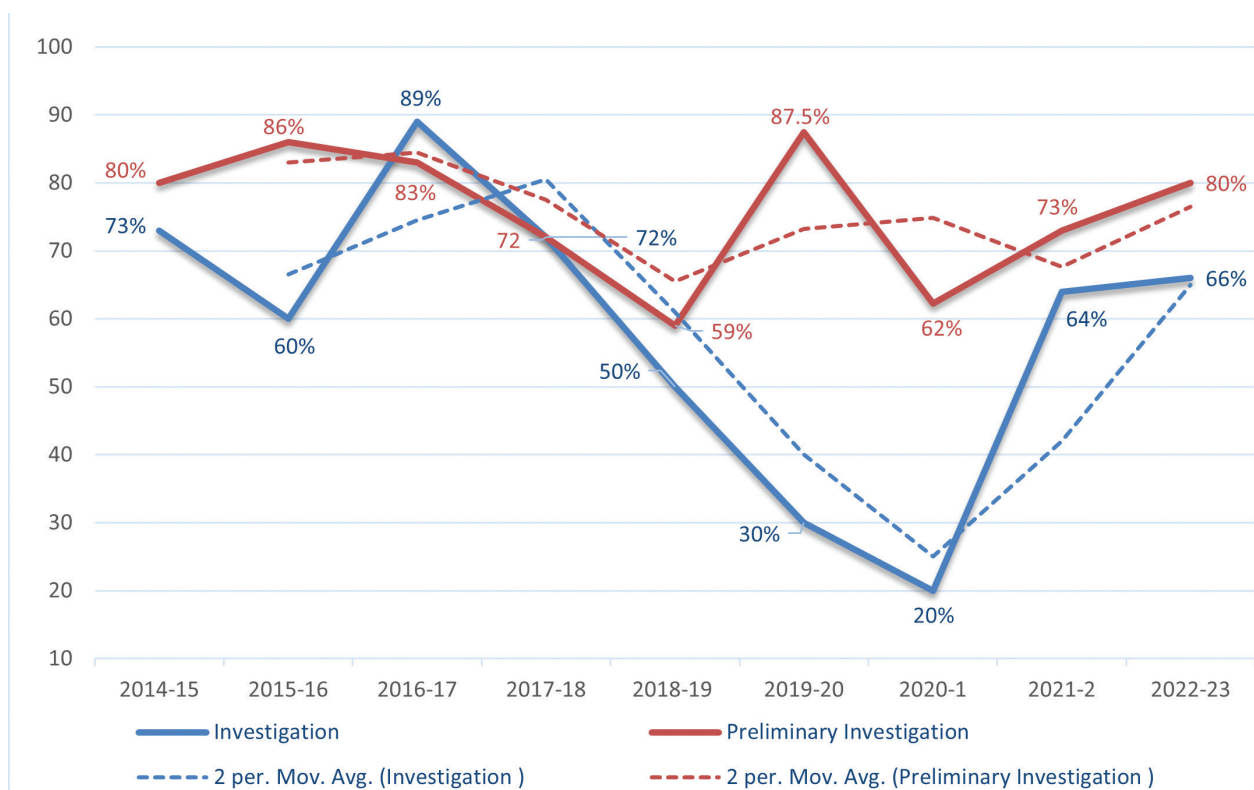
Table 19: Full investigation (operation) new KPI statistics for 2022–23

Number current as at 1 July 2022	8
Number escalated from preliminary investigation	3
Total number discontinued/concluded	9
Standard	8
• Number completed within 16 months	6
• Days on average taken to complete	410
Complex	1
• Number completed within 24 months	0
• Days on average taken to complete	916
% standard and complex matters within timeframe	66%

Table 20: Source of preliminary investigations by sector in 2022–23

Sector	Number of preliminary investigations	% of preliminary investigations
Local government	7	50%
Government & financial services	3	20%
Education (except universities)	2	15%
Health	2	15%

Figure 8: KPI results – Preliminary Investigations and Investigations completed within KPI timelines 2014–23



Use of statutory powers

Investigations may include the use of statutory powers, such as search warrants, surveillance devices, controlled operations and the interception of telecommunications. All applications for the use of statutory powers are reviewed by a Commission lawyer before final approval is given by the Executive Director, Legal, to apply for the use of the power. This process is designed to ensure that all applications comply with regulatory and evidentiary requirements before being submitted to the appropriate authorities.

Public inquiries and compulsory examinations

If the Commission determines it is in the public interest to do so, it may take evidence from witnesses in compulsory examinations. These examinations are held in private. When examinations are held in public, the evidence is generally heard before (and made available to) the public, subject to the discretion of the presiding Commissioner to suppress or restrict publication of the evidence, if they believe it is in the public interest to do so. The public inquiry may also be live streamed subject to the discretion of the presiding Commissioner.

The Commission can compel witnesses to answer questions and produce documents or other things when they are summonsed to a compulsory examination or public inquiry. The witness must comply with this direction regardless of whether their answers or production of documents or other things may incriminate them. A witness, however, may object to answering the question or to producing the item. If an objection is made, the witness must still comply with the direction but neither the answer nor the item produced is admissible as evidence against the witness in any subsequent criminal or civil proceedings, other than for an offence under the ICAC Act. Also, disciplinary proceedings may be taken against a public official based on a finding of corrupt conduct made by the Commissioner in a report under s 74 of the ICAC Act and evidence supporting that finding, including evidence of the public official that was given under objection.

In 2022–23, the Commission conducted 28 compulsory examinations over 27 days and one new public inquiry (Operation Hector). The public inquiry for Operation Galley also extended into the reporting period (lasting 24 days, 15 of which fell in the reporting period) as did the public inquiry for Operation Tolosa (lasting 28 days, one of which fell during the reporting period). Altogether there were 42 public inquiry days in 2022–23.

Table 21: Statutory powers used by the Commission in 2022–23, compared to three previous years

Power	2022–23	2021–22	2020–21	2019–20
Notice to produce a statement (s 21)	5	1	3	34
Notice to produce a document (s 22)	228	296	438	470
Notice authorising entry to a public premise (s 23)	0	0	0	0
Summons (s 35 notices)	51	150	148	89
Arrest warrant (s 36)	1	0	0	0
Order for prisoner (s 39)	0	0	2	0
Search warrant (s 40)*	8	1	24	2
Controlled operations	1	0	0	0
Surveillance device warrants	0	0	5	3
TIA Act** – telephone interception warrants	0	0	11	7
TIA Act – stored communications warrants	0	0	0	2
TIA Act – telecommunications data authorities (s 178 and s 180)	161	201	168	204
Statements taken	195	135	131	0
Interviews conducted	55	88	67	226

* All warrants were issued by an external authority; none was issued by the Commissioner.

** *Telecommunications (Interception and Access) Act 1979*.

Investigation outcomes

The Commission is an investigative body that can make findings of corrupt conduct against public officials or other persons who engage in corrupt conduct that involves or affects, or could involve or affect, the exercise of public official functions by a public official.

The Commission is not a court or disciplinary tribunal and does not conduct prosecutions or disciplinary proceedings as a consequence of any of its investigations. Outcomes that may result from a Commission investigation include:

- findings of serious corrupt conduct
- corruption prevention recommendations and advice
- referral of evidence to the DPP or another appropriate agency to consider such action as:
 - prosecution action
 - disciplinary action
 - proceeds of crime action
 - further investigation.

It is important to acknowledge that not every investigation will produce findings of serious corrupt conduct. An investigation is designed to determine the truth or otherwise of the allegation raised. As such, an investigation may find that there was no corrupt conduct.

Proceeds of crime

Recovering the proceeds of crime removes the financial benefit for serious corrupt conduct. The forfeiture of corrupt assets is a key prevention strategy in reducing the motivation for those engaging in corrupt conduct.

The Commission does not have the function or legislative power to recover criminal proceeds of crime; however, the Commission can refer evidence to the NSW Crime Commission for the consideration of initiating asset confiscation proceedings under the *Criminal Assets Recovery Act 1990* (NSW).

Within the reporting period, the Commission did not refer any evidence to the NSW Crime Commission.

Referrals and other disseminations

During the reporting period, the Commission disseminated intelligence gathered during investigations to the:

- Australian Commission for Law Enforcement Integrity
- Australian Federal Police
- Australian Taxation Office
- Department of Health and Aged Care
- NSW Crime Commission
- NSW Electoral Commission
- NSW Police Force
- Office of Local Government.

Financial Investigation Unit

As previously reported, the Commission has found it increasingly difficult to recruit key positions including senior forensic accountants, or forensic accountants with law enforcement experience. In December 2022, the Commission's forensic accountants were removed from the operational teams and the Financial Investigation Unit (FIU) was formed to provide a divisional financial accounting service. The FIU is led by an experienced forensic accountant who is driving the standardisation of forensic accounting practices and the preparation of financial briefs of evidence for Commission proceedings.

National Investigations Symposium

The National Investigations Symposium (NIS) is a joint initiative of the Commission, the NSW Ombudsman and the Institute of Public Administration Australia NSW Division. The NIS offers a significant opportunity to communicate lessons learnt from our investigations, in line with our *Strategic Plan 2022–2025*.

The 13th National Investigations Symposium was held on 24 and 25 May 2023 at the Four Seasons Hotel, Sydney. Over 565 individuals attended the symposium from more than 180 organisations. Attendees comprised all tiers of the Australian public sector, NGOs and private providers. Before the symposium, interactive workshops on investigative approaches and

welfare concerns were held on 23 May 2023. The six workshops attracted over 160 participants.

The two-day symposium program comprised plenary sessions with keynote speakers, and three concurrent streams covering a range of topics, including: workplace and disciplinary investigations; complaint handling; forensic accounting and technology; investigations involving abuse and neglect; challenging investigations; psychological welfare of parties to investigations; international perspectives; public interest disclosures; and approaches for interviewing children and people experiencing vulnerability. To keep pace with digital technology and support investigators to adopt best practice techniques, which is a key element of our *Strategic Plan 2022–2025*, the program also covered investigations of automated decision-making, the darknet and using digital forensics to drive investigations.

The 14th National Investigations Symposium will be held in Sydney in 2025.

Digital transformation strategy

A key goal in our *Strategic Plan 2022–2025* is to develop a transparent and accountable organisation by reforming business processes, improving the use of learning processes and introducing ICT improvements. In the reporting period, our Investigations Division pursued multiple strategies to keep pace with digital technology.

Business Process Management

In 2022, the Investigation Division instigated a Business Process Management (BPM) project to review the Commission’s computer and software systems. This project was in response to recent and rapid technological change and to plan for a modern integrated system platform. While the Commission’s technology budget is limited, technology challenges continue to evolve. With an increase in digital evidence, resulting in an increase in overall volume of evidence, there is the corresponding need to improve how this digital information, and resulting case and investigation records, are managed, accessed, searched and utilised in all aspects of the end-to-end investigation process.

The BPM project examined the effectiveness of the Commission’s case-management system, avenues to increase integration of Commission systems and the automation of several processes critical to investigations.

The Commission engaged a consultant to define the future state and gaps to be addressed to achieve the Commission’s objectives in improving the effectiveness of its Investigative Case Management System and Records Management System.

The review found that the Commission’s investigation needs are being hindered by the current technology environment. The review recommended “Application Renewal” and supporting management improvements over four years based on transformation funding.

The Commission recently sought additional government funding as part of a re-baselining business case.

National Anti-Corruption Investigation Network

A key strategy for streamlining the operations of the Commission and developing a transparent and accountable organisation, in line with our *Strategic Plan 2022–2025*, is to collaborate with like agencies to adopt best practice investigative techniques.

In April 2022, the Commission established and hosted the inaugural National Anti-Corruption Investigation Network (NACIN) in Sydney, in conjunction with the National Integrity Network (NIN). The network was established to create a forum for anti-corruption investigation agency managers in Australia to meet and discuss new and changing threats or opportunities in anti-corruption investigations. It meets on a quarterly basis.

All 10 Commonwealth, state and territory anti-corruption and integrity agencies attended. The 2023 NACIN and NIN conference is to be hosted by the Independent Broad-based Anti-corruption Commission (IBAC) in Melbourne.

Chapter 4: Preventing corruption

Corruption prevention projects.....	43
Educational videos	44
Advice	44
Education	44
Operation Keppel case study.....	48
Operation Skyline case study.....	49
Operation Paragon case study	50

The Commission's Corruption Prevention Division primarily deals with functions relating to the examination of laws, practices and processes that may be conducive to corrupt conduct. Its role also includes promoting the integrity and good repute of public administration. The division performs this function in a number of ways, including:

- undertaking corruption prevention projects
- providing written and face-to-face advice
- designing and delivering training, speaking engagements, educational materials and conferences
- investigating matters that may have allowed, encouraged or caused corrupt conduct. This is usually accomplished by including a corruption prevention officer in the relevant investigation team.

Corruption prevention projects

In 2022–23, the Commission developed and released or contributed to a number of new publications examining corruption risks within the public sector. These publications provide information and advice on how corruption risks can emerge and how to manage them. They allow us to communicate lessons learnt, meeting a key goal of our *Strategic Plan 2022–2025*.

Corruption in regulatory work

In November 2022, the Commission released *Managing corruption risks in regulatory work*. This publication arose from the Commission's work having, over many years, identified circumstances where individuals have engaged in corrupt conduct by exploiting weaknesses in regulatory operating environments.

The publication provides general advice to public officials in regulatory roles. It covers:

- conflicts of interest
- dealing with threats, bribes and grooming
- regulatory capture and the risks public officials face from over-identifying with the regulated industry
- the revolving door phenomenon – that is, someone moving employment from the regulator to the regulated industry and back
- access to and use of confidential information.

In addition to informing regulators, the publication provides general advice to public sector agencies on the solutions and practices they can establish to prevent corrupt conduct among public officials engaged in regulatory activities.

Assessing and improving corruption control maturity

In the first quarter of 2023, the Commission issued a new publication, *Assessing corruption control maturity*.

This publication helps agencies to assess and enhance the maturity of their corruption control programs. It addressed eight key components of mature corruption control.

Four of these components relate to controls that:

- build integrity in agency operations
- prevent corrupt conduct
- detect corrupt conduct
- respond to integrity breaches in a manner that is comprehensive but proportionate.

The other four components are systems and processes that support these controls, namely:

- corruption-risk management
- an agency's corruption-control framework
- corruption-control roles
- corruption-control competence among its staff and organisational associates.

The Commission also issued an abbreviated summary of this publication, titled *Mature corruption control: the key outcomes of better practice*.

Probity aspects of “ethics walls”

In October 2022, the Commission released a new publication with guidance on the probity aspects of “ethics walls” and the competing obligations that can arise in a commercial environment. The publication, *Probity aspects of ethics walls: guidance for dealing with commercial activities and other complex scenarios*, covers areas such as procurement and entrepreneurial activities.

Ethics walls are structured information barriers that prevent the flow of restricted information between one group and another. Ethics walls were previously referred to as Chinese walls and are also known as information barriers, cones of silence and ethical screens.

Ethics walls help safeguard against problems arising from situations such as conflicting business operations. An example would be when a contractor provides services to an agency but also has other clients that deal with the agency. In such a situation, an ethics wall can be established to prevent the contractor from obtaining confidential information that would be of value to its other clients.

The publication provides guidance on:

- when ethics walls should be used
- the different ways in which information can be restricted
- the key elements to consider when establishing an ethics wall
- how an ethics wall should be monitored
- what should happen when an ethics wall is breached.

Managing conflicts of interest – a tip sheet for Local Aboriginal Land Councils

Local Aboriginal Land Councils (LALCs) make important decisions for communities, such as allocating houses, negotiating land deals, purchasing goods and services, and recruiting staff. LALC members have a right to expect that these decisions are fair, lawful and in the best interests of all members. All LALC board members and staff are “public officials” for the purposes of the ICAC Act.

LALC board members and staff, and their family and friends, often live in the same community. Therefore, it is inevitable that staff and board members will come across instances where conflicts arise between their LALC duties and private interests. Many corrupt conduct allegations the Commission receives about LALCs concern conflicts of interest that have not been properly declared and managed.

In December 2022, the Commission released *Managing conflicts of interest – a tip sheet for Local Aboriginal Land Councils*. The tip sheet illustrates the kinds of conflicts of interest that can arise in LALCs, how they can be assessed and managed, and the consequences if they are not managed appropriately.

While it is not wrong in itself for a LALC staff or board member to have conflicts of interest, failing to declare, record and manage them can negatively impact a LALC’s operations, damage its reputation, erode members’ trust and provide opportunities for corrupt conduct.

The Commission’s training with LALCs, which includes tailored workshops and presentations, shows that they are keen to minimise such negative outcomes. More details on our training and education program are provided later in this chapter.

Educational videos

The Commission’s existing educational videos, accessible via its YouTube channel, have continued to be well received. In 2022–23, the Corruption Prevention Division and Communications and Media Section have been developing new video content, which will be available in the next financial year.

Advice

The Commission provides advice on ways to prevent or combat corrupt conduct and enhance integrity. This is a statutory function under the ICAC Act. This advice can range from minor issues that are dealt with in a single telephone discussion to significant issues requiring detailed discussions with a public authority and its officials. The advice service is available to all officers of the NSW public sector and members of the public.

In 2022–23, the Commission provided advice on 160 occasions (which is identical to the number of advice matters recorded in 2021–22, and up from 150 in 2020–21). This included making submissions to relevant government inquiries and reviews. The most frequent topics of advice requests were specific information about the Commission, implementing corruption-control systems, conflicts of interest, procurement and regulatory activities.

As part of its advice function, the Commission holds face-to-face or online liaison meetings with agencies, which include both regular and ad hoc discussions.

Education

The Corruption Prevention Division is responsible for delivering an education and training program. This program is a key part of our strategy to build public sector integrity through:

- education and prevention
- risk-based, targeted approaches.

Training

During 2022–23, the Commission delivered 127 workshops across NSW to 2,286 attendees (see Table 22). This is a marked increase on the 106 workshops that were delivered in 2021–22 and the 101 in 2020–21. Workshops related to preventing corruption in procurement were the most requested. The Commission’s training staff work with agencies to determine the workshops that will best address their corruption risks. Where practical, the training materials, case studies and activities are tailored to the agency’s risk profile.

As noted in its 2021–22 Annual Report, the Commission decided that it would continue to offer online training options after COVID-19 restrictions were lifted, allowing a broader reach for our training program. This also aligns with our *Strategic Plan 2022–2025*. During 2022–23, 66 workshops (52%) were delivered online compared with 78% in 2021–22.

Our 2022–23 training program delivered a total of 37 workshops specifically for public officials in regional NSW. This represents an increase of 48% from the previous period, with 25 delivered in 2021–22 and 15 in 2020–21. Twenty-two of these regional workshops (59%) were delivered in person.

As was the case the previous year, the Commission hosted its “open” workshop program online, allowing us to expand the reach of our education program. We delivered a total of 35 open workshops in 2022–23, compared with 24 in 2021–22 and 30 in 2020–21. As these workshops are delivered online, any public official in NSW can apply – however, in practice, the Commission is not able to deliver training to every official who is interested.

Of the workshops delivered in the reporting period, 118 were evaluated to ensure quality and to allow us to recalibrate our education function where needed. For the year, 49% of attendees completed the online evaluation survey and 1,126 responses were received. There were approximately 8.9 responses per workshop, up from 7.4 last year.

A total of 98% of participants rated these workshops as “useful” or “very useful”, and 98% of participants “agreed” or “strongly agreed” that these workshops met their learning needs. These figures are the same as last year and indicate the ongoing success of the Commission’s training program.

The Commission continued to expand its training offerings in 2022–23. In addition to increasing the number of workshops delivered, the Commission

also delivered new targeted workshop material, to lead public service decision-makers in high-risk areas (in line with the *Strategic Plan 2022–2025*). The Commission introduced a new workshop, *Corruption prevention for ICT professionals* and also updated its grants-related material to incorporate lessons from its *Report on investigation into pork barrelling in NSW* (Operation Jersey). Additionally, for the first time since the COVID-19 pandemic commenced, the Commission delivered its four-day executive short course in conjunction with the Australia and New Zealand School of Government.

Speaking engagements

Audiences for the Commission’s speaking engagements include government departments, local councils, peak bodies and the Corruption Prevention Network (CPN).

The Commission is an active supporter of the CPN, a not-for-profit association committed to providing learning opportunities to individuals involved in corruption prevention and fraud control. In particular, the Commission assists the CPN to plan and deliver monthly seminars. During 2022–23, these seminars were held in a hybrid online/in-person format and attracted approximately 500 attendees on average per seminar.

In 2022–23, Commission officers delivered 88 speaking engagements. This represents a substantial increase on the 60 delivered in 2021–22 but is lower than the 100 delivered in 2020–21. It should be noted that there were a significant number of short presentations provided to a particular agency in 2020–21.

The widespread take-up of videoconferencing technology has allowed us to deliver speaking engagements to larger audiences. As shown in Table 23, the number of people who have attended a Commission speaking engagement has grown considerably over the last two years. Videoconferencing technology also allows presentations to be recorded and shared with staff.

In September 2022, the Commission hosted an online corruption prevention forum that attracted over 600 attendees. The forum highlighted the key lessons learnt from Commission investigations including operations Aero, Jersey, Witney and Ember, as well as material from some of the corruption prevention publications mentioned elsewhere in this chapter.

Table 22: Workshops delivered in 2022–23

Workshop topic	No. delivered	Hours	Participants	Regional	Open	Online
Corruption prevention in procurement	45	183:00	933	13	6	20
Corruption prevention for managers	19	66:30	357	6	5	9
Corruption prevention in grant making	14	47:00	261	4	4	9
Corruption prevention in a regulatory role	10	35:00	176	4	4	7
Custom workshops	9	31:40	123	3	0	4
Strategic approaches to corruption prevention executive workshop	9	53:00	105	3	4	4
Corruption prevention for planning professionals	8	28:00	128	1	4	4
Corruption prevention for LALCs	5	17:00	67	3	0	1
Corruption prevention for ICT professionals	4	16:00	68	0	4	4
Getting the most out of your corruption prevention training program	4	8:00	68	0	4	4
TOTAL	127	485:10	2,286	37	35	66

Table 23: Number of speaking engagements delivered compared with previous years

Quarter	2022–23		2021–22		2020–21	
	Number of engagements	Number addressed*	Number of engagements	Number addressed*	Number of engagements	Number addressed*
Jul–Sept	31	6,160	12	1,433	14	707
Oct–Dec	20	1,420	20	3,878	45	3,626
Jan–Mar	9	420	11	1,203	20	703
Apr–Jun	28	2,373	17	2,697	21	904
Total	88	10,373	60	9,211	100	5,940

* These figures are based on estimates of attendance.

Australian Public Sector Anti-Corruption Conference

The Australian Public Sector Anti-Corruption Conference (APSACC) is Australia's premier, biennial corruption prevention forum. It has a primary focus on preventing, exposing and responding to corrupt conduct and corruption risks in the public sector, including all levels of government, elected bodies, the judiciary, police and statutory bodies.

APSACC 2022 was jointly hosted by the Commission, the Australian Commission for Law Enforcement Integrity and the Law Enforcement Conduct Commission in partnership with integrity agencies from across Australia.

The hybrid event was held from 16 to 17 November 2022 at the Fullerton Hotel, Sydney, and was preceded by virtual workshops on 8 November and in-person workshops on 15 November. There were 624 APSACC delegates (inclusive of speakers), 513 of whom participated in person. Approximately 150 people participated in the virtual and in-person workshops.

Presentations ranged in topic from the use of data and behavioural insights to detect corruption, preventing corruption in local government, procurement and law enforcement, to whistleblower protection. Speakers were represented from national and international jurisdictions across government, non-profit and the private sectors.

The Northern Territory Independent Commissioner Against Corruption will host APSACC 2024 in Darwin.

Educating members of Parliament and staff

In recent years, a number of Commission investigations have involved members of Parliament (MPs); for example, operations Keppel, Witney, Aero and Dasha. Consequently, in 2022–23, the Commission commenced a project focused on educating MPs and their staff to ensure our elected representatives are clear about their responsibilities and respond proactively to the corruption risks identified. Key project outputs have included:

- a seminar for MPs focusing on the corruption risks involved in transitioning from public office
- writing to new ministers and parliamentary secretaries arriving in office about corruption risks
- writing to all MPs and parties in the lead-up to the 2023 NSW State Election about corruption

risks including pork barrelling and weaponising corruption complaints

- the publication of an *Annotated Code of Conduct for Members*, outlining the practical application of the code to parliamentary duties and how members can ensure compliance with parliamentary accountability frameworks
- the participation of the Chief Commissioner in the induction program for new MPs, to share lessons learnt from the Commission's investigations.

The project will continue in 2023–24 to ensure that MPs are equipped with the knowledge and resources needed to fulfil their obligations regarding their code of conduct, the ICAC Act and related legislation.

Operation Keppel case study

In June 2023, the Commission released its report in two volumes on the *Investigation into the conduct of the then member of Parliament for Wagga Wagga and then premier and others* (Operation Keppel).

The Commission found that a former premier of NSW and a former member of Parliament for Wagga Wagga engaged in serious corrupt conduct.

Findings against the former member for Wagga Wagga

The Commission made findings against the former member for Wagga Wagga, including that they:

- improperly used their office, and the resources to which they had access as an MP, to benefit G8wayInternational Pty Ltd, a company of which he was in substance a director and in respect of whose profits he had an arrangement to share
- misused their role as an MP to advance their own financial interests, as well as the commercial interests of their associates, in connection with an immigration scheme that they promoted to their constituents and others connected with their electoral district
- misused their roles as an MP and chair of the NSW Parliament Asia Pacific Friendship Group to advance their own financial interests
- misused their role as an MP in an effort to advance their own private financial interests in connection with the sale and/or development of land.

Findings against the former premier of NSW

The former member for Wagga Wagga was an enthusiastic advocate for grants of public monies for the Australian Clay Target Association (ACTA), and the Riverina Conservatorium of Music (“the RCM”), two Wagga Wagga-based institutions.

The former premier had presided over and/or been a member of the Expenditure Review Committee meetings that had approved the grants, which comprised \$5.5 million for ACTA and \$10 million for refurbishing and repurposing a new government-owned site to make it fit-for-purpose for the RCM (RCM Stage 1). The former premier also determined to make a \$20-million funding reservation for Stage 2 of the RCM development.

At the same time, the former member for Wagga Wagga and the former premier were in an undisclosed close personal relationship.

The Commission found that the former premier’s conduct in exercising certain public official functions in relation to decisions affecting ACTA and the RCM without disclosing their close personal relationship with the former member for Wagga Wagga amounted to serious corrupt conduct, as well as a substantial breach of applicable codes of conduct.

The Commission also found that the former premier engaged in serious corrupt conduct by refusing to discharge their duty under s 11 of the ICAC Act to notify the Commission of their suspicion that the former member for Wagga Wagga had engaged in activities which concerned, or might have concerned, corrupt conduct. It undermined the high standards of probity that are sought to be achieved by the ministerial code which, as premier, the former premier substantially administered.

Recommendations to address systemic weaknesses

As a result of this investigation, the Commission has made a range of recommendations to address systemic weaknesses and reinforce the NSW Parliament’s ethical culture, namely to:

- adopt a more prominent and comprehensive set of principles and values to guide ethical conduct and decision-making
- develop a comprehensive conflicts-of-interest framework
- clarify the limited circumstances in which parliamentary duties can be intermingled with personal or private activities
- clarify that the Code of Conduct for Members applies to parliamentary friendship groups and update the Parliamentary Friendship Groups Policy
- amend the ICAC Act to ensure that the premier and Presiding Officers are required to respond to corruption prevention recommendations
- devise a permanent ongoing professional education program for members and their staff
- develop guidelines for the preparation and funding of business cases.

The Legislative Council Privileges Committee has since established an inquiry into the recommendations arising out of Operation Keppel and is due to provide a report by the last parliamentary sitting day in 2023.

Operation Skyline case study

In October 2022, the Commission released *Investigation into dealings involving Awabakal Local Aboriginal Land Council land*, also known as Operation Skyline.

In its report, the Commission found that the chairperson and the deputy chairperson of the Awabakal Local Aboriginal Land Council (ALALC) – both of whom were public officials for the purposes of the ICAC Act – and two private individuals acted corruptly in respect of land owned by the ALALC.

The corrupt scheme entailed a false claim that a company established by one of the private individuals, Gows Heat Pty Ltd (Gows), had rights in respect of certain ALALC-owned lands, including the option to on-sell these rights.

The private individuals drew up fraudulent legal documents to support this claim. These were signed by the chairperson and deputy chairperson purportedly on behalf of the ALALC board, despite knowing the claims were false, that they did not have the authority to sign such documents and that the proposed “land dealing” was in breach of the *Aboriginal Land Rights Act 1983* (ALRA). The chairperson and deputy chairperson also deliberately failed to tell the other ALALC board members and the ordinary members about Gows and the proposed land dealings.

In October 2015, Gows “sold” the option on the lands to a developer who wrongly believed that the money they paid (over \$1 million) went to the ALALC and that their “purchase” gave them the right to develop or otherwise use the land.

This was incorrect on both counts: none of the money went to the ALALC and the developer did not acquire any rights over the land. The Commission found that most of this money was kept by the private individuals with a portion going to the deputy chairperson.

The corrupt persons continued to approach developers to sell the “option” on the ALALC land. These land dealings did not go ahead and the nature of the corrupt conduct was later discovered.

The Commission identified several weaknesses in the ALALC that had provided opportunities for the conduct:

- Poor governance in the ALALC for a number of years.
- Unjustified suspension of the Chief Executive Officer (CEO) early in the scheme, thus removing a level of scrutiny of the activities of the chairperson and deputy.

- Division and a breakdown in communication in the board.
- The chairperson called board meetings for times that supporters of the suspended CEO could not attend.
- Pecuniary interests were not managed as required by the ALRA.

The Commission corruption prevention recommendations included that the ALALC:

- audio-records all board meetings and save the recordings into an electronic document and records management system
- provides reasonable notice for all board meetings
- develops a due diligence checklist and procedure to follow when interested parties propose a land dealing.

Operation Paragon case study

In March 2023, the Commission released its report titled *Investigation into the awarding of Roads and Traffic Authority and Roads and Maritime Services contracts* (Operation Paragon).

The Commission made findings of serious corrupt conduct against two public officials and 13 other persons. This corrupt conduct spanned nearly 10 years and involved the awarding of over \$38 million of work at the then Roads and Traffic Authority and Roads and Maritime Services (“the RMS”) in return for benefits.

The corrupt conduct occurred throughout each of the planning, sourcing and managing phases of the NSW Government Procurement Framework:

- During the planning phase, both need and market analysis were frequently missing or inadequate, procurement strategies were not prepared and procurement activities were approved by individuals who lacked the delegated authority.
- During the sourcing phase, the public officials repeatedly ignored proper procedure, failed to adequately approach the market, and adopted biased and inadequate selection processes. On occasion, they engaged in order splitting to avoid genuinely competitive processes.
- In the managing phase, the public officials’ contract management was characterised by failure to properly verify work, use of unauthorised subcontractors and inadequate management of supplier performance.

The investigation revealed issues with the broader control framework at the RMS that were conducive to corrupt conduct, such as:

- inadequate responses to reported conflicts of interest
- limited staff management
- cultural issues within the relevant division
- poor management of change that affected the relevant operational unit
- chaotic budget management
- insufficient support for and response to suppliers making complaints
- a lack of management accountability.

In December 2019, the RMS had its functions, assets, rights and liabilities transferred to Transport for NSW (TfNSW). In its report, the Commission made nine recommendations to TfNSW to reduce the likelihood of future corrupt conduct.

In May 2023, following consultation with the Commission’s corruption prevention officers, TfNSW provided a plan of action in response to the Commission’s recommendations. This plan fully implements all nine recommendations and indicates that TfNSW has already undertaken some actions towards implementing them. The plan has been uploaded to the Commission’s website.

The Commission has also run educational activities to disseminate the lessons from this investigation, making six presentations to TfNSW audiences discussing this investigation, including to its executive team. By the end of July 2023, the ICAC will have also delivered six presentations to other audiences.

Pursuant to s 111E of the ICAC Act, the ICAC asks each relevant public authority to advise whether it proposes to implement the corruption preventions and provide a plan of action. The ICAC also seeks progress reports 12 and 24 months after receiving these plans of action. Additional detail can be found in Appendix 5. In addition to making and monitoring formal recommendations, on a case-by-case basis, the Corruption Prevention Division establishes regular liaison arrangements with agencies that operate in high-risk sectors or have been the subject of investigation.

Chapter 5: Compliance and accountability

The Commission's compliance framework	53
Internal governance	54
External governance	55
Principal legal changes	59
Litigation.....	60
Complaints against Commission officers.....	61
Privacy and personal information	62
Access to information	63
Report publicly about the work of the Commission	63
Corrupt conduct findings and recommendations for prosecution/ disciplinary action	67

The ICAC Act provides the Commission with extensive statutory powers. In addition to powers set out in the ICAC Act, Commission officers can:

- apply for telecommunications interception warrants and stored communications warrants, and obtain access to existing and prospective telecommunications data under the *Telecommunications (Interception and Access) Act 1979* (Cth)
- obtain approval under the *Law Enforcement (Controlled Operations) Act 1997* (NSW) for the conduct of operations that would otherwise be unlawful
- obtain authorisation to use assumed identities under the *Law Enforcement and National Security (Assumed Identities) Act 2010* (NSW)
- apply for warrants to use surveillance devices (listening devices, tracking devices, optical surveillance devices and data surveillance devices) under the *Surveillance Devices Act 2007* (NSW).

The Commission has a compliance framework to ensure that it complies with relevant legislative requirements and does not abuse these powers.

The Commission's compliance framework

The Commission's compliance framework consists of internal and external accountability systems. Internal accountability systems include:

- strict procedural requirements for the exercise of all statutory powers
- the Investigation Management Group (IMG) to oversee all Commission investigations
- the Prevention Management Group (PMG) to oversee the Commission's corruption prevention activities
- the Executive Management Group (EMG) to oversee corporate governance and budgeting, and provide overall strategic direction
- the Senior Leadership Forum (SLF) to assist the Chief Executive Officer to manage the day-to-day affairs of the Commission and the implementation of the decisions of the Commissioners
- the Commission Consultative Group as the formal mechanism for consultation and communication between staff and

management on matters of policy and procedure (see chapter 6)

- the Audit and Risk Committee to provide independent assistance to the Commission by overseeing and monitoring the Commission's governance, risk and control frameworks (see chapter 6)
- the Work Health and Safety Committee to monitor and review the Commission's policies and regulatory requirements relating to health and safety in the workplace and oversee equal employment opportunity issues, plans, policies and procedures (see chapter 6).

The two main external accountability bodies for the Commission are the Parliamentary Committee on the ICAC and the Inspector of the ICAC. The Commission is also externally accountable for its work through:

- accounting to the NSW Treasury and the Auditor-General for the proper expenditure of funds
- inspection by the Inspector of the Law Enforcement Conduct Commission of records of telecommunications interceptions, controlled operations and the use of surveillance devices
- inspection by the Commonwealth Ombudsman of records relating to stored communications warrants, preservation notices and access to telecommunications data
- reporting to the NSW Attorney General and the judge who issued the warrant for each surveillance device warrant
- compliance with access to information and privacy laws, with exemption for certain operational matters
- requirements for annual reporting, including those in the ICAC Act.

In some cases, the Commission's actions are reviewable by the NSW Supreme Court to ensure proper exercise of its functions and powers.

Section 20(5) of the ICAC Act requires the Commission to provide reasons to complainants and those who report possible corrupt conduct under s 11 of the ICAC Act for its decisions to discontinue or not commence an investigation and to inform each such person of the reasons for its decisions.

Pursuant to s 31B of the ICAC Act, the Commission has also issued procedural guidelines relating to the conduct of public inquiries to members of staff of the Commission and counsel appointed to assist the

Commission. These guidelines are published on the Commission's website and made available to witnesses and their legal representatives appearing in public inquiries. The guidelines provide guidance on the following aspects of the conduct of public inquiries:

- the investigation of evidence that might exculpate affected persons
- the disclosure of exculpatory and other relevant evidence to affected persons
- the opportunity to cross-examine witnesses as to their credibility
- providing affected persons and other witnesses with access to relevant documents and a reasonable time to prepare before giving evidence
- any other matter the Commission considers necessary to ensure procedural fairness.

Other ways in which the Commission demonstrates accountability to the community include conducting public inquiries, posting public inquiry transcripts and relevant exhibits on the Commission's website, live streaming public inquiries from the Commission website where appropriate, and publishing investigation reports and other material prepared by the Commission.

Internal governance

Legal review

All applications for the exercise of statutory powers for investigation purposes are reviewed by the Commission lawyer assigned to the investigation to ensure they meet relevant regulatory and Commission requirements. Applications are then reviewed by the Executive Director, Legal.

If approved by the Executive Director, Legal, applications for the exercise of powers under the ICAC Act and some other statutes are submitted to a Commissioner for final approval. Applications for surveillance device warrants are considered by judges of the NSW Supreme Court. Applications for telecommunications interception warrants and stored communications warrants are usually made to judicial members of the Administrative Appeals Tribunal (Cth). Although a Commissioner may issue a search warrant, it is Commission practice that applications for search warrants are made to an "authorised officer", being a magistrate, a registrar of the Local Court, or an employee of the Attorney General's Department authorised by the Attorney General as an authorised officer.

The Executive Director, Legal, audits the Commission's assumed-identity records as required under the *Law Enforcement and National Security (Assumed Identities) Act 2010*. In 2022–23, one assumed identity was granted and none were cancelled. Assumed identities are granted and used by Commission officers in surveillance operations on people of interest in Commission investigations and to maintain covert arrangements. The Commission conducted audits of these records in August 2023 and records of the audited files complied with the relevant legislative requirements.

Executive Management Group

The EMG comprises the three Commissioners, the Chief Executive Officer and all four executive directors. It is responsible for:

- reviewing and recommending:
 - strategic and business plans
 - risk management
 - policies, procedures and delegations
 - codes of conduct
 - the overall management framework
- considering and determining corporate-wide management commitments to:
 - corporate governance
 - management of information systems
 - human resources
 - finance and general administration
 - communication and marketing
- overseeing major corporate projects by:
 - approving and overseeing projects
 - determining the appropriate level of progress reporting required for each project
 - ensuring effective administration and management of organisational resources
 - making decisions on a suitable course of action when a project is delayed or new information is revealed
 - endorsing strategic directions and broad operational priorities
 - ensuring that Commission staff comply with the policies relating to project planning and management.

Investigation Management Group

The IMG comprises the three Commissioners, the Chief Executive Officer, the Executive Director, Investigation Division, the Executive Director, Legal Division and the Executive Director, Corruption Prevention Division. The IMG oversees all Commission investigations, preparation of investigation reports, preparation of briefs of evidence for submission to the Director of Public Prosecutions (DPP), and the progress of criminal prosecutions arising from Commission investigations. The IMG meets monthly (except in January).

The functions of the IMG include:

- considering and reviewing the business case for an investigation, the scope and focus of exposure, and corruption prevention activities
- making or endorsing key decisions made during an investigation, including decisions about investigation priorities and key strategies and results
- 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.

Prevention Management Group

Members of the PMG are the same as for the EMG. The PMG usually meets monthly. Its functions include selecting, approving and overseeing corruption prevention projects and ensuring the quality and content of the resulting publications.

Senior Leadership Forum

Members of the SLF are the Chief Executive Officer and the four executive directors.

The SLF sets the annual budget of the Commission, consistent with the strategic direction and priorities of the Commission, ensures alignment of the workforce to these priorities and provides financial management and governance expertise to support the achievement of strategic and operational objectives. The SLF develops corporate strategies and selects and oversees major corporate projects undertaken in line with priorities, objectives and statutory responsibilities.

Operations Manual and policy frameworks

The Commission's Operations Manual sets out procedures for the exercise of relevant statutory powers. The procedures must be followed by Commission officers both in applying to exercise a particular power and in exercising that power. The procedures ensure that all relevant legislative requirements are identified and addressed.

The Operations Manual is updated to reflect changes to legislation. Minor changes are approved by the SLF, but any changes of substance must be approved by the EMG.

The Commission has an Investigation Policy Framework document that establishes the framework and the minimum standards for how the Commission performs its investigation function. The Commission also has a Corruption Prevention Policy Framework document that establishes the standards for how the Commission performs its corruption prevention function.

External governance

Parliamentary Committee on the ICAC

The Parliamentary Committee on the ICAC ("the Parliamentary Committee") is the means by which the Commission is accountable to the NSW Parliament. It was established by resolution on 6 April 1989 and was re-established on 29 June 2023.

The functions of the committee are set out in s 64 of the ICAC Act. They are to:

- monitor and review the exercise by the Commission and the Inspector of the ICAC ("the Inspector") of the Commission's and Inspector's functions
- report to both Houses of Parliament, with such comments as it thinks fit, on any matter appertaining to the Commission or the Inspector connected with the exercise of its functions to which, in the opinion of the committee, the attention of Parliament should be directed
- examine each annual and other report of the Commission and of the Inspector and report to both Houses of Parliament on any matter appearing in, or arising out of, any such report

- examine trends and changes in corrupt conduct, and practices and methods relating to corrupt conduct, and report to both Houses of Parliament any change that the committee thinks desirable to the functions, structures and procedures of the Commission and the Inspector
- enquire into any question in connection with its functions referred to it by both Houses of Parliament, and report to both Houses of Parliament on that question.

The committee cannot investigate a matter relating to particular instances of conduct, reconsider a decision by the Commission to investigate, not to investigate or discontinue an investigation, or reconsider any findings, recommendations, determinations or other decisions of the Commission in relation to a particular investigation or complaint.

The Parliamentary Committee consists of members of Parliament, selected from both the Legislative Assembly and Legislative Council. As at 30 June 2023, the members of the committee are:

- Mark Hodges MLA
- Sarah Kaine MLC
- Jason Li MLA
- Tania Mihailuk MLC
- Jacqui Munro MLC
- Sally Quinnell MLA
- Michael Regan MLA
- David Saliba MLA
- Kobi Shetty MLA
- Wendy Tuckerman MLA
- Tri Vo MLA.

On 20 October 2022, the Committee's report on its review of the 2020–21 annual reports of the Commission and the Inspector was tabled.

The report contains four findings and five recommendations.

The findings are:

1. The Committee acknowledges the progress made on the funding model with an expectation that it be reviewed to ensure it is working appropriately.
2. The Committee will continue to monitor the development and implementation of the new funding model.

3. The gap in the Commission's powers under the *Telecommunications and Other Legislation Amendment (Assistance and Access) Act 2018* (Cth) limits the ability of the Commission to perform its functions effectively in an environment where communications are increasingly encrypted.
4. Staffing levels may impact the time required to produce reports.

The recommendations are:

1. That the Government review the existing three-Commissioner model.
2. That the Government consider whether the terms of the ICAC Commissioners and the Inspector should be staggered.
3. That the NSW Government update the Committee on any representations it has made or intends to make to the Commonwealth Government regarding the ability of the ICAC to access encrypted telephone communications.
4. That the ICAC update the Committee on the outcome of its review of its information handling practices.
5. That the Government consider amending the *Independent Commission Against Corruption Act 1988* to allow an Inspector to serve a maximum of two terms.

With respect to recommendation 4, on 17 November 2022 the Chief Commissioner wrote to the Chair of the Committee providing an update on the outcome of the review of the Commission's information-handling practices. A copy of the letter was published on the Committee's website.

On 15 December 2022, the Committee tabled a report on its review of aspects of the ICAC Act.

The report contained the following three recommendations:

1. That the NSW Government amend the ICAC Act to require the Commission to develop and publish time standards for completing s 74 reports, and to report on its own performance against these standards.
2. That the Commission, in its next annual report, provide an update on whether the increased funding made available in the 2022–23 budget shortens the time in which investigations are undertaken and reports finalised. This issue is dealt with in chapter 3. The Commission has been able to assign two lawyers on

Operation Hector to assist with the public inquiry and the preparation of the report, with the aim of producing the report in a more timely manner.

3. That the NSW Government consider amending the ICAC Act to provide the Inspector of the ICAC with similar powers to those currently held by the Inspector of the Law Enforcement Conduct Commission under section 124 of the *Law Enforcement Conduct Commission Act 2016*, including broader powers to:
 - investigate maladministration, and
 - require the Commission to respond to the Inspector's recommendations, escalating to the relevant minister if dissatisfied with the response.

On 20 December 2022, the Chief Commissioner wrote to the Committee Chair advising that, while, with respect to Recommendation 1, it will be a matter for the NSW Government whether the ICAC Act should be amended, the Commission will proceed to develop and publish its time standards for completing s 74 reports and will report against those standards in its annual reports (see Table 24 in this chapter).

The Chief Commissioner advised that the Commission accepts Recommendation 2 and will, in its next annual report, provide information on how the increased funding received for 2022–23 has assisted in shortening the time in which investigations are undertaken and s 74 reports finalised (see chapter 3).

The Chief Commissioner noted that, while Recommendation 3 is a matter for the NSW Government, the Commission considers that the existing powers granted to the Inspector are appropriate. The Commission considers the proposal to expand maladministration to include conduct that may have arisen from a mistake of fact has the real potential to create a merits review process by the Inspector. The Commission does not support such an extension of the Inspector's role. The Commission notes that at paragraph 2.15 of the report the Committee expressed the view that the NSW Government should consult with affected stakeholders, including the Commission, in considering whether the ICAC Act should be amended in the way suggested. The Chief Commissioner noted that the Commission is happy to be part of any such consultation process.

On 4 November 2022, the Chief Commissioner, Commissioner Murrell and other Commission officers appeared before the Parliamentary Committee to give evidence for the purposes of the Committee's inquiry into aspects of the ICAC Act.

Reports of the Parliamentary Committee, evidence given to the Parliamentary Committee and submissions made for the purposes of particular inquiries can be accessed from the parliamentary website at www.parliament.nsw.gov.au.

Inspector of the ICAC

Gail Furness SC was appointed the Inspector of the ICAC effective from 1 July 2022.

The principal functions of the Inspector are set out in s 57B of the ICAC Act. Those functions are to:

- audit the operations of the Commission for the purpose of monitoring compliance with the law of NSW
- deal with (by reports and recommendations) complaints of abuse of power, impropriety and other forms of misconduct on the part of the Commission or officers of the Commission
- deal with (by reports and recommendations) conduct amounting to maladministration (including delay in the conduct of investigations and unreasonable invasions of privacy) by the Commission or officers of the Commission
- assess the effectiveness and appropriateness of the procedures of the Commission relating to the legality or propriety of its activities.

The Inspector has extensive powers. These include the power to:

- investigate any aspect of the Commission's operations or any conduct of officers of the Commission
- require Commission officers to supply information or produce documents or other things relating to the Commission's operations or conduct of Commission officers
- require Commission officers to attend before the Inspector of the ICAC to answer questions or produce documents or other things relating to the Commission's operations or the conduct of Commission officers
- investigate and assess complaints about the Commission or Commission officers
- recommend disciplinary action or criminal prosecution against Commission officers.

A memorandum of understanding, entered into on 26 September 2022, sets out arrangements for liaison between the Commission and the Inspector concerning referral of matters, access to information and points of

contact between the Commission and the Inspector's office. The memorandum of understanding is published on the Commission's website.

In February 2023, the Inspector published her special report regarding an audit of the welfare of witnesses and other people involved in Commission investigations.

The report contained the following recommendations:

1. The Commission should as soon as practicable implement the (16) recommendations made by Simon Brown-Greaves (a registered psychologist with extensive experience working in the criminal justice system in Australia engaged by the Inspector to review and assess the Commission's measures to protect the health and safety of those involved in investigations).
2. Section 112(3) and s 114(3)(d) of the ICAC Act should be amended to include notices under s 21 and s 22.
3. As a matter of principle, the Commission should remain in contact with those persons who they have assessed as remaining at risk, for as long as that risk exists. That is, continued contact should be as a result of an ongoing risk assessment informed by expert opinion, where necessary, and the input of the wellbeing management officer. That position should be reflected in the relevant policies.
4. The Commission should publish the criteria it will take into account in determining who should meet the costs of any short-term or ongoing treatment by medical and allied health professionals to whom the Commission has referred the person.
5. The Commission should ensure that a witness is told when an s 112 Direction is made that disclosure to a medical practitioner or registered psychologist for the purposes of that health practitioner providing medical or psychiatric care, treatment or counselling, is permitted.
6. The role of the wellbeing management officer should include advising investigators, case lawyers and presiding Commissioners as matters arise during an investigation, in particular following a distressing event with a witness or other person engaged with the Commission's investigation.
7. The Commission should consider updating the profile created from checks periodically throughout an investigation.

8. The Commission should develop guidelines for assessment staff and other non-investigative staff who regularly engage with the public in relation to contact with people who may be at risk of self-harm and suicide.

The Commission has advised the Inspector it agrees with the recommendations directed to it, although those relating to the establishment of a wellbeing management officer role are dependent on the Commission receiving funding for the position.

While Recommendation 2 is a matter for the NSW Government, the Commission has informed the Inspector that it supports the proposed amendments.

The Commission has implemented Recommendation 5.

A number of the recommendations require development of new policy and procedures. The Commission is in the process of drafting relevant policies and procedures.

Some of the recommendations relate to training. Some Commission officers attended mental health first aid training during the reporting period. This is a two-day course that teaches participants practical first aid skills to help a person who is experiencing mental health problems. The course covers signs and symptoms of mental health problems, where and how to get help and what sort of help has been shown by research to be effective. The Commission recognises there is a need for more specific training directed towards the Commission's particular needs. With this in mind, the Commission will seek tenders for an external supplier to plan and deliver fit-for-purpose witness welfare training to its staff.

To ensure that implementation of the recommendations is a priority, the subject has been made a permanent agenda item for meetings of the Commission's SLF. The SLF has established a small working party to undertake work on drafting the policy and procedural documents. Progress by the working party will be overseen by the SLF.

The Commission has also made a commitment in its *Strategic Plan 2022–2025* to improve the welfare of witnesses. The measures described above will assist the Commission to implement a more systemic approach to witness welfare.

The Inspector's report can be accessed from the Inspector's website at www.oicac.nsw.gov.au.

The Auditor-General

Under the *Government Sector Audit Act 1983*, the Auditor-General has power to inspect, examine and audit the Commission's accounts and records.

The Auditor-General is required to audit the Commission's financial report.

Under the *Government Sector Finance Act 2018*, the Commission's Chief Executive Officer (as the Commission's "accountable authority" under that Act) must cause annual financial statements to be prepared for the annual reporting period for the Commission and give those statements after they are prepared to the Auditor-General for auditing.

The annual financial statements must:

- a) be prepared in accordance with the Australian Accounting Standards and any other requirements specified by the *Government Sector Finance Act 2018*, the regulations or the Treasurer's directions, and
- b) present fairly the Commission's financial position, financial performance and cash flows.

A copy of both the annual financial statements and the audit report for them must be included in the Commission's annual reporting information tabled in Parliament. Details of the Commission's financial report and the Auditor-General's audit are contained in this annual report.

Inspector of the Law Enforcement Conduct Commission

The Inspector of the Law Enforcement Conduct Commission ("the LECC Inspector") inspects the Commission's records of telecommunications interceptions, surveillance device warrants and controlled operations to measure compliance with statutory requirements.

On 29 September 2022 and 7 June 2023, officers from the Office of the LECC Inspector inspected the Commission's telecommunications interception records and surveillance device records. No issues requiring attention were identified during the inspection process.

The Commonwealth Ombudsman

The Commonwealth Ombudsman can inspect the Commission's records relating to stored communications warrants, preservation notices and access to telecommunications data.

Between 22 and 24 November 2022, the Commonwealth Ombudsman inspected the Commission's stored communications records and telecommunications data records for the period from 1 July 2021 to 30 June 2022. No issues of non-compliance with relevant legislative requirements on the part of the Commission were identified. In 2022–23, the Commonwealth Ombudsman recognised the Commission as having a strong compliance culture in which 99% of Commission records were considered best practice.

Principal legal changes

As noted in last year's annual report, the *Public Interest Disclosures Act 2022* received assent on 13 April 2022, but its commencement date is up to 18 months after assent. It will commence in 2023–24. While the *Public Interest Disclosures Act 1994* continues in force, work has commenced to review and revise relevant Commission policies and procedures so that new ones are in place once the new Act commences. The new Act also amends the ICAC Act, in part by omitting s 50 (protection of witnesses and persons assisting the Commission) and inserting a new Part 8A dealing with these issues.

The *Integrity Legislation Amendment Act 2022* amended the ICAC Act to prescribe the NSW Ministerial Code of Conduct as an applicable code of conduct in relation to parliamentary secretaries.

The Law Enforcement (Powers and Responsibilities) Amendment (Digital Evidence Access Orders) Bill 2023 will amend the *Law Enforcement (Powers and Responsibilities) Act 2002* to enable the Commission to seek a digital evidence access order in relation to a search warrant issued under s 40 of the ICAC Act. Digital Evidence Access Orders are sought in connection with a search warrant to provide additional powers. If an order is issued, a Commission officer will be able to direct a person to provide information or assistance reasonably necessary to access a digital device, or copy or convert data. For example, a person could be required to provide a password or PIN to access a locked device. Digital Evidence Access Orders cannot be issued unless linked to a search warrant. Applications must be determined by an eligible issuing officer, which in the case of Commission search warrants will be a magistrate or a registrar of the Local Court. Under s 76AO of the *Law Enforcement (Powers and Responsibilities) Act 2002*, it will be a criminal offence for a person to fail to comply with such a direction or give false or misleading information to an officer executing a Digital Evidence Access Order without a reasonable excuse. It is not a reasonable

excuse that complying with the direction would incriminate the person or expose them to a penalty. This offence attracts a maximum penalty of five years' imprisonment, or a fine of \$11,000, or both. The Bill will commence on assent in 2023–24.

The *Telecommunications and Other Legislation Amendments (Assistance and Access) Act 2018* (Cth) ("the TOLA Act") compels communications service providers to assist police and other law enforcement agencies in how they deal with encrypted communications. However, the TOLA Act previously did not apply to the Commission. This gap in the Commission's powers under the TOLA Act limited the ability of the Commission to perform its functions in an environment in which communications are increasingly encrypted. The National Anti-Corruption Commission (Consequential and Transitional Provisions) Bill 2022 passed both Houses of Federal Parliament on 29 November 2022 and received assent on 12 December 2022. This will come into effect upon the commencement of the National Anti-Corruption Commission on 1 July 2023. This will enable the Commission to access the industry assistance provisions in Part 15 of the *Telecommunications Act 1997* (Cth).

Litigation

The Commission was involved in the following litigation matters during the reporting period:

1. *Demian v ICAC*

On 12 January 2023, Mr Demian filed a summons in the Supreme Court seeking an order to extend the time in which to commence proceedings, a declaration that the s 74A(2) statement in the Operation Dasha report with respect to him was not made in accordance with law and an order quashing or setting aside the statement. The Commission filed a response opposing the application for extension (no adequate or reasonable explanation having been given for the delay) and disputing the s 74A(2) statement was not made in accordance with law. On 26 June 2023, the Commission consented to a stay of the judicial review proceedings for one year or until further order pending the conclusion of the criminal proceedings against Mr Demian for one charge of give false and misleading evidence pursuant to s 87 of the ICAC Act.

2. *Athari v ICAC*

On 14 December 2022, Ms Athari commenced proceedings in the NSW Civil and Administrative Tribunal (NCAT) seeking review of a decision under s 53 of the *Privacy and Personal Information Protection Act 1998* that the Commission had not breached her privacy. On 4 April 2023, NCAT dismissed the proceedings.

3. *Gamage v Riashi & Anor* (Supreme Court application)

On 21 November 2022, Mr Gamage filed a summons in the Supreme Court seeking access to an application for a surveillance device warrant made by Commission officer Michael Riashi on 16 December 2009 (Mr Gamage is being prosecuted by the DPP arising out of the Commission's Operation Avoca investigation). The Commission was subsequently joined as the second defendant and a submitting appearance filed on behalf of Mr Riashi. On 20 March 2023, Mr Gamage filed a notice of motion to issue three subpoenas. The notice of motion was partially dismissed on 22 March 2023 (*Gamage v Riashi* [2023] NSWSC 277). The summons and the balance of the notice of motion were dismissed on 19 April 2023 (*Gamage v Riashi & Anor* [2023] NSWSC 390).

4. *Gamage v DPP & Riashi* (Local Court criminal proceedings and related appeals and applications to the Supreme Court)

By Notice of Motion dated 18 October 2021, Mr Gamage applied to have the Operation Avoca criminal proceedings against him permanently stayed. The Notice of Motion was heard by Magistrate Price on 16 June 2022 and the application was refused. By summons filed in the Supreme Court on 8 July 2022, Mr Gamage sought leave to appeal that decision. Although Mr Riashi was named in the summons as respondent, by Notice of Motion filed on 9 August 2022, the DPP sought to have Mr Riashi removed as the defendant and the DPP joined as the defendant. On 1 September 2022, the Registrar of the Supreme Court made orders to join the DPP as a party to the proceedings and to remove Mr Riashi as a respondent to the summons.

- On 13 September 2022, Mr Gamage filed a notice of motion seeking to set aside the orders of 1 September 2022.

- On 11 November 2022, Rothman J determined that the DPP was a proper party but also re-joined Mr Riashi. His Honour's decision is unreported.
- On 31 January 2023, Yehia J dismissed Mr Gamage's application for leave to appeal by consent (on the basis that Magistrate Price had no power to determine an application for a permanent stay of proceedings in committal proceedings). Her Honour's decision is unreported.
- On 3 May 2023, Mr Gamage served the Commission with a subpoena for production requiring the Chief Commissioner to produce the affidavit made in support of the application for a surveillance device warrant (see above). The Commission's application to have the subpoena set aside was set down for hearing on 5 June 2023. Before that date, Mr Gamage served Mr Riashi with a subpoena to give evidence at that hearing. On 5 June 2023 both subpoenas were set aside on the basis that neither served a legitimate forensic purpose.
- On 19 June 2023, Mr Gamage filed a summons seeking leave to appeal the decision to set aside the subpoenas. This matter is currently on foot and is listed for further directions on 24 August 2023.
- On 13 June 2023, Mr Gamage filed a summons seeking an order of *mandamus* in the Supreme Court of NSW to require the Local Court to issue subpoenas for seven witnesses to give evidence, among other related orders. On 21 June 2023, Mr Gamage filed a notice of motion for an injunction to compel the Local Court to vacate the hearing dates in Mr Gamage's criminal proceedings and sought leave to amend the summons. On 23 June 2023, Button J rejected the application for an injunction and declined to intervene on the basis that Mr Gamage's complaints can and should be dealt with by the Local Court. This summons and some part of the notice of motion remain on foot and have been listed for further directions on 24 August 2023.
- On 26 June 2023, Mr Gamage's applications to issue subpoenas were refused by the Local Court. At the same time, his application for dismissal and a permanent stay of proceeding was refused. His application that the hearing be adjourned was refused. His application that the magistrate recuse himself from hearing the matter was refused. The hearing commenced on

27 June 2023 and is currently part heard before the Local Court. The matter will be mentioned on 5 March 2024, with the hearing set down to continue between 25 and 28 March 2024. The matters relating to offences pursuant to the ICAC Act are listed on 11 April 2024 for mention, with the hearing set down to continue between 6 and 8 May 2024.

5. *Sidoti v ICAC*

On 17 August 2022, Mr Sidoti filed a summons in the Supreme Court seeking a declaration that the Commission's finding in its Operation Witney report that he engaged in corrupt conduct was not made according to law and is a nullity. On 6 October 2022, Mr Sidoti's lawyer advised that the proceedings would be withdrawn, it having been agreed that each party would pay their own costs. A Notice of Discontinuance was filed on 10 October 2022 and an Order was made on 11 October 2022 discontinuing the proceedings.

Complaints against Commission officers

Complaints concerning alleged misconduct of Commission officers may be made directly to the Inspector of the ICAC or to the Commission. The Commission's memorandum of understanding with the Inspector provides that the Commission will notify the Inspector of complaints against Commission officers that come within the Inspector's functions. The Inspector may decide to investigate complaints directly or ask the Commission to undertake an investigation and report its findings to the Inspector.

The Executive Director, Legal, is responsible for advising the Chief Commissioner with respect to complaints of misconduct dealt with by the Commission.

In 2022–23, the Commission received seven complaints concerning the alleged conduct of Commission officers. None of the allegations was sustained.

The first matter involved an allegation that, when making a private complaint to a local council, a Commission officer identified himself as a Commission officer, the inference being that he sought to use his position to influence the outcome of a private matter. The allegation was made by a person who had no direct dealings with the Commission officer. It transpired that, when making the complaint to the local council, the Commission officer was required to complete an online form which required him to provide his occupation (this being a mandatory field)

and in doing so identified that he worked at the Commission. When interviewed, the council officer who dealt with the Commission officer did not consider he pressured her and said she only became aware of his occupation when she viewed the online form after she had spoken with him. There was no evidence the Commission officer sought to misuse his position as a Commission officer.

In the second matter the complainant alleged that a friend's parent, who worked at the Commission, had released or offered to release confidential information, including for payment. The Commission investigated the allegation and was satisfied there had been no disclosure of any confidential information and no representation had been made that such information could be provided.

The third matter involved a Commission officer who copied Commission files to a personal USB device. The files were of an administrative nature and did not relate to matters under investigation. The matter was treated by the Commission as a disciplinary matter. The investigation was conducted by senior and experienced Commission investigators in accordance with its internal investigation policy. The Commission concluded that the officer had engaged in misconduct in relation to the downloading and copying of Commission files and sending Commission documents from the officer's work email to the officer's personal email account in breach of the Commission's ICT Acceptable Use Policy and its Code of Conduct. The files copied to the USB were deleted. Although the Commission officer resigned during the investigation, details of the Commission's misconduct findings were recorded on the officer's personnel file together with a note that the officer resigned before disciplinary action could be taken. There was no evidence of any unauthorised release of any of the information by the Commission officer.

The fourth matter involved an allegation that an assessment officer dealing with the complainant's s 10 complaint acted "inappropriately and dishonestly" with respect to the matter and another assessment officer ignored the s 10 complaint. A review of the Commission's dealings with the complainant established that there was no evidence of misconduct on the part of any Commission officer.

The fifth matter concerned an allegation that information the complainant had provided to the Commission in support of an s 10 complaint had been "hacked" and through the Commission's negligence there was a data breach which resulted in the complainant's information being released to the prejudice of the complainant. An audit of the

Commission's records relating to the complainant was conducted. No evidence was found of any compromise to the security of that information.

The sixth matter involved an allegation that an assessment officer failed to answer a request for an extension of time in which to provide documents in support of an s 10 complaint and was part of a conspiracy against the complainant. After examining the relevant evidence, the Commission concluded that there was no evidence of any misconduct.

The last matter involved an allegation by a person making an s 10 complaint about a local council that the Commission was having secret meetings with the council with a view to sweeping the matter under the carpet. There was no discernible basis for the allegation, but the Commission brought the matter to the Inspector's attention.

The Inspector of the ICAC was informed about each matter and, where relevant, the conclusions reached by the Commission and the bases for those conclusions.

Privacy and personal information

The *Privacy and Personal Information Protection Act 1998* ("the PPIP Act") provides for the protection of "personal information" and for the protection of the privacy of individuals generally.

The PPIP Act sets out information protection principles. These apply to the Commission only in connection with the exercise by the Commission of its administrative and educative functions.

As required by the PPIP Act, the Commission has a privacy management plan. The plan sets out how the Commission complies with the principles and requirements of the PPIP Act and, in so far as the Commission holds any health information, the *Health Records and Information Privacy Act 2002*. The plan can be accessed from the Commission's website at www.icac.nsw.gov.au or by contacting the Commission directly.

The Commission operated in accordance with its privacy management plan in the reporting period.

No reviews were required or conducted under Part 5 of the PPIP Act during the reporting period.

Access to information

The *Government Information (Public Access) Act 2009* (“the GIPA Act”) facilitates public access to information held by government agencies, including the Commission.

The GIPA Act requires agencies to make “open access information” publicly available on an agency’s website. The Commission’s open access information is available from its website at www.icac.nsw.gov.au.

The GIPA Act provides for the making of access applications for information held by an agency. The GIPA Act provides, however, that a valid access application cannot be made for access to information held by the Commission relating to its corruption prevention, complaint-handling, investigative or report writing functions. It also provides that it is to be conclusively presumed that there is an overriding public interest against disclosure of other information the disclosure of which is prohibited by the ICAC Act.

Section 125 of the GIPA Act requires agencies to report on the agency’s obligations under the GIPA Act. The Commission’s report is set out in Appendix 8.

Reporting publicly about the work of the Commission

Section 76 of the ICAC Act requires the Commission to report on its operations for each year ending on 30 June and to furnish that report to the Presiding Officer of each House of Parliament. The section provides that the report shall include the following:

- a description of the matters that were referred to the Commission
- a description of the matters investigated by the Commission
- the time interval between the lodging of each complaint and the Commission deciding to investigate the complaint
- the number of complaints commenced to be investigated but not finally dealt with during the year
- the average time taken to deal with complaints and the actual time taken to investigate any matter in respect of which a report is made

- the total number of compulsory examinations and public inquiries conducted during the year
- the number of days spent during the year in conducting public inquiries
- the time interval between the completion of each public inquiry conducted during the year and the furnishing of a report on the matter
- any recommendations for changes in the laws of the state, or for administrative action, that the Commission considers should be made as a result of the exercise of its functions
- the general nature and extent of any information furnished under the ICAC Act by the Commission during the year to a law enforcement agency
- the extent to which its investigations have resulted in prosecutions or disciplinary action in that year
- the number of search warrants issued by authorised officers and a Commissioner respectively
- a description of its activities during that year in relation to its educating and advising functions.

This information is included in this annual report.

In addition to its annual report, the Commission also publishes its investigation reports and a number of corruption prevention and research publications. These are all available from the Commission’s website at www.icac.nsw.gov.au.

Public inquiries

During the reporting period (3 August 2022), the public inquiry for Operation Galley, which commenced on 14 June 2022, concluded. On 20 March 2023, the Commission commenced a public inquiry in Operation Hector.

In Operation Galley, the Commission investigated whether, between 2014 and 2021, then Hurstville City Council (HCC) and later Georges River Council (GRC) councillors Constantine Hindi and Vincenzo Badalati, and then HCC councillor Philip Sansom, sought and/or accepted benefits as an inducement or reward for partially and dishonestly exercising their official functions to favour the interests of Ching Wah (Philip) Uy, Wensheng Liu and Yuqing Liu, in relation to planning matters affecting 1–5 Treacy Street, and 1 Hill Road, Hurstville (“the Treacy Street development”) and 53–57 Forest Road, 108–126 Durham Street and 9 Roberts Lane, Hurstville (“the Landmark Square development”). The Commission is also examining

whether, during that period, councillors Hindi, Badalati and Sansom deliberately failed to declare or properly manage any conflict of interest arising from their relationships with Mr Uy, Wensheng Liu and Yuqing Liu and whether, also between 2014 and 2021, Mr Uy, Wensheng Liu and Yuqing Liu provided benefits, including overseas flights and accommodation, to councillors Hindi, Badalati and Sansom, as a reward or inducement to favour their interests in relation to council decisions regarding planning matters affecting the Treacy Street and Landmark Square developments.

On 22 June 2022, the Commission decided to also investigate as part of the public inquiry whether, between 16 November 2011 and 9 July 2012, Mr Uy corruptly gave \$10,000 cash to then HCC councillor Hindi, as a reward or inducement for councillor Hindi to partially and dishonestly exercise his official functions to favour the interests of Mr Uy and Wensheng Liu in relation to land bounded by Gloucester Road, Carrington Avenue and Garthons Lane, Hurstville.

The taking of evidence concluded on 3 August 2022.

Counsel Assisting's submissions were provided to relevant parties on 9 September 2022. Submissions in response were received by 16 October 2022. Counsel Assisting prepared submissions in reply, which were provided to relevant parties on 9 November 2022. Submissions in reply to the response were received by 2 December 2022. While drafting the report, additional potential adverse findings affecting some parties were identified. Those parties were advised of the further potential adverse findings on 27 March 2023 and given an opportunity to make submissions. The last submission was received on 28 April 2023.

Operation Hector concerns the conduct of employees of Inner West Council (IWC), Transport for NSW (TfNSW) and others. The allegations being investigated are that:

- between 21 July 2015 and 3 October 2020, former Leichhardt Council and IWC employee Tony Nguyen partially and/or dishonestly exercised his official functions by awarding and/or recommending IWC contracts and tenders to companies with which he was associated
- since 1 January 2017, TfNSW officer Benjamin Vardanega has dishonestly and partially exercised his public official functions by using information gained in the course of his official functions to assist certain contractors to tender for TfNSW work, or to tender for subcontracts from entities that have been awarded TfNSW work, to benefit himself and others

- since 1 January 2014, TfNSW officer Nima Abdi has dishonestly and partially exercised his public official functions by using information gained in the course of his official functions to assist contractors, with which he had an undeclared association, to tender for TfNSW work, or to tender for subcontracts from entities that had been awarded TfNSW work, to benefit himself and others
- since 1 January 2017, certain employees of Downer EDI Works Pty Ltd ("Downer") have dishonestly obtained a benefit for themselves by favouring certain subcontractors when awarding work arising from contracts that TfNSW has awarded to Downer
- since 1 January 2014, TfNSW employee Raja Sanber has obtained a financial benefit for himself, and others, by undertaking contractor or subcontractor work for various entities on TfNSW projects, in circumstances where he failed to disclose his role in those entities to TfNSW
- between 1 July 2019 and 31 March 2020, TfNSW employees, and a Downer employee, dishonestly benefited from the payment or application of public funds for their own private advantage by submitting and approving timesheets and invoices for payment in circumstances where no work was carried out
- between 1 January 2017 and 31 March 2021, a TfNSW employee misused material or information acquired in the course of his public official functions for his own benefit, or for the benefit of Mr Abdi or persons associated with him.

The public inquiry for Operation Hector was held over 25 days between 20 March 2023 and 10 May 2023. Counsel Assisting's submissions were provided to the relevant parties on 24 July 2023. Submissions in response to the submissions of Counsel Assisting were to be provided to the Commission by 14 August 2023. Subsequently, extensions were granted to three parties, with the last submission in response due on 4 September 2023.

During the reporting period, the Commission continued to review and update its protocol outlining mitigation strategies for known COVID-19 risks in public inquiries. For most of this period, given the limited capacity of the Commission's hearing and media rooms, the value of appropriate physical distancing, and the time needed to complete COVID-19 screening arrangements, the Commission decided that members of the public and the media would continue to be excluded from physical

attendance at the Commission's premises for the purpose of observing the public inquiries. Members of the public and the media were, however, able to observe the public inquiry through live streaming and were able to access transcripts and exhibits through the Commission's website.

In June 2023, the protocol was further updated to permit members of the public and the media to attend future public inquiries provided they have proof of double vaccination, do not have COVID-19 (or been in recent contact with someone who has), are not awaiting a test result for COVID-19 and do not have flu-like symptoms.

The Commission's cooperation policy

The Commission's cooperation policy sets out what the Commission can do to encourage those involved in corruption to cooperate with the Commission to establish that corrupt conduct has occurred and the full extent of that conduct. The policy sets out how the Commission can protect those who assist it, and what potential benefits are available for those who cooperate. Those potential benefits include the Commission:

- acknowledging their assistance in an investigation report
- exercising its discretion to not make corrupt conduct findings against them
- exercising its discretion not to recommend consideration of prosecution action against them
- recommending to the NSW Attorney General that they be granted indemnity from prosecution for a specified offence
- providing a letter to a relevant court setting out details of their cooperation to be taken into account when the court imposes a sentence.

It is to be noted that merely fulfilling certain legal obligations under the ICAC Act, such as producing documents in response to a notice or summons issued by the Commission or attending to give evidence in response to a summons (unless the evidence is comprehensive and entirely truthful), does not constitute cooperation for the purposes of the policy.

In the Commission's *Investigation into the awarding of Roads and Traffic Authority and Roads and Maritime Services Contracts* (Operation Paragon), the Commission exercised its discretion not to recommend consideration of prosecution action in respect of Joseph Rahme.

The policy is accessible from the Commission's public website and is also set out in the *Information for Witnesses* brochure provided to witnesses who are required to give evidence at a compulsory examination or public inquiry.

Investigation reports

Under the ICAC Act, the Commission is required to prepare reports on matters referred by both Houses of the NSW Parliament and on matters involving public inquiries. The Commission can also produce public reports without conducting a public inquiry. These reports are furnished to the Presiding Officer of each House of Parliament who arrange for the reports to be tabled in Parliament. Each Presiding Officer has the discretion to make Commission reports public immediately on presentation.

In 2022–23, the Commission furnished five investigation reports to the Presiding Officers. Each report was immediately made public by the Presiding Officers.

The time intervals between the completion of the relevant public inquiry and the furnishing of the report are set out in Table 24.

Other publications

The Commission published its *Annual Report 2021–22* in October 2022.

The Commission also released a variety of publications in support of our strategic goals, as noted in our *Strategic Plan 2022–2025*, to build public sector integrity through education and prevention, risk-based targeted approaches, communicating lessons learnt and better explaining our powers and how they are applied.

In October 2022, the Commission published *Probity aspects of ethics walls: guidance for dealing with commercial activities and other complex scenarios*. This publication provides guidance on what ethics walls are and why they exist, when they should be used and their key elements.

In November 2022, the Commission published *Managing corruption risks in regulatory work*. This publication, aimed at public officials working in regulatory roles, highlights corruption risks in regulatory work, and ways to prevent corrupt conduct.

In December 2022, the Commission published *Managing conflicts of interest – a tip sheet for Local Aboriginal Land Councils*. This paper examines what conflicts of interests are, how they can apply to Local Aboriginal Land Councils (LALCs) and how LALCs can manage them.

Table 24: Time interval between completion of each public inquiry and furnishing of the report – s 76(2)(ba)(vi) of the ICAC Act

Public inquiry	Date public inquiry complete*	Date investigation report furnished to Presiding Officers	Days from end of public inquiry to furnishing of report**
Investigation into the conduct of the local member for Drummoyne (Operation Witney) (22 hearing days).	22/12/21	20/7/22	210
Investigation into pork barrelling in NSW (Operation Jersey) (no public inquiry).	3/6/22***	1/8/22	59
Investigation into dealings involving Awabakal Local Aboriginal Land Council land (Operation Skyline) (53 hearing days).	8/10/21	12/10/22	369
Investigation into the awarding of Roads and Traffic Authority and Roads and Maritime Services contracts (Operation Paragon) (51 hearing days).	29/6/22	7/3/23	251
Investigation into the conduct of the then member of Parliament for Wagga Wagga and then Premier and others (Operation Keppel) (30 hearing days).	18/10/22	9/5/22****	416

* The Commission considers a public inquiry to be complete as at the date of receipt of final submissions from parties who are granted leave to appear at the public inquiry.

** The corporate goal was for 75% of reports to be completed within two months (60 days), where the duration of the public inquiry was five or less days and three months (90 days) otherwise. In January 2023, the corporate goal was changed to 80% of reports to be completed within 80 days where the duration of the public inquiry was five days or less and 180 days otherwise. The new corporate goal applies to those matters where a public inquiry was commenced after January 2023.

*** No public inquiry was held in this matter. 3 June 2022 was the date on which the Commission held the expert forum, being the last major event before the report could be finalised.

**** All submissions, excepting those on a discrete issue affecting one party, were received by the Commission by 9 May 2022. That discrete issue, for which final submissions were received on 18 October 2022, did not materially affect the period of time needed to finalise the report. Accordingly, the Commission regards 9 May 2022 as the date of conclusion of the public inquiry for the purpose of calculating the number of days it took to furnish the report.

In February 2023, the Commission published *Assessing corruption control maturity*. This new guide allows agencies to conduct a detailed assessment of their corruption control maturity using 35 maturity tables spread across eight broad areas.

In February 2023, the Commission published its *Strategic Plan 2022–2025*. The plan encapsulates a fresh approach to the Commission’s strategic direction over the next three years, setting its directions in terms of goals, how it plans to achieve those goals and the desired outcomes that will measure its success.

In March 2023, the Commission published *Mature corruption control: the key outcomes of better practice*. This publication provides an overview of corruption control maturity and is targeted at public officials with broad agency oversight roles.

While the Commission usually aims to produce two editions of the *Corruption Matters* e-newsletter in each financial year, this year one was published in November 2022. The second edition will be published in July 2023 to allow for the inclusion of information on the Operation Keppel investigation report and other new material, such as soon-to-be-released educational video content. *Corruption Matters* raises awareness in the public sector and the wider community about corruption-related matters and the Commission’s activities, and can be accessed via the Commission’s website.

During the reporting period, the number of external visitor sessions to the Commission’s website at www.icac.nsw.gov.au was over 1.88 million.

Corrupt conduct findings and recommendations for prosecution/disciplinary action

In the reports furnished in 2022–23, the Commission made corrupt conduct findings against 22 people.

The Commission refers briefs of evidence to the DPP for consideration of prosecution action. The DPP then advises the Commission whether prosecution proceedings are warranted.

In the reports furnished in 2022–23, the Commission recommended the advice of the DPP be obtained in relation to the prosecution of 21 people for various criminal offences.

Appendix 7 provides further details on the progress of prosecutions resulting from Commission investigations.

Chapter 6: Our organisation

Our people	69
Staff performance development.....	70
Governance and risk	70
Finance	72
Internal committees	72
Information management and technology	74
<i>Modern Slavery Act 2018</i> (NSW) reporting requirements	74

In 2022–23, the Commission employed an average of 120.50 full-time equivalent (FTE) officers and Commissioners across its eight functional divisions and units (see Table 25). At the end of the reporting period, of the 130 officers and Commissioners (head count) engaged at the Commission, there were three Commissioners (the full-time Chief Commissioner and two part-time Commissioners), 114 officers employed on a permanent basis, seven on a temporary basis, and six in fixed-term positions comparable to the NSW Senior Executive Bands. The three Commissioners are appointed by the Governor-in-Council on fixed, five-year terms and their remuneration is set by their instrument of appointment.

Additionally, the ICAC Act authorises the Governor of NSW, with the concurrence of the Chief Commissioner, to appoint Assistant Commissioners when required. In July 2020, the Hon Ruth McColl AO SC was appointed Assistant Commissioner to assist the Commission with Operation Keppel. This appointment continued until April 2023.

Our people

Conditions of employment, movement in salaries and allowances, and industrial relations

The Commission is party to an industrial award, negotiated with the Public Service Association (PSA) of NSW, that documents the conditions of employment and the rights and obligations of management and staff. This award is known as the Independent Commission Against Corruption Award.

In line with Award conditions, a 3% increase to salaries, inclusive of superannuation, became effective from 1 July 2022. The increase also applied to Award allowances, such as the Associate Allowance, the Community Language Allowance and the First Aid Allowance. ICAC Award increases are generally consistent with the Crown Employees (Public Sector – Salaries) Award.

In 2022–23, the Statutory and Other Offices Remuneration Tribunal provided a 2% increase to the total remuneration packages of the Commission's senior executive staff and the Commissioners.

Learning, development and organisational culture

The Commission is committed to providing an engaging and motivating culture and work environment. In 2022–23, this commitment was demonstrated through actions such as a leadership development strategy focusing on emotional intelligence, the creation of a managers' forum to facilitate cross-organisational communication and the commencement of a women's network to build understanding and relationships. The Commission is also consciously reviewing our People Matter Employee Survey results to identify opportunities for improvements, and throughout 2022–23, support was provided for various employee-initiated fundraising activities.

During the reporting period, the Commission made learning and development opportunities available to staff to maintain or increase their skills and knowledge and to build high performance. This learning and development program allows us to improve our organisational capability, in line with our *Strategic Plan 2022–2025*.

Table 25: Average full-time equivalent (FTE) staff numbers by division/section

Division/Section	2022–23	2021–22	2020–21	2019–20	2018–19
Executive	2.71	3	3	3	3
Communications and Media	3.58	4	3.99	3.94	3.91
Executive Support	4.14	4.7	4.78	4.18	2.93
Corporate Services	19.05	18.55	17.97	17.47	17.05
Corruption Prevention	15.58	15.78	15.09	14.41	14.64
Legal	12.48	11.43	10.69	11.11	10.09
Investigation	52.30	52.96	50.82	49.19	50.91
Assessments	10.66	11.44	12.25	11.61	10.97
Total	120.50	121.86	118.59	114.91	113.5

The Commission's formal learning environment addresses six core streams of skill and knowledge development: (1) information technology, (2) risk management, (3) project management, (4) organisational management, (5) leadership and management and (6) technical skills.

In 2022–23 staff participated in learning activities across a broad range of skill and knowledge areas including:

- information technology (both general and specialised applications)
- cyber security
- leadership
- interpersonal communication
- legal, including, but not limited to, Continuing Legal Education (CLE)
- complaint handling
- investigations, surveillance and intelligence skills
- finance and payroll
- risk management
- mental health and wellbeing
- work health and safety, including first aid
- procurement
- corruption prevention
- taking statements and conducting interviews
- project management
- recruitment.

A shift to online learning saw staff participating in a larger number of remote workshops, presentations and webinars. Staff were also advised of relevant programs that were freely available via the internet.

In 2022–23, there were 686.59 staff attendances at formal learning activities. On average, each staff member participated in 28.78 hours of formal development (including conferences, seminars, structured and online training) during the year.

In 2022–23, the Commission further developed the ICAC Learning Hub, enabling increased access to structured, tailored and timely learning processes for all Commission officers. This enabled access to generic learning programs as well as mandatory Commission-specific induction and learning modules.

During the reporting period, some staff were also able to access development opportunities through

undertaking higher duties and temporary appointments within the Commission, as well as secondments to government organisations in NSW, the Australian Capital Territory and the Commonwealth.

Staff performance development

The Commission has a structured performance development system based on position accountabilities and corporate objectives that are drawn from its strategic and business plans. Core performance accountabilities addressed in performance agreements include quality, operational effectiveness, people and communication, and growth.

Performance agreements set the framework for feedback and communication between managers and staff. All permanent and temporary staff develop a performance agreement that is reviewed on an annual cycle.

The performance development system aligns with the financial year, with new performance agreements developed in July and reviews undertaken in June. This system also addresses incremental salary progression. Performance agreements contain a learning and development component, which addresses corporate, positional and individual learning needs.

Both staff and their managers complete and review performance agreements online through the Commission's Employee Self Service system.

Governance and risk

Policies and procedures

The Commission is committed to good governance and complying with the ICAC Award and legislative requirements.

In the Commission's *Strategic Plan 2022–25*, we are committed to continually focusing on streamlining business processes and measuring outcomes, which we achieve in part by regularly reviewing our policies and procedures consistent with the Policy and Legislative Compliance register. New and updated policies are endorsed by the Commission's Executive Management Group, following approval by the Senior Leadership Forum (SLF) and consultation with the Commission Consultative Group (CCG) and/or Work Health Safety and Equity (WHS&E) Committee, where relevant. The Audit and Risk Committee ("the ARC")

periodically monitors this register. The Commission completed a review of the following policies during this reporting period:

- Code of Conduct
- Flexible Work Arrangements
- COVID-19 Safety Plan
- Risk Management Policy
- Fraud and Corruption Control Policy
- Corruption Prevention Policy framework.

Information is provided to new staff about policies and procedures during their induction phase upon commencing employment. This information is available on the Commission's staff intranet.

As noted in chapter 2, the new PID ACT 2022 will commence on 1 October 2023. The Commission is preparing to meet its responsibilities under the new Act, including updating the information available for and training staff, in conjunction with the NSW Ombudsman and other agencies. Until then, the PID ACT 1994 is still in effect.

Risk management

During 2022–23, the Commission reviewed its risk management processes and updated its risk management policy and risk register. The Commission's crisis management plan and business continuity processes provide guidance for the management of Commission business following a critical incident.

The ARC and the SLF oversee the Commission's risk management processes. The ARC also monitors the implementation of any recommendations made by the Commission's independent internal auditors as part of their ongoing assurance role.

During the reporting period, the Commission further revised and updated its operating guidelines and procedures for the conduct of public inquiries and compulsory examinations to incorporate relevant health advice in relation to the pandemic and new information following upgrades to the audio and visual equipment used in the Commission's hearing rooms.

The Commission is highly focused on its site security as part of its risk management strategy. Physical security is overseen by special constables from the NSW Police Force and in February 2023, the Commission began installing a new integrated electronic access control and electronic surveillance security system.

Security vetting

Prior to being employed or engaged by the Commission, all staff and contractors undergo a rigorous security clearance process. The Commission adopts a vetting process involving a regime of background checks and analysis to make suitability assessments. The vetting process is an important element of the risk management strategy to support the integrity and confidentiality of Commission operations and activities.

In the 2022–23 reporting period, the Commission conducted 63 security checks. This included vetting of permanent and temporary staff as part of the Commission's employment screening regime as well as security checks conducted prior to the engagement of contractors.

The Commission also applied for, and obtained, Commonwealth-level national security clearances from the Australian Government Security Vetting Agency (AGSVA) for eight Commission officers, and accepted sponsorship of an additional officer upon their commencement at the Commission. The Commission is working closely with AGSVA to conduct further staff clearances.

All Commission staff are briefed on security, risk and safety issues at the commencement of their employment. Periodic reminders and refreshers are also issued.

Hazard and injury reports

During the reporting period, five workplace injuries were reported. At the conclusion of 2022–23, there were three active workers compensation matters.

The WHS&E Committee conducts inspections each quarter, and no hazards, apart from general facilities matters, were reported (see Table 26).

Table 26: Hazards and injuries reported and risks controlled

Reporting period	Number of hazards reported	Number of injuries reported	Risks controlled to an acceptable level
2018–19	1	4	Yes
2019–20	1	6	Yes
2020–21	0	3	Yes
2021–22	0	3	Yes
2022–23	0	5	Yes

Finance

The Commission continues to pursue an independent funding model, as proposed in its s 75 reports under the ICAC Act, to ensure it is properly funded by a mechanism that is independent of Executive Government control. Throughout 2022–23, the Finance team compiled the Commission’s re-baselining proposal, which commenced as an invitation of the previous government to the integrity agencies as part of the 2023–24 Budget process, to fulfil their statutory remit as determined by Parliament. The Commission subsequently engaged KPMG to review its workforce and operational budget. Information Professionals Group was engaged to review the Commission’s information systems, given the last major capital upgrade occurred over seven years ago and the implications of the prolonged underfunding of the Commission’s minor works provision underlying its on-premise information technology systems. Both consultants recommended in their reports that there be increased funding and resourcing. Recommendations by the Inspector of the ICAC, on issues such as witness welfare, also comprised the Commission’s business case submission. The business case was subsequently approved by the Expenditure Review Committee and the Commission welcomes the next stage of progress towards an independent funding model that will become part of the 2024–25 Budget process.

Internal committees

The Commission facilitates a variety of operational and corporate committees to ensure that it maintains and improves its internal governance infrastructure. The role of the three principal internal governance committees – the Investigation Management Group, the Executive Management Group and the Prevention Management Group – is to assist the Commission to meet its compliance and accountability obligations, as outlined in chapter 5.

The Senior Leadership Forum, which comprises the Chief Executive Officer and executive directors, aims to oversee the day-to-day administrative functions of the Commission through policy review, key financial and risk management functions, and miscellaneous administrative activities.

The Commission has in place a range of internal management and staff committees to facilitate good governance. These committees meet on a regular basis, in line with each committee’s terms of reference.

Commission Consultative Group

Under the ICAC Award, the CCG is the formal mechanism for consultation and communication between staff and management on matters of policy and procedure. The CCG was established consistent with the terms of the ICAC Award and meets every two months.

In the reporting period, a range of matters and policies was referred to the CCG for discussion and review.

Work Health Safety and Equity Committee

The Commission’s WHS&E Committee is a mechanism for consultation on health, safety and relevant risk matters between senior management and employees. The committee is also responsible for advising on access and equity issues within the Commission. The committee conducts workplace inspections, and identifies matters for consideration and resolution, as well as the review of policies, practices and plans associated with health and safety, wellbeing, access and equal employment opportunity.

See Appendix 11 for more detail on the Commission’s activities concerning work health and safety and the members of the WHS&E Committee.

Audit and Risk Committee

The primary aim of the ARC is to provide independent assurance to the Accountable Authority of the Commission, being the Chief Executive Officer, by overseeing and monitoring the Commission’s governance, risk and control framework, and its external accountability requirements. The committee also monitors progress on agreed management actions arising out of recommendations made by the Commission’s independent internal auditor.

The Commission has engaged BDO Services Pty Ltd as its internal audit services provider.

During 2022–23, the internal audit services provider conducted reviews of the Investigation Division’s risk management processes and the Commission’s management of legal expenses. Various improvement actions have been identified and are being progressively implemented.

The ARC held five meetings during 2022–23.

Internal Audit and Risk Management Attestation Statement for the 2022-2023 Financial Year for the Independent Commission Against Corruption

I, Bernadette Dubois, Accountable Authority of the Independent Commission Against Corruption (ICAC), am of the opinion that the ICAC has internal audit and risk management processes in operation that are compliant with the seven (7) Core Requirements set out in the *Internal Audit and Risk Management Policy for the General Government Sector*, specifically:

Core requirements		Compliant, non-Compliant
Risk Management Framework		
1.1	The Accountable Authority shall accept ultimate responsibility and accountability for risk management in the agency	compliant
1.2	The Accountable Authority shall establish and maintain a risk management framework that is appropriate to the agency. The Accountable Authority shall ensure the framework is consistent with AS ISO 31000:2018.	compliant
Internal Audit Function		
2.1	The Accountable Authority shall establish and maintain an internal audit function that is appropriate for the agency and fit for purpose.	compliant
2.2	The Accountable Authority shall ensure the internal audit function operates consistent with the International Standards for Professional Practice for Internal Auditing.	compliant
2.3	The Accountable Authority shall ensure the agency has an Internal Audit Charter that is consistent with the content of the 'model charter'.	compliant
Audit and Risk Committee		
3.1	The Accountable Authority shall establish and maintain efficient and effective arrangements for independent Audit and Risk Committee oversight to provide advice and guidance to the Accountable Authority on the agency's governance processes, risk management and control frameworks, and its external accountability obligations.	compliant
3.2	The Accountable Authority shall ensure the Audit and Risk Committee has a Charter that is consistent with the content of the 'model charter'	compliant

Membership

The independent chair and members of the Audit and Risk Committee and their appointment dates are as follows:

- Independent Member – Dr Robert Smith, from 1 September 2020 to 31 August 2024, Chair – 1 September 2016 to 31 August 2020; extended to 31 August 2021.
- Independent Member – Ms Diana D'Ambra – 1 July 2018 to 30 June 2022 and extended to 30 June 2024.
- Independent Chair – Mr Arthur Diakos – 1 September 2021 to 31 August 2025, Member from – 1 September 2020 to 31 August 2021.



Bernadette Dubois
Accountable Authority
Independent Commission Against Corruption
26 July 2023



Lewis Rangott
Chief Audit Executive
Independent Commission Against Corruption
26 July 2023

Insurance activities

The NSW Treasury Managed Fund provides insurance cover for all of the Commission's activities. This includes workers compensation, motor vehicle, public liability, property and miscellaneous claims. During the reporting period, the workers compensation deposit was \$213,606 (including GST), while the remaining deposit premiums were \$1,372,829, of which \$1,349,827 (including GST) related to liability cover. Both these amounts were funded by NSW Treasury.

Information management and technology

Information technology upgrades

During the reporting period, the Commission undertook several high-impact IT projects, as follows:

- completed the Microsoft 365 security compliance project to meet Information Security Registered Assessors Program (IRAP) "Protected" level compliance requirements
- continued developing and implementing security controls to meet Cyber Security NSW compliance requirements
- completed replacing the digital storage and server for the forensics IT systems
- completed reviewing the applications strategy and development of the business case for future state
- developed the ICT cloud strategy in accordance with the NSW Government mandate
- completed a number of smaller projects that included new forensics systems for telephone analysis, a storage platform for forensic disk images, and new and replacement laptops and computer monitors.

In 2022–23, the Commission commenced projects to further improve security compliance with the NSW Government's Cyber Security Policy, to upgrade the Commission's core and wireless network infrastructure and email system and to digitise its physical records. These projects will continue in 2023–24.

Information security

The Commission is strongly committed to information security and has approved funding for 2022–2024 to enhance its systems and security controls.

To this end, the Commission has developed a program of work to improve compliance with the NSW Government's Cyber Security Policy. The Commission's program in response to this policy, including implementation of the Essential 8 controls, is based on continuous improvement of the Commission's security position.

Progress has been made to improve the Commission's cyber security maturity levels by:

- reviewing and improving current cyber security documentation including the creation of new processes and procedures
- providing cyber security training and awareness
- regularly analysing compliance with the NSW Cyber Security Policy
- regularly assessing E8 controls and prioritising remediation activities.

New projects

The following key projects are planned for 2023–24.

- Depending on funding, a work program will be developed to implement key components of the Application Architecture Strategy and Roadmap.
- Projects in cyber security and Essential 8 compliance will continue.
- Digital storage capacity for core applications and disaster recovery will be upgraded.
- Network services, switches and firewalls will be upgraded and replaced.
- Audio/video technologies for meeting rooms will be refitted and upgraded.
- Exchange email systems will be upgraded and migrated to cloud services.
- Existing telephony services will be replaced.

Modern Slavery Act 2018 (NSW) reporting requirements

The Commission is committed to the elimination of all forms of modern slavery, including use of child labour, exploitation and servitude.

The Commission's discretionary procurement expenditure out of its total operating and capital expenditure comprises a small percentage of its total spend.

There have been no issues raised and identified as a significant issue by the NSW Anti-slavery Commissioner under s 31(a) of the *Modern Slavery Act 2018* (NSW) for the 2022–23 financial year in relation to the Commission's operations.

The NSW Anti-slavery Commissioner is expected to release detailed guidelines in September 2023. The Commission will look to implement these in its 2023–24 annual report, to address the reporting obligations under s 31(b) of the Act.

In the interim, the Commission will continue to update its procurement policies and procedures relating to modern slavery risk management and governance. For example, where applicable, how high modern slavery risks in a procurement are documented, reported and risk managed; the involvement of third-party risk information providers or evaluators; or training and awareness-raising arrangements.

Cyber Security Annual Attestation Statement for the 2022-2023 Financial Year for NSW Independent Commission Against Corruption

I, Darrin Moy, am of the opinion that the NSW Independent Commission Against Corruption has managed its cyber security risks in a manner consistent with the Mandatory Requirements set out in the NSW Government Cyber Security Policy.


The Commission has secured Digital Restart Funds for 2021–2024 to assist in providing resources required to uplift the cyber security compliance levels consistent with the NSW Cyber Security Policy.

Additionally, the Commission made some provision in its allocated budget to enable significant cyber security improvements to be implemented throughout 2022–2023.

Execution of the Cyber Security Uplift project began in the 2021–2022 period and continued throughout 2022–2023, with the programme of work implementing further controls and process improvements. A plan exists and is being implemented to continually update The Information Security Management System (ISMS) with updated policies, processes, and controls.

The risks to the information and systems of NSW Independent Commission Against Corruption have been assessed and are being managed.

Governance is in place to manage the cyber-security maturity and initiatives of the Commission. The Commission has developed a cyber incident response plan and has actioned the plan during the previous twelve months and will formally test the plan during 2023–2024 in compliance with the NSW Government Cyber Security Policy.



Darrin Moy
Chief Executive Officer
Independent Commission Against Corruption
8 September 2023

Financials

Statement by Chief Executive Officer	78
Statement of comprehensive income for the year ended 30 June 2023	81
Statement of financial position as at 30 June 2023	82
Statement of changes in equity for the year ended 30 June 2023...	83
Statement of cash flows for the year ended 30 June 2023	84
Notes to and forming part of the financial statements for the year ended 30 June 2023	85



INDEPENDENT COMMISSION
AGAINST CORRUPTION
NEW SOUTH WALES

Statement by Chief Executive Officer

Pursuant to section 7.6(4) of the *Government Sector Finance Act 2018* ("the GSF Act"), I state that these financial statements:

- (a) have been prepared in accordance with the Australian Accounting Standards and the applicable requirements of the Act, the Government Sector Finance Regulation 2018 and the Treasurer's directions, and
- (b) present fairly the Independent Commission Against Corruption's financial position, financial performance and cash flows.

A handwritten signature in black ink, appearing to read 'Darrin Moy'.

Darrin Moy
Chief Executive Officer

8 September 2023



INDEPENDENT AUDITOR'S REPORT

Independent Commission Against Corruption

To Members of the New South Wales Parliament

Opinion

I have audited the accompanying financial statements of Independent Commission Against Corruption (the Commission), which comprise the Statement by the Chief Executive Officer, the Statement of Comprehensive Income for the year ended 30 June 2023, the Statement of Financial Position as at 30 June 2023, the Statement of Changes in Equity and the Statement of Cash Flows, for the year then ended, notes comprising a Statement of Significant Accounting Policies, and other explanatory information.

In my opinion, the financial statements:

- have been prepared in accordance with Australian Accounting Standards and the applicable financial reporting requirements of the *Government Sector Finance Act 2018* (GSF Act), the *Government Sector Finance Regulation 2018* (GSF Regulation) and the Treasurer's Directions
- presents fairly the Commission's financial position, financial performance and cash flows.

My opinion should be read in conjunction with the rest of this report.

Basis for Opinion

I conducted my audit in accordance with Australian Auditing Standards. My responsibilities under the standards are described in the 'Auditor's Responsibilities for the Audit of the Financial Statements' section of my report.

I am independent of the Commission in accordance with the requirements of the:

- Australian Auditing Standards
- Accounting Professional and Ethical Standards Board's APES 110 'Code of Ethics for Professional Accountants (including Independence Standards)' (APES 110).

Parliament promotes independence by ensuring the Auditor-General and the Audit Office of New South Wales are not compromised in their roles by:

- providing that only Parliament, and not the executive government, can remove an Auditor-General
- mandating the Auditor-General as auditor of public sector agencies
- precluding the Auditor-General from providing non-audit services.

I have fulfilled my other ethical responsibilities in accordance with APES 110.

I believe the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

Chief Executive Officer's Responsibilities for the Financial Statements

The Chief Executive Officer is responsible for the preparation and fair presentation of the financial statements in accordance with Australian Accounting Standards, the GSF Act, GSF Regulation and Treasurer's Directions. The Chief Executive Officer's responsibility also includes such internal control as the Chief Executive Officer determines is necessary to enable the preparation and fair presentation of the financial statements that is free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the Chief Executive Officer is responsible for assessing the Commission's ability to continue as a going concern, disclosing as applicable, matters related to going concern and using the going concern basis of accounting.

Auditor's Responsibilities for the Audit of the Financial Statements

My objectives are to:

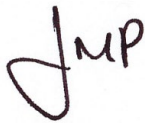
- obtain reasonable assurance about whether the financial statements as a whole is free from material misstatement, whether due to fraud or error
- issue an Independent Auditor's Report including my opinion.

Reasonable assurance is a high level of assurance, but does not guarantee an audit conducted in accordance with Australian Auditing Standards will always detect material misstatements. Misstatements can arise from fraud or error. Misstatements are considered material if, individually or in aggregate, they could reasonably be expected to influence the economic decisions users take based on the financial statements.

A description of my responsibilities for the audit of the financial statements is located at the Auditing and Assurance Standards Board website at: www.auasb.gov.au/auditors_responsibilities/ar4.pdf. The description forms part of my auditor's report.

The scope of my audit does not include, nor provide assurance:

- that the Commission carried out its activities effectively, efficiently and economically
- about the assumptions used in formulating the budget figures disclosed in the financial statements
- about the security and controls over the electronic publication of the audited financial statements on any website where it may be presented
- about any other information which may have been hyperlinked to/from the financial statements.



Jan-Michael Perez
Director, Financial Audit

Delegate of the Auditor-General for New South Wales

18 September 2023
SYDNEY

Statement of comprehensive income for the year ended 30 June 2023

	Notes	Budget 2023 \$'000	Actual 2023 \$'000	Actual 2022 \$'000
Continuing operations				
Expenses excluding losses				
Employee-related expenses	2(a)	24,100	21,630	20,417
Operating expenses	2(b)	7,413	6,676	6,681
Depreciation and amortisation	2(c)	2,933	3,449	3,132
Finance costs	2(d)	163	433	205
Total expenses excluding losses		34,609	32,188	30,435
Revenue				
Appropriations	3(a)	35,197	30,084	26,985
Grants and contributions	3(b)	412	–	1,040
Acceptance by the Crown of employee benefits and other liabilities	3(c)	506	658	714
Other income	3(d)	28	158	5
Total Revenue		36,143	30,900	28,744
Gain/(loss) on disposal	4	–	1	(4)
Net result	16	1,534	(1,287)	(1,695)
Other comprehensive income		–	–	–
Total other comprehensive income		–	–	–
Total comprehensive income		1,534	(1,287)	(1,695)

The accompanying notes form part of these financial statements.

Statement of financial position as at 30 June 2023

	Notes	Budget 2023 \$'000	Actual 2023 \$'000	Actual 2022 \$'000
Assets				
Current Assets				
Cash and cash equivalents	5	3,112	712	1,391
Receivables	6	2,110	1,047	1,096
Total Current Assets		5,222	1,759	2,487
Non-Current Assets				
Receivables	6	–	31	108
Property, plant and equipment	7			
– Land and buildings		–	421	29
– Plant and equipment		1,539	2,036	1,361
Total property, plant and equipment		1,539	2,457	1,390
Right-of-use assets	8	7,204	7,572	9,687
Intangible assets	9	1,427	483	504
Total Non-Current Assets		10,170	10,543	11,689
Total Assets		15,392	12,302	14,176
Liabilities				
Current Liabilities				
Payables	10	550	785	709
Lease liabilities	8, 11	2,165	2,355	2,299
Provisions	12	2,650	2,910	2,977
Total Current Liabilities		5,365	6,050	5,985
Non-Current Liabilities				
Lease liabilities	8, 11	5,359	6,724	7,524
Provisions	12	1,225	1,738	1,590
Total Non-Current Liabilities		6,584	8,462	9,114
Total Liabilities		11,949	14,512	15,099
Net Assets		3,443	(2,210)	(923)
Equity				
Accumulated funds		3,443	(2,210)	(923)
Total Equity		3,443	(2,210)	(923)

The accompanying notes form part of these financial statements.

Statement of changes in equity for the year ended 30 June 2023

	Accumulated Funds \$'000	Asset Revaluation Surplus \$'000	Total \$'000
Balance at 1 July 2022	(923)	-	(923)
Net result for the year	(1,287)	-	(1,287)
Other comprehensive income	-	-	-
Total other comprehensive income	-	-	-
Total comprehensive income for the year	(1,287)	-	(1,287)
Balance at 30 June 2023	(2,210)	-	(2,210)
Balance at 1 July 2021	772	-	772
Net result for the year	(1,695)	-	(1,695)
Other comprehensive income	-	-	-
Total other comprehensive income	-	-	-
Total comprehensive income for the year	(1,695)	-	(1,695)
Balance at 30 June 2022	(923)	-	(923)

The accompanying notes form part of these financial statements.

Statement of cash flows for the year ended 30 June 2023

	Notes	Budget 2023 \$'000	Actual 2023 \$'000	Actual 2022 \$'000
Cash flows from operating activities				
Payments				
Employee related		23,594	20,961	19,465
Suppliers for goods and services		7,413	7,582	7,598
Finance costs		163	433	205
Total Payments		31,170	28,976	27,268
Receipts				
Appropriation	3(a)	35,197	30,083	26,985
Sale of goods and services		–	–	8
Grants and other contributions	3(b)	412	–	1,040
Other		28	1,198	986
Total Receipts		35,637	31,281	29,019
Net cash flows from operating activities	16	4,467	2,305	1,751
Cash flows from investing activities				
Proceeds from sale of property, plant and equipment		–	1	4
Purchase of property, plant and equipment and intangible assets		(769)	(1,944)	(669)
Other		(400)	–	–
Net cash flows from investing activities		(1,169)	(1,943)	(665)
Cash flows from financing activities				
Payment of principal portion of lease liabilities		(2,636)	(1,041)	(2,153)
Net cash flows from financing activities		(2,636)	(1,041)	(2,153)
Net increase/(decrease) in cash and cash equivalents		662	(679)	(1,067)
Opening cash and cash equivalents		2,450	1,391	2,458
Closing cash and cash equivalents	5	3,112	712	1,391

The accompanying notes form part of these financial statements.

Notes to and forming part of the financial statements for the year ended 30 June 2023

1. Statement of Significant Accounting Policies

(a) Reporting entity

The Independent Commission Against Corruption (“the Commission”) is constituted by the *Independent Commission Against Corruption Act 1988* (“the ICAC Act”). The main objective of the Commission is to minimise corrupt activities and enhance the integrity of NSW public sector administration.

The Commission is considered a separate Government Sector Finance (GSF) agency under Division 2.2 of the *Government Sector Finance Act 2018* (“the GSF Act”). The Commission is a not-for-profit entity (as profit is not its principal objective) and it has no cash generating units. The reporting entity is consolidated as part of the NSW Total State Sector Accounts.

These financial statements report on all the operating activities under the control of the Commission.

These financial statements for the year ended 30 June 2023 have been authorised for issue by the Chief Executive Officer on 8 September 2023.

(b) Basis of preparation

The Commission’s financial statements are general purpose financial statements which have been prepared on an accruals basis and in accordance with:

- applicable Australian Accounting Standards (which include Australian Accounting Interpretations)
- the requirements of the GSF Act
- Treasurer’s Directions issued under the GSF Act.

Property, plant and equipment are initially measured at cost and subsequently measured at fair value less accumulated depreciation and impairment. Considering the short useful lives of the Commission’s assets, the measurement of these assets at depreciated historical cost is an acceptable surrogate for fair value. Other financial statement items are prepared in accordance with the historical cost convention except where specified otherwise.

Judgments, key assumptions and estimations that management has made are disclosed in the relevant notes to the financial statements.

All amounts are rounded to the nearest one thousand dollars and are expressed in Australian currency, which is the Commission’s presentation and functional currency.

(c) Statement of compliance

The financial statements and notes comply with Australian Accounting Standards, which include Australian Accounting Interpretations.

(d) Going concern

The Commission is a going concern public sector entity. The Commission will receive a parliamentary appropriation as outlined in the NSW Budget Papers for 2023–24. Following the successful submission of a business case for additional recurrent funding, the Commission received an increase to its funding allocation. The Government also provided a separate integrity agencies contingency amount of \$20 million. The Commission is able to draw down an amount from this contingency, subject to Treasurer approval, to meet unforeseen operational funding requirements.

(e) Accounting for the Goods and Services Tax (GST)

Income, expenses and assets are recognised net of the amount of GST, except that the:

- amount of GST incurred by the Commission as a purchaser that is not recoverable from the Australian Taxation Office (ATO) is recognised as part of an asset’s cost of acquisition or as part of an item of expense
- receivables and payables are stated with the amount of GST included.

Cash flows are included in the Statement of Cash Flows on a gross basis. However, the GST components of cash flows arising from investing and financial activities, which are recoverable from, or payable to, the ATO are classified as operating cash flows.

(f) Equity and reserves

Accumulated funds

The category Accumulated Funds includes all current and prior period retained funds.

(g) Trust funds

Section 47, “Seizure pursuant to warrant – special provisions”, of the ICAC Act, ensures that property seized as a result is retained by the Commission for the duration of the investigation. Note 17(a) shows the financial position of the special account created for this purpose.

Notes to and forming part of the financial statements for the year ended 30 June 2023

The Commission received monies in a trustee capacity for the Australian Public Sector Anti-Corruption Conference 2022 (APSACC 2022) as set out in Note 17(b).

Following the completion of the APSACC 2022 financial transactions, BDO Australia was commissioned to audit the financial statements in May 2023.

Upon the receipt of a satisfactory audit report from BDO Australia, the Commission returned a half share of the surplus to the NSW Law Enforcement Conduct Commission (see Note 17(b)(i)) in accordance with the APSACC agreement.

(h) Budgeted amounts

The budgeted amounts are drawn from the original budgeted financial statements presented to Parliament in respect of the reporting period. Subsequent amendments to the original budget (for example, adjustment for transfer of functions between entities as a result of Administrative Arrangements Orders) are not reflected in the budgeted amounts. Major variances between the original budgeted amounts and the actual amounts disclosed in the primary financial statements are explained in Note 15.

(i) Comparative information

Except when an Australian Accounting Standard permits or requires otherwise, comparative information is presented in respect of the previous period for all amounts reported in the financial statements.

(j) Changes in accounting policies, including new or revised Australian Accounting Standards

(i) Effective for the first time in 2022–23

The accounting policies applied in 2022–23 are consistent with those of the previous financial year, except as a result of the new or revised Australian Accounting Standards, that have been applied for the first time in 2022–23. The adoption of these new Standards did not have any material impact on the Commission's financial statements.

(ii) Issued but not yet effective

NSW public sector entities are not permitted to early adopt new Australian Accounting Standards unless Treasury determines otherwise.

The following new Australian Accounting Standards have not been applied and are not yet effective:

- AASB 17 *Insurance Contracts*
- AASB 2020-1 *Amendments to Australian Accounting Standards – Classification of Liabilities as Current or Non-current*
- AASB 2021-2 *Amendments to Australian Accounting Standards – Disclosure of Accounting Policies and Definition of Accounting Estimates*
- AASB 2021-6 *Amendments to Australian Accounting Standards – Disclosure of Accounting Policies: Tier 2 and Other Australian Accounting Standards*
- AASB 2021-7b *Amendments to Australian Accounting Standards – Effective Date of Amendments to AASB 10 and AASB 128 and Editorial Corrections*
- AASB 2021-7c *Amendments to Australian Accounting Standards – Effective Date of Amendments to AASB 10 and AASB 128 and Editorial Corrections*
- AASB 2022-5 *Amendments to Australian Accounting Standards – Lease Liability in a Sale and Leaseback*
- AASB 2022-6 *Amendments to Australian Accounting Standards – Non-current Liabilities with Covenants*
- AASB 2022-7 *Editorial Corrections to Australian Accounting Standards and Repeal of Superseded and Redundant Standards*
- AASB 2022-9 *Amendments to Australian Accounting Standards – Insurance Contracts in the Public Sector*
- AASB 2022-10 *Amendments to Australian Accounting Standards – Fair Value Measurement of Non-Financial Assets of Not-for-Profit Public Sector Entities.*

The Commission anticipates that the adoption of these Standards in the period of initial application will have no material impact on the financial statements.

(k) Impact of COVID-19 on Financial Reporting for 2022–23

There are no significant impacts identified or reported on the Commission's financial statements due to the COVID-19 pandemic.

Notes to and forming part of the financial statements for the year ended 30 June 2023

(I) Superannuation on Annual Leave Loading

The Commission has determined that no liability arises to pay superannuation on annual leave loading. This position has been formed after considering the facts from a recent ruling in the Federal Court of Australia, which dealt with whether annual leave loading forms part of ordinary time earnings and therefore requires superannuation contributions to be made under superannuation guarantee legislation. It is noted that the ruling supersedes an administrative ruling issued by the ATO, which is not legally binding. This position will be re-assessed in future reporting periods as new information comes to light on this matter.

Notes to and forming part of the financial statements for the year ended 30 June 2023

2. Expenses excluding losses

(a) Employee-related expenses	2023 \$'000	2022 \$'000
Salaries and wages (including annual leave)	18,109	17,256
Superannuation – defined benefit plans	111	114
Superannuation – defined contribution plans	1,460	1,389
Long service leave	580	582
Workers compensation insurance	202	140
Payroll tax and fringe benefits tax	1,168	936
Employee-related expenses	21,630	20,417
(b) Operating expenses	2023 \$'000	2022 \$'000
Advertising and publicity	105	34
Auditors remuneration		
– audit of the financial statements	69	44
Books and subscriptions	322	269
Cleaning	83	64
Consultants	679	140
Contract security services	267	186
Other contractors	–	427
Courier and freight	1	–
Disaster recovery	84	62
Electricity	74	68
External legal fees	742	1,426
Fees for services	364	248
Insurance	1,245	1,084
Maintenance	1,401	1,164
Minor computer equipment/licences	41	29
Variable lease payments, not included in lease liabilities	165	393
Postal	21	18
Printing	63	23
Stores and specialised supplies	78	70
Telephone and telecommunications	172	222
Training	169	125
Transcript fees	69	151
Travelling, air fares, subsistence, taxi and vehicle rental	58	21
Other	404	413
Operating expenses	6,676	6,681

Notes to and forming part of the financial statements for the year ended 30 June 2023

Recognition and measurement

Maintenance

Day-to-day servicing costs or maintenance are charged as expenses as incurred, except where they relate to the replacement or an enhancement of a part or component of an asset, in which case the costs are capitalised and depreciated.

Insurance

The Commission's insurance activities are conducted through the NSW Treasury Managed Fund (TMF) Scheme of self-insurance for government entities. The expense (premium) is determined by the fund manager based on past claim experience.

Lease expense

The Commission recognises the lease payments associated with the following types of leases as an expense on a straight-line basis:

- Leases that meet the definition of short term, that is, where the lease term at commencement of the lease is 12 months or less. This excludes leases with a purchase option.
- Leases of assets that are valued at \$10,000 or under when new.

(c) Depreciation and amortisation expenses	2023 \$'000	2022 \$'000
Depreciation		
Building	19	14
Right-of-use assets	2,552	2,246
Plant and equipment	624	591
	3,195	2,851
Amortisation		
Software	254	281
Depreciation and amortisation	3,449	3,132

Refer to Note 7 for Recognition and Measurement policies on depreciation and amortisation.

(d) Finance costs	2023 \$'000	2022 \$'000
Interest expense from lease liabilities	433	205
Finance costs	433	205

Notes to and forming part of the financial statements for the year ended 30 June 2023

3. Revenue

(a) Summary of Compliance at Minister Level	2023 \$'000	2022 \$'000
Amount Appropriated per Appropriation Act	35,197	31,873
Other Appropriations	–	–
Variations made to the appropriations during the financial year		
COVID-19 pandemic and inflation (per s 34 of the Appropriation Act)	–	197
Total spending authority from parliamentary appropriations, other than deemed appropriations	35,197	32,070
Add:		
The spending authority from deemed appropriations during the current year	1,199	2,038
The unutilised spending authority from deemed appropriations in prior years	2,702	664
Total	39,098	34,772
Less: total expenditure out of the Consolidated Fund	(30,920)	(27,937)
Variance	8,178	6,835
Less:		
The spending authority from appropriations lapsed at 30 June	(4,277)	(4,133)
Deemed appropriations balance carried forward to following years	3,901	2,702

The *Appropriation Act 2022* (“the Appropriation Act”) (and the subsequent variations, if applicable) appropriates the sum of \$35,197,000 to the Premier of NSW out of the Consolidated Fund for the services of the Commission for the year 2022–23.

The *Treasury and Energy Legislation Amendment Act 2022* made some amendments to s 4.7 and s 4.9 of the GSF Act. These amendments commenced on 14 November 2022 and are applied retrospectively. As a result, the lead Minister(s) for the Commission, being the Premier of NSW and Special Minister of State, are taken to have been given an appropriation out of the Consolidated Fund under the authority s 4.7 of the GSF Act, at the time the Commission receives or recovers any deemed appropriation money, for an amount equivalent to the money that is received or recovered by the Commission. These deemed appropriations are taken to have been given for the services of the Commission.

In addition, government money that the Commission receives or recovers, from another GSF agency, of a kind prescribed by the GSF regulations that forms part of the Consolidated Fund, is now capable of giving rise to deemed appropriations.

On 16 June 2023, the GSF Amendment (Deemed Appropriations) Regulation 2023 was approved to bring the GSF regulations in line with the above deemed appropriation amendments to the GSF Act.

The spending authority of the Premier of NSW from the Appropriation Act and that of the Special Minister of State from the deemed appropriation money has been delegated/sub-delegated to officers of the Commission.

The summary of compliance has been prepared by aggregating the spending authorities for the services of the Commission. It reflects the status at the point in time this disclosure statement is being made.

The State Budget and related Appropriation Bill for the year commencing 1 July 2023 have been delayed and are anticipated to be tabled in September 2023. Pursuant to s 4.10 of the GSF Act, the Treasurer has authorised the payment of specified sums out of the Consolidated Fund to meet the requirements of this period. The authorisation is current from 1 July 2023 until the earlier of 30 September 2023 or enactment of the 2023–24 Appropriation Act.

Parliamentary appropriations

Income from appropriations, other than deemed appropriations (of which the accounting treatment is based on the underlying transaction), does not contain enforceable and sufficiently specific performance obligations as defined by AASB 15. Except as specified below, appropriations are recognised as income when the Commission obtains

Notes to and forming part of the financial statements for the year ended 30 June 2023

control over the assets comprising the appropriations. Control over appropriations is normally obtained upon the receipt of cash.

Recognition and measurement

Revenue from the sale of goods is recognised as when the Commission satisfies a performance obligation by transferring the promised goods/services.

(b) Grants and contributions	2023 \$'000	2022 \$'000
Grant from the Digital Restart Fund		
– Recurrent	–	1,040
– Capital	–	–
Grants and contributions	–	1,040

Recognition and measurement

Income from grants to acquire/construct a recognisable non-financial asset to be controlled by the Commission is recognised when the entity satisfies its obligations under the transfer. Revenue from grants with sufficiently specific performance obligations is recognised as when the Commission satisfies a performance obligation by transferring the promised goods/services. Income from grants without sufficiently specific performance obligations is recognised when the entity obtains control over the granted assets (for example, cash).

Due to the nature of the Commission's work, it cannot forecast at the onset and during the budget setting process all of the inquiries that it will be required to conduct. As mentioned in Note 1(d), a separate integrity agencies contingency fund has been provided to meet unforeseen operational funding requirements. Should the Commission require this supplementation, no enforceable specific performance obligations are expected, as defined by AASB 15 *Contracts with Customers* for this particular funding.

(c) Acceptance by the Crown of employee benefits and other liabilities	2023 \$'000	2022 \$'000
The following liabilities and/or expenses have been assumed by the Crown		
Superannuation – defined benefit	111	114
Long service leave	541	595
Payroll tax	6	5
Acceptance by the Crown of employee benefits and other liabilities	658	714

(d) Other income	2023 \$'000	2022 \$'000
Other – miscellaneous	158	5

4. Gain/(loss) on disposal

	2023 \$'000	2022 \$'000
Land and building	–	–
Plant and computer equipment	–	(8)
Written-down value of assets disposed	–	(8)
Less: Proceeds on Disposal	1	4
Gain/(loss) on disposal	1	(4)

Notes to and forming part of the financial statements for the year ended 30 June 2023

5. Current assets – cash and cash equivalents

	2023 \$'000	2022 \$'000
Cash at bank and on hand	712	1,391
Total cash and cash equivalents	712	1,391

For the purposes of the Statement of cash flows, cash and cash equivalents include cash on hand, cash at bank and short-term deposits with original maturities of three months or less and subject to an insignificant risk of changes in value, and net of outstanding bank overdraft.

Cash and cash equivalent assets recognised in the Statement of financial position are reconciled at the end of the financial year to the Statement of cash flows as follows:

	2023 \$'000	2022 \$'000
Cash and cash equivalents (per Statement of financial position)	712	1,391
Closing cash and cash equivalents (per Statement of cash flows)	712	1,391

Refer Note 18 for details regarding credit risk and market risk arising from financial instruments.

6. Current/Non-current assets – receivables

	2023 \$'000	2022 \$'000
Trade receivables	1	3
GST	296	319
Prepayments	750	774
	1,047	1,096
Prepayments – non-current	31	108
Current/Non-current assets – receivables	1,078	1,204

Recognition and measurement

All “regular way” purchases or sales of financial assets are recognised and derecognised on a trade date basis. Regular way purchases or sales are purchases or sales of financial assets that require delivery of assets within the timeframe established by regulation or convention in the marketplace.

Receivables are initially recognised at fair value plus any directly attributable transaction costs. Trade receivables that do not contain a significant financing component are measured at the transaction price.

Subsequent measurement

The Commission holds receivables with the objective to collect the contractual cash flows and therefore measures them at amortised cost using the effective interest method, less any impairment. Changes are recognised in the net result for the year when impaired, derecognised or through the amortisation process.

Impairment

The Commission’s receivables are subject to an annual review for impairment. These are considered to be impaired when there is objective evidence that, as a result of one or more events that occurred after the initial recognition of the financial asset, the estimated future cash flows have been affected.

Notes to and forming part of the financial statements for the year ended 30 June 2023

The Commission's receivable assets (predominantly prepayments) are mainly short term (that is, 12 months or less) and are substantially software licences and TMF insurance payments. Consequently, the Commission has not recognised any impairment of its financial assets.

The Commission recognises an allowance for expected credit losses (ECLs) for all financial assets not held at fair value through profit or loss. ECLs are based on the difference between the contractual cash flows and the cash flows that the Commission expects to receive, discounted at the original effective interest rate.

However, as the Commission did not carry material trade receivables for the period from 1 July 2022 to 30 June 2023, the Commission did not consider it necessary to establish a provision matrix based on its historical credit loss experience for trade receivables.

7. Property, plant and equipment

	Building Leasehold Improvements \$'000	Property, plant and equipment \$'000	Total \$'000
At 1 July 2021 – fair value			
Gross carrying amount	102	4,852	4,954
Accumulated depreciation and impairment	(59)	(3,369)	(3,428)
Net carrying amount	43	1,484	1,527
Year ended 30 June 2022			
Net carrying amount at start of year	43	1,484	1,527
Purchase of assets	–	476	476
Disposals	–	(8)	(8)
Depreciation expense	(14)	(591)	(605)
Net carrying amount at end of year	29	1,361	1,390

	Building Leasehold Improvements \$'000	Property, plant and equipment \$'000	Total \$'000
At 1 July 2022 – fair value			
Gross carrying amount	102	4,651	4,753
Accumulated depreciation and impairment	(73)	(3,290)	(3,363)
Net carrying amount	29	1,361	1,390
Year ended 30 June 2023			
Net carrying amount at start of year	29	1,361	1,390
Purchase of assets	411	1,299	1,710
Disposals	–	–	–
Depreciation expense	(19)	(624)	(643)
Net carrying amount at end of year	421	2,036	2,457
At 30 June 2023 – fair value			
Gross carrying amount	513	5,906	6,419
Accumulated depreciation and impairment	(92)	(3,870)	(3,962)
Net carrying amount	421	2,036	2,457

Notes to and forming part of the financial statements for the year ended 30 June 2023

Recognition and measurement

Acquisitions of property, plant and equipment

Assets acquired are initially recognised at cost. Cost is the amount of cash or cash equivalents paid or the fair value of the other consideration given to acquire the asset at the time of its acquisition or construction or, where applicable, the amount attributed to that asset when initially recognised in accordance with the requirements of other Australian Accounting Standards.

Assets acquired at no cost, or for nominal consideration, are initially recognised at their fair value at the date of acquisition. Fair value is the price that would be received to sell an asset in an orderly transaction. Where payment for an asset is deferred beyond normal credit terms, its cost is the cash price equivalent, that is deferred payment amount, is effectively discounted over the period of credit.

Capitalisation thresholds

The Commission's capitalisation threshold for property, plant and equipment and intangible assets is \$10,000. This means that all property, plant and equipment and intangible assets costing \$10,000 and above individually (or forming part of a network costing more than \$10,000) are capitalised. As a not-for-profit "entity" with no cash generating units, impairment under AASB 136 *Impairment of Assets* is unlikely to arise. As property, plant and equipment are carried at fair value, impairment can only arise in the rare circumstances where the costs of disposal are material. Specifically, impairment is unlikely for not-for-profit entities given that AASB 136 modifies the recoverable amount test for non-cash generating assets of not-for-profit entities to the higher of fair value less costs of disposal, and depreciated replacement cost is also fair value.

Restoration costs

The present value of the expected cost for the restoration or cost of dismantling of an asset after its use is included in the cost of the respective asset if the recognition criteria for a provision are met. Consequently, the Commission has recognised a "make good" provision for the premises it leases at 255 Elizabeth Street, Sydney. Further details are at Note 12.

Right-of-use assets acquired by lessees

AASB 16 *Leases* requires a lessee to recognise a right-of-use asset for most leases. The right-of-use asset and corresponding liability are initially measured at the present value of the future lease payments.

Therefore, at that date property, plant and equipment includes amounts for right-of-use assets in respect of leases previously treated as operating leases under AASB 117, as well as any arrangements that are assessed as leases under AASB 16 that were not leases under AASB 117.

Right-of-use assets are generally depreciated over the shorter of the asset's useful life and the lease term. Where the entity obtains ownership of the underlying leased asset, or if the cost of the right-of-use asset reflects that the entity will exercise a purchase option, the entity depreciates the right-of-use asset over its useful life.

Further information on leases is contained in Note 8.

Revaluation of property, plant and equipment

Physical non-current assets are valued in accordance with the "Valuation of Physical Non-Current Assets at Fair Value" Policy and Guidelines Paper (TPP21-09). This policy adopts fair value in accordance with AASB 116 *Property, Plant and Equipment*, AASB 13 *Fair Value Measurement* and AASB 140 *Investment Property*. The asset population of the Commission comprises the right-of-use asset building, plant and equipment such as computers and motor vehicles. Assets with short useful lives are measured at depreciated historical cost, which for these assets approximates fair value. The Commission has assessed that any difference between fair value and depreciated historical cost is unlikely to be material.

Depreciation of property, plant and equipment

Depreciation is provided for on a straight-line basis for all depreciable assets so as to write off the depreciable amount of each asset as it is consumed over its useful life to the Commission. All material identifiable components of assets are depreciated separately over their shorter useful lives. The useful life of the various categories of non-current assets is in the table below.

Notes to and forming part of the financial statements for the year ended 30 June 2023

Asset category	Gross value measurement bases	Depreciation method	Useful life in years	
			2022–23	2021–22
Computer hardware	Purchase price	Straight line	4	4
Plant and equipment	Purchase price	Straight line	5	5

Leasehold improvement assets are depreciated on a straight-line basis at the lesser of six years or the lease term.

Impairment of property, plant and equipment

As a not-for-profit entity with no cash generating units, impairment under AASB 136 *Impairment of Assets* is unlikely to arise. Since plant and equipment are carried at fair value, or an amount that approximates fair value, impairment can only arise in rare circumstances such as where the costs of disposal are material. As a not-for-profit entity, an impairment loss is recognised in the net result to the extent the impairment loss exceeds the amount in the revaluation surplus for the class of asset.

8. Leases

The Commission leases its premises at 255 Elizabeth Street, Sydney, with Property and Development NSW (Property NSW). It also leases 13 motor vehicles from SG Fleet Australia Pty Ltd. The lease for 255 Elizabeth Street, Sydney, commenced in 2014 and expired on 15 October 2020. The Commission exercised its first option to renew the lease for a further three years commencing 16 October 2020 and it is reasonably certain that it will exercise a second three-year option as well. Property NSW signed the lease in relation to Option 1, on behalf of the Commission, in late September 2020, and Mirvac signed in July 2022. Final financial commitments are now reflected in the financial statements. Commission motor vehicles are usually leased for a term of three years with no renewal options.

The Commission has elected to recognise payments for short-term leases and low-value leases as expenses on a straight-line basis, instead of recognising a right-of-use asset and lease liability. Short-term leases are leases with a lease term of 12 months or less. Low-value assets are assets with a fair value of \$10,000 or less when new. The Commission does not currently lease any low-value assets, these are usually purchased outright.

Right-of-use assets under leases

The following table presents right-of-use assets that are excluded in the carrying amounts of property, plant and equipment at Note 7.

	Land and Buildings \$'000	Motor Vehicles \$'000	Total \$'000
Balance at 1 July 2021	11,490	35	11,525
Additions	300	108	408
Depreciation expense	(2,185)	(61)	(2,246)
Other movements	–	–	–
Balance at 30 June 2022	9,605	82	9,687

	Land and Buildings \$'000	Motor Vehicles \$'000	Total \$'000
Balance at 1 July 2022	9,605	82	9,687
Additions	140	–	140
Depreciation expense	(2,494)	(58)	(2,552)
Other movements	297	–	297
Balance at 30 June 2023	7,548	24	7,572

Notes to and forming part of the financial statements for the year ended 30 June 2023

Lease liabilities

The following table presents liabilities under leases, including leases in respect of investment properties.

	Land and Buildings \$'000	Motor Vehicles \$'000	Total \$'000
Balance at 1 July 2021	11,837	31	11,868
Additions	–	108	108
Interest expense	204	1	205
Payments	(2,297)	(62)	(2,359)
Balance at 30 June 2022	9,744	78	9,822

	Land and Buildings \$'000	Motor Vehicles \$'000	Total \$'000
Balance at 1 July 2022	9,744	78	9,822
Additions	297	–	297
Interest expense	432	1	433
Payments	(1,413)	(60)	(1,473)
Balance at 30 June 2023	9,060	19	9,079

The following amounts were recognised in the Statement of comprehensive income during the period in respect of leases where the entity is the lessee:

	2023 \$'000	2022 \$'000
Depreciation expense of right-of-use assets	2,552	2,246
Interest expense on lease liabilities	433	205
Expense relating to short-term leases	–	–
Expense relating to leases of low-value assets	–	–
Total amount recognised in the Statement of comprehensive income	2,985	2,451

The entity had total cash outflows for leases of approximately \$1.5 million in 2022–23, and \$2.3 million in 2021–22.

Recognition and measurement

The Commission assesses at contract inception whether a contract is, or contains, a lease. That is, if the contract conveys the right to control the use of an identified asset for a period of time in exchange for consideration. The entity recognises lease liabilities to make lease payments and right-of-use assets representing the right to use the underlying assets, except for short-term leases and leases of low-value assets.

i. Right-of-use assets

The Commission recognises right-of-use assets at the commencement date of the lease (that is, the date the underlying asset is available for use). Right-of-use assets are initially measured at the amount of initial measurement of the lease liability, adjusted by any lease payments made at or before the commencement date and lease incentives, any initial direct costs incurred, and estimated costs of dismantling and removing the asset or restoring the site.

Right-of-use assets are depreciated on a straight-line basis over the shorter of the lease term and the estimated useful lives of the assets. The right-of-use assets are also subject to revaluation and impairment. (Refer to accounting policies of property, plant and equipment.)

ii. Lease liabilities

At the commencement date of the lease, the entity recognises lease liabilities measured at the present value of lease payments to be made over the lease term. The lease payments are discounted using the incremental borrowing rate as provided by NSW Treasury of 1.87% to 30 June 2022 and 3.78% from 1 July 2022.

Notes to and forming part of the financial statements for the year ended 30 June 2023

After the commencement date, the amount of lease liabilities is increased to reflect the accretion of interest and decreased for the lease payments made. In addition, the carrying amount of lease liabilities is remeasured if there is a modification, a change in the lease term, a change in the lease payments (for example, changes to future payments resulting from a change in an index or rate used to determine such lease payments) or a change in the assessment of an option to purchase the underlying asset. The entity's lease liabilities are included in borrowings.

iii. Short-term leases and leases of low-value assets

The Commission applies the short-term lease recognition exemption to its short-term leases of machinery and equipment (that is, those leases that have a lease term of 12 months or less from the commencement date and do not contain a purchase option). It also applies the lease of low-value assets recognition exemption to leases of office equipment that are considered to be low value. The Commission usually purchases low-value assets outright. As at 30 June 2023, there are no leases of low-value assets.

9. Intangible Assets

	Software \$'000	Work in progress \$'000	Total \$'000
At 1 July 2021 – fair value			
Cost (gross carrying amount)	1,841	203	2,044
Accumulated amortisation and impairment	(1,452)	–	(1,452)
Net carrying amount	389	203	592
Year ended 30 June 2022			
Net carrying amount at start of year	389	203	592
Additions	–	193	193
Disposals	–	–	–
Transfers from/to other asset classes	308	(308)	–
Amortisation	(281)	–	(281)
Net carrying amount at end of year	416	88	504
At 1 July 2022 – fair value			
Cost (gross carrying amount)	2,033	88	2,121
Accumulated amortisation and impairment	(1,617)	–	(1,617)
Net carrying amount	416	88	504
Year ended 30 June 2023			
Net carrying amount at start of year	416	88	504
Additions	–	233	233
Disposals	–	–	–
Transfers from/to other asset classes	137	(137)	–
Amortisation	(254)	–	(254)
Net carrying amount at end of year	299	184	483
At 30 June 2023 – fair value			
Gross carrying amount	2,170	184	2,354
Accumulated amortisation and impairment	(1,871)	–	(1,871)
Net carrying amount	299	184	483

Notes to and forming part of the financial statements for the year ended 30 June 2023

Recognition and measurement

The Commission recognises intangible assets only if it is probable that future economic benefits will flow to the Commission and the cost of the asset can be measured reliably. Intangible assets are measured initially at cost. Where an asset is acquired at no or nominal cost, the cost is its fair value as at the date of acquisition.

The useful lives of intangible assets are assessed to be finite. The amortisation period and the amortisation method for an intangible asset with a finite useful life are reviewed at least at the end of each reporting period.

Intangible assets are subsequently measured at fair value only if there is an active market. As there is no active market for the Commission's intangible assets, the assets are carried at cost less any accumulated amortisation.

The Commission's intangible assets, that is, computer software, are amortised using the straight-line method over four years. Intangible assets are tested for impairment where an indicator of impairment exists. If the recoverable amount is less than its carrying amount, the carrying amount is reduced to its recoverable amount and the reduction is recognised as an impairment loss.

Asset category	Gross value measurement bases	Amortisation method	Useful life in years	
			2022-23	2021-22
Software	Purchase price	Straight line	4	4

10. Current liabilities – payables

	2023 \$'000	2022 \$'000
Accrued salaries, wages and on-costs	367	298
Accrued expenses – other operating expenses	266	33
Creditors	152	378
Total Current liabilities – payables	785	709

Details regarding credit risk, liquidity risk and market risk, including a maturity analysis of the above payables, are disclosed in Note 18.

Recognition and measurement

These amounts represent liabilities for goods and services provided to the Commission and other amounts. Payables are recognised initially at fair value, usually based on the transaction cost or face value. Subsequent measurement is at amortised cost using the effective interest method. Short-term payables with no stated interest rate are measured at the original invoice amount where the effect of discounting is immaterial.

Notes to and forming part of the financial statements for the year ended 30 June 2023

11. Current/non-current liabilities – lease liabilities

	2023 \$'000	2022 \$'000
Current liabilities		
Lease liabilities	2,355	2,299
Total Current liabilities – lease liabilities	2,355	2,299
Non-Current liabilities		
Lease liabilities	6,724	7,524
Total Non-current liabilities – lease liabilities	6,724	7,524

Details regarding credit risk, liquidity risk and market risk, including a maturity analysis of the above payables, are disclosed in Note 18.

Also refer to the “Leases” note for further details on the lease liabilities for the right-of-use building asset.

12. Current/non-current liabilities – provisions

Current	2023 \$'000	2022 \$'000
Employee benefits and related on-costs		
Annual leave		
Annual leave (includes annual leave loading)	1,769	1,922
Annual leave on-cost	193	195
Payroll tax on annual leave, long service leave (and fringe benefits tax payable)	393	340
Long service leave on-cost	555	520
	2,910	2,977
Non-current	2023 \$'000	2022 \$'000
Employee benefits and related on-costs		
Long service leave on-costs	55	51
Provision for payroll tax on long service leave	29	24
Asset remediation and restoration	1,654	1,515
	1,738	1,590
Aggregate employee benefits and related on-costs	2023 \$'000	2022 \$'000
Provision – current	2,910	2,977
Provision – non-current	84	75
Accrued salaries, wages and on-costs (Note 10)	367	298
	3,361	3,350

Notes to and forming part of the financial statements for the year ended 30 June 2023

Movements in provisions (other than employee benefits)

Movements in each class of provision during the financial year, other than employee benefits, are set out below:

	“Make good” provision 2023 \$’000	“Make good” provision 2022 \$’000
Carrying amount at the beginning of the financial year	1,515	1,215
Additional provisions recognised	139	300
Amounts used	–	–
Carrying amount at the end of the financial year	1,654	1,515

Recognition and measurement

Salaries and wages (including non-monetary benefits) that are expected to be settled wholly within 12 months after the end of the period in which the employees render the service are recognised and measured at the undiscounted amounts of the benefits.

Annual leave is not expected to be settled wholly before 12 months after the end of the annual reporting period in which the employees render the related service. As such, it is required to be measured at present value in accordance with AASB 119 *Employee Benefits* (although short-cut methods are permitted).

Actuarial advice obtained by Treasury has confirmed that using the nominal annual leave balance plus the annual leave entitlements accrued while taking annual leave (calculated using 8.4% of the nominal value of annual leave) can be used to approximate the present value of the annual leave liability. The Commission has assessed the actuarial advice based on its circumstances and has determined that the effect of discounting is immaterial to annual leave. All annual leave is classified as a current liability even where the Commission does not expect to settle the liability within 12 months as the Commission does not have an unconditional right to defer settlement.

Unused non-vesting sick leave does not give rise to a liability as it is not considered probable that sick leave taken in the future will be greater than the benefits accrued in the future.

Long service leave and superannuation

The Commission’s liabilities for long service leave and defined benefit superannuation are assumed by the Crown. The Commission accounts for the liability as having been extinguished, resulting in the amount assumed being shown as part of the non-monetary revenue item described as “Acceptance by the Crown of employee benefits and other liabilities”.

Long service leave is measured at the present value of expected future payments to be made in respect of services provided up to the reporting date. Consideration is given to certain factors based on actuarial review, including expected future wage and salary levels, experience of employee departures, and periods of service. Expected future payments are discounted using the Commonwealth Government bond rate at the reporting date.

The superannuation expense for the financial year is determined by using the formulae specified in the Treasurer’s Directions. The expense for certain superannuation schemes (that is, Basic Benefit and Aware Super) is calculated as a percentage of the employees’ salary. For other superannuation schemes (that is, State Superannuation Scheme and State Authorities Superannuation Scheme), the expense is calculated as a multiple of the employees’ superannuation contributions.

Consequential on-costs

Consequential costs to employment are recognised as liabilities and expenses where the employee benefits to which they relate have been recognised. This includes outstanding amounts of payroll tax, workers compensation insurance premiums and fringe benefits tax.

Notes to and forming part of the financial statements for the year ended 30 June 2023

Other provisions – “make good” provision

Other provisions exist when the Commission has a present legal or constructive obligation as a result of a past event and it is probable that an outflow of resources will be required to settle the obligation; and a reliable estimate can be made of the amount of the obligation.

The Commission has a present legal obligation to “make good” its current accommodation premises at 255 Elizabeth Street, Sydney, and has recognised a provision. This is because it is probable that an outflow of resources will be required to settle the obligation and a reliable estimate can be made of the amount of the obligation. Management expects that this provision will be realised in three years’ time, as management has exercised Option 1, which commenced on 16 October 2020 and extends to 15 October 2023. At this point in time, management also expects to exercise Option 2, which is for a further three years from the end of Option 1.

During 2022–23, the Commission reviewed its “make good” provision, requesting an updated estimate from the previous estimate provided by Schiavello Construction (NSW) Pty Ltd. As the cost increase over the two-year period was material, the “make good” provision was adjusted accordingly.

As the effect of the time value of money is material, provisions are discounted at 3.7%. (2.11% in 2021–22), which is a pre-tax rate that reflects the current market assessments of the time value of money and the risks specific to the liability.

13. Commitments

Capital commitments

Aggregate capital expenditure for the acquisition of plant and equipment contracted for at balance date and not provided for:

	2023 \$'000	2022 \$'000
Within one year	178	27
Later than one year and not later than five years	–	–
Later than five years	–	–
Total (including GST)	178	27

14. Contingent liabilities and contingent assets

Contingent liabilities

The Commission has contingent liabilities estimated at \$65,000 representing potential legal expenses for which the Crown Solicitor is acting on behalf of the Commission as at 30 June 2023 (nil contingent liabilities in 2021–22).

Contingent assets

The Commission has no contingent assets as at 30 June 2023 (nil in 2021–22).

15. Budget Review

Net result

Appropriations revenue is \$5.113 million below budget, as the Commission continues to use its cash reserves, consistent with Treasury cash management reforms, restricting agencies to hold cash balances to cover their immediate operational requirements. Offsetting this is lower operational expenditure, from lower legal and vacant employee positions, as well as the conversion of recurrent to capital expenditure for the upgrade to the Commission’s NUIX system.

Notes to and forming part of the financial statements for the year ended 30 June 2023

Assets and liabilities

The largest variance to original budget is in relation to the above-mentioned reduction in the Commission's cash reserves due to the reduced appropriation revenue received. The increase in non-current assets is primarily due to the conversion of \$0.7 million from employee-related expenditure to capital expenditure to cover system upgrade projects as also mentioned above. The increase in liabilities against original budget is mainly due to the revaluation of office lease liability and "make good" provision to reflect current market value.

Cash flows

The cash balance as at 30 June 2023 of the Commission is \$2.4 million lower than that of the budgeted amount of \$3.1 million. As outlined above, this is largely due to the Commission's lower appropriation revenue, partially offset by lower operational and employee-related expenditure.

16. Reconciliation of cash flows from operating activities to net result

	2023 \$'000	2022 \$'000
Net cash used on operating activities	2,305	1,751
Depreciation and amortisation	(3,449)	(3,132)
Written down value of asset disposed	1	(4)
Increase/(decrease) in prepayments and receivables	(126)	51
Decrease/(increase) in provisions and other liabilities	58	(180)
Decrease/(increase) in payables	(76)	(181)
Net result	(1,287)	(1,695)

17. Trust funds

	2023 \$'000	2022 \$'000
(a) s 47 Division 4A of the ICAC Act		
Opening balance as at 1 July	212	212
Deposits	–	–
Less		
Payments	–	–
Total trust funds as at 30 June	212	212
(b) APSACC		
Opening balance as at 1 July	114	–
Deposits	729	216
Less		
Payments	(507)	(102)
Surplus	336	114
Surplus distribution and seed funding reimbursement		
(i) To Law Enforcement Conduct Commission (NSW)	(168)	–
(ii) To ICAC (NSW)	(168)	–
Total trust funds as at 30 June	–	114

The above fund does not form part of the Commission's financial statement position.

Notes to and forming part of the financial statements for the year ended 30 June 2023

18. Financial instruments

The Commission's principal financial instruments are outlined on the following pages. These financial instruments arise directly from the Commission's operations or are required to finance the Commission's operations. The Commission does not enter into or trade financial instruments, including derivative instruments, for speculative purposes.

The Commission's main risks arising from financial instruments are outlined, together with the Commission's objectives, policies and processes for measuring and managing risk. Further quantitative and qualitative disclosures are included throughout the financial statements.

The Chief Executive Officer has overall responsibility for the establishment and oversight of risk management and reviews and agrees on policies for managing each of these risks. Risk management policies are established to identify and analyse the risks faced by the Commission, to set risk limits and controls, and to monitor risks. Compliance with policies is reviewed by the Audit and Risk Committee/internal audit on a continual basis.

(a) Financial instrument categories

Financial Assets	Note	Category	Carrying Amount	Carrying Amount
Class:			2023 \$'000	2022 \$'000
Cash and cash equivalents	5	N/A	712	1,391
Receivables ¹	6	Receivables at amortised cost	1	3
Financial Liabilities	Note	Category	Carrying Amount	Carrying Amount
Class:			2023 \$'000	2022 \$'000
Payables ²	10	Financial liabilities measured at amortised cost	785	709

¹ Excludes statutory receivables and prepayments (not within scope of AASB 7).

² Excludes statutory payables and unearned revenue (not within scope of AASB 7).

The Commission determines the classification of its financial assets and liabilities after initial recognition and, when allowed and appropriate, re-evaluates this at each financial year end.

(b) Financial risk

i. Credit risk

Credit risk arises when there is the possibility of the Commission's debtors defaulting on their contractual obligations, resulting in a financial loss to the Commission. The maximum exposure to credit risk is generally represented by the carrying amount of the financial assets (net of any allowance for impairment).

Credit risk arises from the financial assets of the Commission, including cash and receivables. No collateral is held by the Commission. The Commission has not granted any financial guarantees.

Cash

Cash comprises cash on hand and bank balances within the NSW Treasury Banking System.

Notes to and forming part of the financial statements for the year ended 30 June 2023

Receivables – trade debtors

All trade debtors are recognised as amounts receivable at balance date. Collectability of trade debtors is reviewed on an ongoing basis. Procedures as established in the Treasurer's Directions are followed to recover outstanding amounts, including letters of demand.

The Commission applies the AASB 9 simplified approach to measuring expected credit losses, which uses a lifetime expected loss allowance for all trade receivables. To measure the expected credit losses, trade receivables have been grouped based on shared credit risk characteristics and the days past due.

The expected loss rates are based on historical observed loss rates. The historical loss rates are adjusted to reflect current and forward-looking information on macroeconomic factors affecting the ability of the customers to settle the receivables.

Trade receivables are written off when there is no reasonable expectation of recovery. Indicators that there is no reasonable expectation of recovery include, among others, a failure to make contractual payments for a period of greater than 30 days past due. The loss allowance for trade receivables as at 30 June 2023 and 30 June 2022 was determined as follows:

30 June 2023 \$'000				
	Current	<30 days	30–90 days	>90 days
Expected credit loss rate				
Estimated total gross carrying amount	–	–	–	1
Expected credit loss	–	–	–	–

30 June 2022 \$'000				
	Current	<30 days	30–90 days	>90 days
Expected credit loss rate				
Estimated total gross carrying amount	3	–	9	–
Expected credit loss	–	–	–	–

The analysis excludes statutory receivables and prepayments, as these are not within the scope of AASB 7.

Therefore, the “total” will not reconcile to the sum of the receivables total in Note 6.

The Commission's trade debtors are predominantly other government agencies holding leave balances of officers transferring to the Commission. The Commission is not materially exposed to concentrations of credit risk to a single trade debtor or group of debtors as at 30 June 2023.

ii. Liquidity risk

Liquidity risk is the risk that the Commission will be unable to meet its payment obligations when they fall due. The Commission continually manages risk through monitoring future cash flows to ensure adequate holding of liquid assets.

During the current and prior year, there were no defaults on any loans payable. No assets have been pledged as collateral. The Commission's exposure to liquidity risk is deemed insignificant based on prior periods' data and current assessment of risk.

The liabilities are recognised for amounts due to be paid in the future for goods or services received, whether or not invoiced. Amounts owing to suppliers (which are unsecured) are settled in accordance with the policy set out in NSWTC 11/12. For small business suppliers, where terms are not specified, payment is made no later than 30 days from date of receipt of a correctly rendered invoice. For other suppliers, if trade terms are not specified, payment is made no later than the end of the month following the month in which an invoice or a statement is received. For small business suppliers, where payment is not made within the specified time period, simple interest must be paid automatically unless an existing contract specifies otherwise. For payments to other suppliers,

Notes to and forming part of the financial statements for the year ended 30 June 2023

the head of an authority (or a person appointed by the head of an authority) may automatically pay the supplier simple interest. No interest was applied during the year.

iii. Market risk

Market risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market prices. The Commission has no exposure to market risk as it does not have borrowings or investments. The Commission has no exposure to foreign currency risk and does not enter into commodity contracts.

iv. Interest rate risk

Interest rate risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market interest rates. Exposure to interest rate risk arises primarily through the Commission's payables. The Commission does not account for any fixed rate financial instruments at fair value through profit or loss or as at fair value through other comprehensive income. Therefore, for these financial instruments, a change in interest rates would not affect profit or loss or equity. A reasonably possible change of +/- 1% is used, consistent with current trends in interest rates (based on official RBA interest rate volatility over the last five years). The basis will be reviewed annually and amended where there is a structural change in the level of interest rate volatility. The Commission has no exposure to interest risk as at 30 June 2023.

(c) Fair value measurement

Fair value is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. The fair value measurement is based on the presumption that the transaction to sell the asset or transfer the liability takes place either in the principal market for the asset or liability or in the absence of a principal market, in the most advantageous market for the asset or liability.

Financial instruments are generally recognised at cost. The amortised cost of financial instruments recognised in the statement of financial position approximates the fair value, because of the short-term nature of many of the financial instruments.

(d) Impairment losses under AASB 9 *Financial Instruments*

The adoption of AASB 9 *Financial Instruments* has changed the Commission's accounting for impairment losses for financial assets by replacing the AASB 139 *Financial Instruments: Recognition and Measurement* incurred loss approach with a forward-looking expected credit loss (ECL) approach. AASB 9 requires the Commission to recognise an allowance for ECLs for all debt instruments not held at fair value through profit or loss.

(e) De-recognition of financial assets and financial liabilities

A financial asset (or, where applicable, a part of a financial asset or part of a group of similar financial assets) is de-recognised when the contractual rights to the cash flows from the financial assets expire or if the Commission transfers its rights to receive cash flows from the asset or has assumed an obligation to pay the received cash flows in full without material delay to a third party under a "pass-through" arrangement, and either:

- the Commission has transferred substantially all the risks and rewards of the asset; or
- the Commission has neither transferred nor retained substantially all the risks and rewards of the asset, but has transferred control.

Where the Commission has transferred its rights to receive cash flows from an asset or has entered into a pass-through arrangement, it evaluates if, and to what extent, it has retained the risks and rewards of ownership. Where the Commission has neither transferred nor retained substantially all the risks and rewards or transferred control, the asset continues to be recognised to the extent of the Commission's continuing involvement in the asset. In that case, the Commission also recognises an associated liability. The transferred asset and the associated liability are measured on a basis that reflects the rights and obligations that the Commission has retained.

Continuing involvement that takes the form of a guarantee over the transferred asset is measured at the lower of the original carrying amount of the asset and the maximum amount of consideration that the Commission could be required to repay.

Notes to and forming part of the financial statements for the year ended 30 June 2023

A financial liability is de-recognised when the obligation specified in the contract is discharged or cancelled or expires. When an existing financial liability is replaced by another from the terms of an existing liability and is substantially the same lender on substantially different terms, or modified, such an exchange or modification is treated as the de-recognition of the original liability and the recognition of a new liability. The difference in the respective carrying amounts is recognised in the net result.

19. Related party disclosures

Compensation for the Commission's key management personnel, is as follows:

	2023 \$'000	2022 \$'000
Short-term employee benefits		
Salaries	1,851	1,674
Post-employment benefits	168	98
	2,019	1,772

During the year, the Commission did not enter into transactions with key management personnel, their close family members and the members of its controlled entities.

Transactions with other entities that are controlled/jointly controlled/significantly influenced by the NSW Government during 2022–23 were:

	2023 \$'000	2022 \$'000
Property and Development NSW (accommodation at 255 Elizabeth Street, Sydney)	1,597	2,853
NSW Police Force (office security)	243	210
	1,840	3,063

20. Events after the reporting period

There are no events subsequent to the reporting date which affect the financial statements.

(END OF AUDITED FINANCIAL STATEMENTS)

Appendices

Appendix 1 – Complaints profile	108
Appendix 2 – Public interest disclosures	111
Appendix 3 – Statutory reporting	112
Appendix 4 – Outcomes of matters	113
Appendix 5 – Adoption of corruption prevention recommendations.....	114
Appendix 6 – Strategic alliances to optimise investigative outcomes	115
Appendix 7 – Prosecution and disciplinary action in 2022–23 arising from ICAC investigations.....	116
Appendix 8 – Report on the ICAC’s obligations under the <i>Government Information (Public Access) Act 2009</i>	137
Appendix 9 – Commissioners and executive officers.....	140
Appendix 10 – Workforce diversity.....	142
Appendix 11 – Work health and safety.....	143
Appendix 12 – Engagement and use of consultants	144
Appendix 13 – Payment performance indicators.....	145
Appendix 14 – Credit card certification	146
Appendix 15 – Overseas travel	146
Appendix 16 – Major works	146

Appendix 1 – Complaints profile

Table 27: Government sectors that were subject to matters received in 2022–23

Government sector	Section 10 complaints (s 10s)		Section 11 reports (s 11s)		Other types of matters (OMs)		Total for all matters	
	Number of s 10s	% of s 10s	Number of s 11s	% of s 11s	Number of OMs	% of OMs	Number of matters	% of matters
Aboriginal affairs and services	25	2%	12	1%	0	0%	37	2%
Arts and heritage	16	1%	7	< 1%	0	0%	23	1%
Community and human services	47	4%	13	1%	4	10%	64	3%
Consumer and trade	29	2%	3	< 1%	0	0%	32	1%
Custodial services	75	6%	190	22%	4	10%	269	13%
Education (except universities)	57	5%	165	19%	1	3%	223	10%
Emergency services	26	2%	20	2%	1	3%	47	2%
Employment and industrial relations	2	< 1%	0	0%	0	0%	2	< 1%
Energy	6	< 1%	3	< 1%	0	0%	9	< 1%
Government and financial services	165	14%	44	5%	3	8%	212	10%
Health	105	9%	208	24%	3	8%	316	15%
Land, property and planning	40	3%	6	< 1%	1	3%	47	2%
Law and justice	96	8%	8	< 1%	3	8%	107	5%
Local government	482	39%	105	12%	13	33%	600	28%
Natural resources and environment	42	3%	28	3%	0	0%	70	3%
Other – unspecified	2	< 1%	0	0%	4	10%	6	< 1%
Parliament	4	< 1%	2	< 1%	0	0%	6	< 1%
Policing	38	3%	1	< 1%	3	8%	42	2%
Tourism, sport, recreation and gaming	17	1%	1	< 1%	1	3%	19	< 1%
Transport, ports and waterways	65	5%	49	6%	2	5%	116	5%
Universities	27	2%	14	2%	1	3%	42	2%

Note: Percentages may not add to 100% because a matter may relate to more or less than one sector.

Table 28: Workplace functions applicable to matters received in 2022–23

Function	Section 10 complaints (s 10s)		Section 11 reports (s 11s)		Other types of matters (OMs)		Total for all matters	
	Number of s 10s	% of s 10s	Number of s 11s	% of s 11s	Number of OMs	% of OMs	Number of matters	% of matters
Allocation of funds, materials and services	521	43%	356	41%	6	15%	883	41%
Development applications and land rezoning	246	20%	27	3%	3	8%	276	13%
Electorals and political activities	116	9%	13	1%	4	10%	133	6%
Human resource and staff administration	324	27%	393	45%	2	5%	719	34%
Issue of licences or qualifications	27	2%	36	4%	0	0%	63	3%
Miscellaneous functions	85	7%	177	20%	27	68%	289	14%
Policy development and information processing	21	2%	2	< 1%	0	0%	23	1%
Processing of electronic and cash payments	10	< 1%	23	3%	4	10%	37	2%
Procurement, disposal and partnerships	209	17%	106	12%	0	0%	315	15%
Reporting, investigation, sentencing and enforcement	376	31%	105	12%	6	15%	487	23%

Note: Percentages may not add to 100% because a matter may relate to more or less than one workplace function.

Table 29: Types of corrupt conduct alleged in matters received in 2022–23

Conduct	Section 10 complaints (s 10s)		Section 11 reports (s 11s)		Other types of matters (OMs)		Total for all matters	
	Number of s 10s	% of s 10s	Number of s 11s	% of s 11s	Number of OMs	% of OMs	Number of matters	% of matters
Bribery, secret commissions and gifts	110	9%	37	4%	5	13%	152	7%
Corrupt conduct related to investigations or proceedings	284	23%	48	5%	5	13%	337	16%
Failure to perform required actions not already listed	299	24%	136	16%	4	10%	439	21%
Improper use of records or information	460	38%	451	52%	10	25%	921	43%
Improper use or acquisition of funds or resources	455	37%	395	45%	28	70%	878	41%
Intimidating or violent conduct	184	15%	99	11%	2	5%	285	13%
No corrupt conduct alleged in matter	11	< 1%	19	2%	1	3%	31	1%
Other corrupt conduct	48	4%	36	4%	0	0%	84	4%
Partiality	677	55%	192	22%	5	13%	874	41%
Personal interests	448	37%	337	39%	6	15%	791	37%

Note: Percentages may not add to 100% because allegations may involve more than one type of corrupt conduct or allegations of corrupt conduct may not be made.

Appendix 2 – Public interest disclosures

Table 30: Number of public officials who made a public interest disclosure (PID) in 2022–23

Type of PID	Number of PIDs	Number of public officials*	PIDs finalised**
PIDs made by public officials in performing their day-to-day functions as public officials	0	0	0
PIDs made under a statutory or legal obligation (other than those made by public officials performing their day-to-day functions)	805	112	780
All other PIDs	192	98	165
Total	997	210	945

Note: In a reporting period, a PID may be made anonymously or made by multiple individuals, and one individual may make multiple PIDs.

* As one public official may make multiple PIDs, and PIDs may be made anonymously, the number of public officials may be smaller than the number of PIDs.

** Some of these PIDs were made prior to the start of the 2022–23 financial year.

Table 31: Types of allegations made in PIDs in 2022–23

Type of PID	Type of allegation					Total
	Corrupt conduct	Maladministration	Serious and substantial waste	Government information contravention	Local government pecuniary interest contraventions	
PIDs made by public officials in performing their day-to-day functions as public officials	0	0	0	0	0	0
PIDs made under a statutory or legal obligation (other than those made by public officials performing their day-to-day functions)	805	0	0	0	0	805
All other PIDs	192	0	0	0	0	192
Total	997	0	0	0	0	997

Appendix 3 – Statutory reporting

Table 32: Reports under s 76(2) of the ICAC Act in 2022–23

Relevant section of the ICAC Act	Measurement	Outcome
76(2)(ba)(i)	The time interval between the lodging of each complaint and the Commission deciding to investigate the complaint	See Table 33 for details
76(2)(ba)(ii)	Number of complaints where investigations were commenced but were not finalised in 2022–23	4
76(2)(ba)(iii)	Average time to deal with complaints	51 days
76(2)(ba)(iii)	Actual time to investigate any matters in which a report is made	See Table 34 for details
76(2)(ba)(iv)	Total number of compulsory examinations during 2022–23	28
76(2)(ba)(iv)	Total number of public inquiries during 2022–23	3
76(2)(ba)(v)	Number of days spent during 2022–23 in conducting public inquiries	42
76(2)(ba)(vi)	Time interval between the completion of each public inquiry conducted during 2022–23 and the furnishing of a report on the matter	See Table 24 (chapter 5) for details

Report under s 76(2)(d) of the ICAC Act

In 2022–23, the Commission furnished information to the following agencies:

- Australian Commission for Law Enforcement Integrity
- Australian Federal Police
- Australian Taxation Office
- NSW Crime Commission
- NSW Electoral Commission
- NSW Police Force

The general nature and extent of information furnished was intelligence and information disseminations relevant to the functions of the above agencies as those functions concern the enforcement of the laws of the Commonwealth, a state or territory.

Table 33: Time interval between lodging of each complaint and the Commission deciding to investigate the complaint – s 76(2)(ba)(i) of the ICAC Act – in 2022–23

Date matter received	Date decided to investigate	Time interval (days)
4/05/2022	12/07/2022	69
20/06/2022	1/07/2022	11
23/01/2023	22/02/2023	30

Table 34: Actual time taken to investigate any matter in respect of which a report is made – s 76(2)(ba)(iii) of the ICAC Act – in 2022–23

Date matter received	Date investigation completed	Time interval (days)
7/5/2020	8/11/2022	915
10/8/2021	16/8/2022	371
20/10/2021	14/2/2023	482
1/7/2022	2/3/2023	244
12/7/2022	2/3/2023	233
22/2/2023	1/6/2023	99

Appendix 4 – Outcomes of matters

Table 35: Other outcomes for matters closed during 2022–23

Agency Outcomes	Section 10 matters	Section 11 matters	Total
Disciplinary action proposed by the public authority	0	2	2
Disciplinary action taken by the public authority – Dismissal	1	36	37
Disciplinary action taken by the public authority – Counselling	1	16	17
Disciplinary action taken by the public authority – Resignation	1	51	52
Disciplinary action taken by the public authority – Other	0	73	73
Systemic issues addressed by the public authority	0	8	8
Systemic issues identified by the public authority	0	3	3
No action or further action warranted by the public authority	11	178	189

Appendix 5 – Adoption of corruption prevention recommendations

In framing corruption prevention recommendations, the Commission’s focus is to work with the agency to ensure that the recommendations made in the Commission’s report address both the corruption risk and the business priorities of the subject agency. In accordance with s 111E(2) of the ICAC Act, the Commission considers plans of action proposed by agencies and monitors the level of acceptance of corruption prevention recommendations in the agency’s plan of action. It also ensures that agencies report on the implementation of their plans of action. Table 36 shows the adoption of corruption prevention recommendations in agency plans of action submitted during 2022–23. Table 37 shows the receipt of reports on implementation of agency action plans.

Table 36: Adoption of corruption prevention recommendations in agency plans of action⁶

Public inquiry	Agency	Number of Recommendations	Date action plan received	Adopted as described in the report	Adopted in an alternative way	Partially adopted	Not adopted	% partially adopted	% fully adopted
Witney	City of Canada Bay Council	3	8 September 2022	3	0	0	0	0	100
Witney	Department of Planning and Environment	4	18 October 2022	4	0	0	0	0	100
Ember	Transport for NSW	7	20 October 2022	6	1	0	0	0	100
Witney	NSW Government	3	5 November 2022	3	0	0	0	0	100
Jersey ⁷	NSW Procurement Board	1	5 December 2022	0	1	0	0	0	100
Skyline	Office of the Registrar, Aboriginal Land Rights Act	2	7 February 2023	0	1	0	1	0	50
Skyline	NSW Aboriginal Land Council	3	9 February 2023	0	1	1	1	33	33
Skyline	Awabakal Local Aboriginal Land Council	10	14 March 2023	9	0	0	1	0	90
Paragon	Transport for NSW	9	29 May 2023	9	0	0	0	0	100

The Commission seeks reports on the implementation of agency plans of action. If plans are not fully implemented at 12 months, a further 24-month report is sought. Proactive agencies can submit a final report at any stage including when the plan of action is submitted.

During 2022–23, the Commission received advice from agencies confirming the implementation of a number of significant recommendations. These included:

- A review of internal investigations processes by the Department of Communities and Justice (in response to Operation Cygnet).
- Recommencement of scientific audits by the Department of Planning and Environment to provide assurance of the effectiveness of water management policies (in response to Operations Avon/Mezzo).

⁶ On 19 July 2022, the Commission received advice from the NSW Government that all relevant recommendations the Commission made to it in the Investigation into the regulation of lobbying, access and influence in NSW (Operation Eclipse) had been accepted or accepted in principle. However, the government did not retain office following the March 2023 State Election and the recommendations were not implemented.

⁷ In addition to the recommendation made to the NSW Procurement Board, the Operation Jersey report directed 20 recommendations to the then government. The government’s response (available on the Commission’s website) indicated general support but in some instances, did not specify whether individual recommendations were accepted. The response also noted the recommendations made in its own grants review and the introduction of a revised *Grants Administration Guide*.

- New Office of Local Government guidelines on the appointment and dismissal of senior staff (in response to Operation Dasha).
- Improved management of conflicts of interest by Service NSW (in response to Operation Mistral).
- Procurement and complaint-handling reforms by TAFE (in response to Operation Lancer).

In addition, during 2022–23 the *Government Sector Finance Act 2018* was amended by inserting a new s 10.3A in relation to the administration of government grants. The amendment requires relevant officials to comply with mandatory requirements of the Grants Administration Guide and states that a minister must not approve a grant to which the Grants Administration Guide applies unless satisfied that the grant is an efficient, effective, economical and ethical use of money, and achieves value for money. The reform was in response to a recommendation made by the Commission in its August 2022, *Report on investigation into pork barrelling in NSW* (Operation Jersey).

Table 37: Agency reports on the implementation of action plans received in 2022–23

Public inquiry / matter	Agency	Number of recommendations	Date report due	Date report received	Type of report received (interim or final)
Mistral	Service NSW	4	8 July 2022	27 July 2022	Interim
Dasha	Department of Premier and Cabinet	2	17 August 2022	13 September 2022	Interim
Dasha	Department of Planning Industry and Environment	18	2 September 2022	20 October 2022	Interim
Lancer	TAFE NSW	14	31 January 2023	28 February 2023	Interim
Cygnets*	Family and Community Services	2	16 October 2022	2 November 2022	Final
Avon/Mezzo*	Department of Premier and Cabinet	2	20 May 2023	19 October 2023	Final

* Implementation of other recommendations was finalised in earlier reporting periods.

Appendix 6 – Strategic alliances to optimise investigative outcomes

Assistance provided by external agencies and other liaison

The NSW Police Force and NSW Crime Commission assisted the Commission in technical surveillance deployments and research.

Assistance provided to external agencies

During the reporting year, the Commission’s physical and technical surveillance teams assisted external agencies, including the Australian Taxation Office, the Australian Commission for Law Enforcement Integrity and the NSW Police Force.

Telecommunications interception and access alliances

Commission officers took part in various groups to benchmark its capabilities. In the reporting period, meetings took place with the Interception Consultative Committee, Special Networks Committee, Inter-agency Technical Group and SEDNode User Group. Further, Commission officers engaged with the Commonwealth Attorney

General's Department and the Commonwealth Ombudsman's Office on Electronic Surveillance Reform and risk-based oversight of intrusive powers.

The Commission received assistance from South Australia Police, the NSW Law Enforcement Conduct Commission and the NSW Police Force through training and cooperation in assessing capabilities associated with the *Telecommunications (Interception and Access) Act 1979*, such as telecommunications data and international production orders.

National Anti-Corruption Investigation Network (NACIN) and National Intelligence Network (NIN)

During the year, Commission officers attended online forums with various state integrity agencies to determine and assist the hosts of the second NACIN and NIN conferences, to be held in Victoria in September 2023.

Other alliances

During the reporting period, Commission officers were observers at Australia and New Zealand Counter Terrorism Committee meetings to discuss physical and technical surveillance capabilities.

A delegation from the Commission attended a joint integrity agency meeting in March to discuss challenges in the proliferation of unstructured digital evidence.

Commission representatives have joined a recently-formed intelligence practitioners' working group, established by Commonwealth agencies, to assist the continued development of intelligence functions within government agencies.

Appendix 7 – Prosecution and disciplinary action in 2022–23 arising from ICAC investigations

Table 38: Progress of prosecution matters in 2022–23

The date the investigation report was published is in brackets.

The "Crimes Act" refers to the *Crimes Act 1900* (NSW), the "ICAC Act" refers to the *Independent Commission Against Corruption Act 1988* (NSW) and the "EFED Act" refers to the *Election Funding, Expenditure and Disclosures Act 1981* (NSW).

Investigation into attempted corrupt payment and submission of false resumé to public authorities (Operation Avoca) (August 2010)

Name	Don Gamage
Offences recommended for DPP consideration	Section 249B Crimes Act (corrupt commissions or rewards), s 87 ICAC Act (false or misleading evidence), s 178BA Crimes Act, (obtaining a benefit by deception), s 192G of the Crimes Act (false or misleading statements) and s 80(c) ICAC Act (misleading a Commission officer).
DPP advice	On 20 January 2011, the DPP advised that there was sufficient evidence to charge Mr Gamage with one s 249B Crimes Act offence, seven s 178BB Crimes Act offences, one s 192G Crimes Act offence, two s 87 ICAC Act offences, one s 80(a) ICAC Act offence and one s 80(c) ICAC Act offence.
Status	The hearing commenced on 27 June 2023 and is currently part heard before the Local Court. The matter will be mentioned on 5 March 2024, with the hearing set down to continue between 25 and 28 March 2024. The matters relating to offences pursuant to the ICAC Act are listed on 11 April 2024 for mention, with the hearing set down to continue between 6 and 8 May 2024.

Investigation into the conduct of Moses Obeid, Eric Roozendaal and others (Operation Indus) (July 2013)

Name	Moses Obeid
Offences recommended for DPP consideration	Section 87 ICAC Act (false or misleading evidence).
DPP advice	On 8 September 2016, the DPP advised that there was sufficient evidence to charge Moses Obeid with 16 s 87(1) ICAC Act offences.
Status	On 24 April 2023, Moses Obeid pleaded guilty to two offences pursuant to s 87 of the ICAC Act. The matters are listed for sentence on 30 August 2023.

Name	Rocco Triulcio
Offences recommended for DPP consideration	Section 87 ICAC Act (false or misleading evidence).
DPP advice	On 8 September 2016, the DPP advised that there was sufficient evidence to charge Rocco Triulcio with 18 s 87(1) ICAC Act offences.
Status	On 24 April 2023, Rocco Triulcio pleaded guilty to two offences pursuant to s 87 of the ICAC Act. The matters are listed for sentence on 6 September 2023.

Investigation into the conduct of Ian Macdonald, Edward Obeid Senior, Moses Obeid and others (Operation Jasper) (July 2013)

Name	Ian Macdonald
Offences recommended for DPP consideration	Common law offence of conspiracy to defraud or misconduct in public office.
DPP advice	On 17 July 2015, the DPP advised that it filed a court attendance notice for the common law offence of conspiracy to commit misconduct in public office.
Status	The trial commenced on 10 February 2020 but adjourned to 31 August 2020 due to the COVID-19 pandemic. The trial concluded in February 2021. Mr Macdonald was found guilty on 19 July 2021. He was sentenced on 21 October 2021 to nine years and six months imprisonment with a non-parole period of five years and three months. Between 17 and 20 April 2023, the NSW Court of Criminal Appeal heard Mr Macdonald's conviction appeal. On 6 June 2023, the NSW Court of Criminal Appeal heard Mr Macdonald's appeal against the severity of sentence. The judgments are reserved in both matters.

Name	Edward Obeid Senior
Offences recommended for DPP consideration	Criminal offences of conspiracy to defraud, or aiding and abetting or conspiracy to commit the offence of misconduct in public office.
DPP advice	On 17 July 2015, the DPP advised that it filed a court attendance notice for the common law offence of conspiracy to commit misconduct in public office.
Status	The trial commenced on 10 February 2020 but adjourned to 31 August 2020 due to the COVID-19 pandemic. The trial concluded in February 2021. Edward Obeid Senior was found guilty on 19 July 2021, and sentenced on 21 October 2021 to seven years imprisonment with a non-parole period of three years and 10 months. Between 17 and 20 April 2023, the NSW Court of Criminal Appeal heard Edward Obeid Senior's conviction appeal. The judgment is reserved.

Name	Moses Obeid
Offences recommended for DPP consideration	Criminal offences of conspiracy to defraud, or aiding and abetting or conspiracy to commit the offence of misconduct in public office.
DPP advice	On 17 July 2015, the DPP advised that it filed a court attendance notice for the common law offence of conspiracy to commit misconduct in public office.
Status	The trial commenced on 10 February 2020 but adjourned to 31 August 2020 due to the COVID-19 pandemic. The trial concluded in February 2021. Moses Obeid was found guilty on 19 July 2021 and sentenced on 21 October 2021 to five years with a non-parole period of three years. Between 17 and 20 April 2023, the NSW Court of Criminal Appeal heard Moses Obeid's conviction appeal. The judgment is reserved.

Investigation into the conduct of Ian Macdonald, John Maitland and others (Operation Acacia) (August 2013)

Name	Ian Macdonald
Offences recommended for DPP consideration	Common law offence of misconduct in public office.
DPP advice	On 5 November 2014, the DPP advised that there was sufficient evidence to prosecute Mr Macdonald for two offences of misconduct in public office.
Status	<p>On 30 March 2017, following a trial in the Supreme Court of NSW, Mr Macdonald was found guilty of both offences.</p> <p>On 2 June 2017, Mr Macdonald was sentenced to 10 years imprisonment, commencing on 26 May 2017 and expiring on 25 May 2027, with a non-parole period of seven years, commencing 26 May 2017 and expiring 25 May 2024. The sentence imposed for each offence was eight and seven years respectively.</p> <p>On 28 June 2017, Mr Macdonald filed a notice of intention to appeal his conviction and sentence.</p> <p>On 25 February 2019, the Court of Criminal Appeal allowed the appeal.</p> <p>The new trial commenced on 6 September 2022. On 20 December 2022, Mr Macdonald was found guilty. On 24 March 2023, he was sentenced to eight years imprisonment with a non-parole period of five years and six months for one offence and six years and six months for the other offence.</p> <p>On 11 April 2023, Mr Macdonald filed a notice of intention to appeal the conviction and sentence.</p>

Name	John Maitland
Offences recommended for DPP consideration	Section 178BB Crimes Act (obtain valuable thing by false or misleading statement), common law offence of accessory before the fact to misconduct in public office, offences under s 112(2) ICAC Act (contravening a non-publication direction), s 87(1) ICAC Act (false or misleading evidence) and s 184(1) <i>Corporations Act 2001</i> (Cth).
DPP advice	<p>On 2 September 2014, the DPP advised that there was sufficient evidence to prosecute Mr Maitland for a s 87 ICAC Act offence.</p> <p>On 5 November 2014, the DPP advised there was sufficient evidence to prosecute Mr Maitland for two offences of accessory before the fact to misconduct in public office.</p> <p>On 17 July 2015, the DPP advised there was sufficient evidence to prosecute Mr Maitland for five s 178BB Crimes Act offences.</p>
Status	<p>On 21 December 2015, Mr Maitland was convicted of the s 87 offence. On 7 March 2016, he was placed on a good behaviour bond for two years and ordered to pay a fine of \$3,000. He appealed. On 13 October 2016, the District Court dismissed the appeal.</p> <p>On 30 March 2017, following a trial in the Supreme Court of NSW, Mr Maitland was found guilty of two offences of accessory before the fact to misconduct in public office.</p> <p>On 2 June 2017, he was sentenced to six years imprisonment, commencing on 26 May 2017 and expiring on 25 May 2023, with a non-parole period of four years, commencing 26 May 2017 and expiring 25 May 2021. The sentence imposed for each offence was five and four years respectively.</p> <p>On 22 June 2017, Mr Maitland filed a notice of intention to appeal his conviction and sentence. On 25 February 2019, the Court of Criminal Appeal allowed the appeal and a new trial was ordered.</p> <p>On 20 December 2022, Mr Maitland was found not guilty (see <i>R v Maitland</i> (No 10 - verdict) [2022] NSWSC 1765).</p> <p>The matters relating to the s 178BB charges were set down for trial in the District Court on 6 September 2017. On 25 September 2017, the District Court ordered a permanent stay of proceedings.</p>

Investigation into the conduct of a Mine Subsidence Board district manager (Operation Tunic) (March 2016)

Name	Darren Bullock
Offences recommended for DPP consideration	Section 249B(1) Crimes Act (corrupt commissions), misconduct in public office, s 253 Crimes Act (forgery), s 254 Crimes Act (using false document) s 351A Crimes Act (recruiting person to engage in criminal activity), s 87 ICAC Act (false or misleading evidence), s 88(2)(a) ICAC Act (destroy document) and s 89(a) ICAC Act (procure false evidence).
DPP advice	On 16 December 2021, the DPP advised that there was sufficient evidence to proceed with 99 offences pursuant to the s 249B Crimes Act offences, one offence pursuant to the s 351A Crimes Act offence, 17 offences of misconduct in public office, five offences pursuant to s 87 of the ICAC Act and one offence pursuant to s 89(a) of the ICAC Act.
Status	On 15 June 2023, Mr Bullock pleaded guilty to two counts of corruptly receiving a benefit of more than \$15,000 pursuant to s 249B of the Crimes Act, two counts of giving false or misleading evidence pursuant to s 87 of the ICAC Act and two counts of misconduct in public office. The other matters were withdrawn. The matter is listed for sentence on 3 November 2023 at the Sydney District Court.

Investigation into NSW Liberal Party electoral funding for the 2011 state election campaign and other matters (Operation Spicer) (August 2016)

Name	William Saddington
Offences recommended for DPP consideration	Section 87 ICAC Act (false or misleading evidence).
DPP advice	On 21 December 2020, the DPP advised that there was sufficient evidence to charge Mr Saddington with one offence under s 87 of the ICAC Act.
Status	On 24 October 2022, the hearing commenced and was to continue on 1 March 2023 at the Downing Centre Local Court. On 1 March 2023, the DPP directed that there be no further proceedings against Mr Saddington. The single charge of giving false or misleading evidence pursuant to s 87 of the ICAC Act was subsequently withdrawn and dismissed.

Name	Timothy Koelma
Offences recommended for DPP consideration	Section 87 ICAC Act (false or misleading evidence).
DPP advice	On 2 November 2020, the DPP advised that there was sufficient evidence to charge Mr Koelma with six offences pursuant to s 87 of the ICAC Act.
Status	On 23 November 2022, at Sydney District Court, Mr Koelma pleaded guilty to two s 87 offences with a third being placed on a Form 1 (to be taken into account when sentenced). On 21 March 2023, Mr Koelma was convicted of two s 87 ICAC Act offences. He was sentenced for each offence to imprisonment for 15 months. This sentence was partially accumulated to a total sentence term of one year and six months. The sentence is to be served by way of intensive corrections order and include 150 hours of community service, commencing on 21 March 2023 and ending on 20 September 2024.

Name	Christopher Hartcher
Offences recommended for DPP consideration	Section 117 Crimes Act (larceny).
DPP advice	On 20 February 2017, a brief of evidence was provided to the DPP.
Status	On 15 November 2022, the DPP advised that there was insufficient evidence to prosecute Mr Hartcher for an offence under s 117 of the Crimes Act and of larceny pursuant to s 117 of the Crimes Act and, while there is a prima facie case for the offence of fraudulent appropriation pursuant to s 124 of the Crimes Act and it cannot be said that there is no reasonable prospect of conviction, because s 124 is a strict statutory alternative to the offence of larceny and there is insufficient evidence to prosecute Mr Hartcher for the offence of larceny, the statutory alternative is not available. The Commission has accepted the DPP's advice.

Name	Joseph Tripodi
Offences recommended for DPP consideration	Common law offence of misconduct in public office.
DPP advice	On 20 February 2017, a brief of evidence was provided to the DPP.
Status	The Commission is awaiting final DPP advice.

Investigation into the conduct of a senior officer of the NSW Department of Justice and others (Operation Yancey) (November 2016)

Name	Anthony Andjic
Offences recommended for DPP consideration	Section 192E(1) Crimes Act (fraud), s 192G Crimes Act (false or misleading statement), conspiracy to commit an offence under s 192G Crimes Act (false or misleading statement) and s 87 ICAC Act (false or misleading evidence).
DPP advice	On 10 March 2020, the DPP advised that there was sufficient evidence to prosecute Mr Andjic for eight offences of misconduct in public office, one s 192E Crimes Act offence, one s 192G Crimes Act offence and one s 87 ICAC Act offence. On 14 October 2020, the DPP advised that there was sufficient evidence to prosecute Mr Andjic for two further offences under s 87 of the ICAC Act.
Status	On 25 February 2021, Mr Andjic indicated his intention to plead guilty to four counts of misconduct in public office offences. Two further offences of misconduct in public office were merged with the earlier listed charges, and two offences of misconduct in public office were to be taken into account on sentencing by way of a Form 1, together with the s 192G Crimes Act offence. The s 192E Crimes Act offence was withdrawn. On 25 March 2021, Mr Andjic pleaded guilty. On 30 September 2022, Mr Andjic was sentenced to imprisonment for 18 months to be served by way of intensive corrections order.

Name	Fatima Hammoud
Offences recommended for DPP consideration	Section 193C(2) Crimes Act (dealing with property suspected of being proceeds of crime), conspiracy to commit an offence under s 192G Crimes Act (false or misleading statement) and s 87 ICAC Act (false or misleading evidence).
DPP advice	On 10 March 2020, the DPP advised that there was sufficient evidence to prosecute Ms Hammoud for one s 192G Crimes Act offence and two s 87 ICAC Act offences. On 14 October 2020, the DPP advised that there was sufficient evidence to prosecute Ms Hammoud for four further offences under s 87 of the ICAC Act.
Status	On 25 March 2021, Ms Hammoud pleaded guilty to the Crimes Act offence. On 25 June 2021, she pleaded guilty to five ICAC Act offences. On 18 August 2021, an application under s 32 of the <i>Mental Health (Forensic Provisions) Act 1990</i> (NSW) was heard and refused. Ms Hammoud was sentenced to a community corrections order for 18 months and fined \$1,100 for the s 87 ICAC Act offence. On 30 September 2022, she was sentenced to imprisonment for eight months to be served by way of intensive corrections order for the ICAC Act offences.

Investigation into the conduct of the former City of Botany Bay Council chief financial officer and others (Operation Ricco) (July 2017)

Name	Keith Mark
Offences recommended for DPP consideration	Section 192E Crimes Act (fraud).
DPP advice	On 15 February 2021, the DPP advised that there was sufficient evidence to prosecute Mr Mark for six offences pursuant to s 192E of the Crimes Act.
Status	<p>On 23 December 2021, following plea negotiations, Mr Mark pleaded guilty to four offences pursuant to s 192E of the Crimes Act. The matter was listed for sentence on 18 February 2022 and was adjourned to 13 April 2022 as the sentencing assessment report was not available. On 13 April 2022, the matter was adjourned and listed for sentence on 23 May 2022. On 23 May 2022, the matter was adjourned to 18 July 2022 to allow a new sentencing assessment report to be completed.</p> <p>On 18 July 2022, the matter was heard at Downing Centre Local Court. Mr Mark was convicted of four fraud offences and was sentenced to 12 months imprisonment, to be served by way of an intensive corrections order.</p>

Name	Marny Baccam
Offences recommended for DPP consideration	Section 192E Crimes Act (fraud) and s 87 ICAC Act (false or misleading evidence).
DPP advice	<p>On 19 November 2020, the DPP advised that there was sufficient evidence to prosecute Ms Baccam for 71 s 192E offences.</p> <p>On 2 March 2021, the DPP advised that there was sufficient evidence to prosecute Ms Baccam with an offence under s 87 of the ICAC Act.</p>
Status	<p>On 17 February 2022, following plea negotiations, Ms Baccam pleaded guilty to three s 192E offences and one s 87 offence.</p> <p>On 19 August 2022, Ms Baccam was convicted and sentenced to a total aggregate sentence of two years imprisonment, with a non-parole period of 14 months. On 18 November 2022, at Sydney District Court, Ms Baccam appealed the severity of her sentence. The court did not disturb the indicative sentences, however, she was sentenced to a new total aggregate sentence of 18 months imprisonment, with a non-parole period of nine months.</p>

Name	Lorraine Cullinane
Offences recommended for DPP consideration	Common law offence of misconduct in public office.
DPP advice	Brief provided to the DPP on 16 March 2018. On 6 December 2022, the DPP advised that there was insufficient evidence to proceed. The Commission accepted the DPP's advice.

Investigation into the conduct of a former NSW Department of Justice officer and others (Operation Artek) (August 2017)

Name	Leslie Reynolds
Offences recommended for DPP consideration	Section 249B(1) Crimes Act (corrupt commissions or rewards) or common law offence of misconduct in public office and s 87 ICAC Act (false or misleading evidence).
DPP advice	On 14 October 2021, the DPP advised that there was sufficient evidence to prosecute Mr Reynolds for one offence pursuant to s 249B of the Crimes Act.
Status	On 28 October 2022, Mr Reynolds' matter was listed for sentence in the Sydney District Court on 9 February 2023 with a disputed facts hearing. On 9 and 10 February 2023, Mr Reynolds' sentencing matter was heard in the Sydney District Court. Mr Reynolds was sentenced and received a three-year community corrections order. On 17 March 2023, the District Court made a pecuniary penalty order for the sum of \$17,000 to be paid to the state by Mr Reynolds.

Name	Khader Ghamrawi
Offences recommended for DPP consideration	Section 249B(1) Crimes Act (corrupt commissions or rewards) or aiding and abetting the common law offence of misconduct in public office.
DPP advice	On 14 October 2021, the DPP advised that there was sufficient evidence to prosecute Mr Ghamrawi for one s 249B Crimes Act offence and one aiding or abetting common law offences of misconduct in public office.
Status	On 15 March 2023, Mr Ghamrawi pleaded guilty to one count of giving a corrupt commission or reward and one count of aiding or abetting common law offences of misconduct in public office was withdrawn. Mr Ghamrawi was sentenced on 26 May 2023 and received a three-year community corrections order.

Investigation into dealings between Australian Water Holdings Pty Ltd and Sydney Water Corporation and related matters (Operation Credo) (August 2017)

Name	Gilbert Brown
Offences recommended for DPP consideration	Common law offence of misconduct in public office.
DPP advice	On 28 September 2021, the DPP advised that there was sufficient evidence to prosecute Mr Brown for an offence of misconduct in public office.
Status	The matters are listed for committal on 14 September 2023.

Name	Anthony Kelly
Offences recommended for DPP consideration	Common law offence of misconduct in public office.
DPP advice	On 28 September 2021, the DPP advised that there was sufficient evidence to prosecute Mr Kelly for an offence of misconduct in public office.
Status	The matters are listed for committal on 14 September 2023.

Name	Edward Obeid Senior
Offences recommended for DPP consideration	Common law offence of misconduct in public office.
DPP advice	On 28 September 2021, the DPP advised that there was sufficient evidence to prosecute Mr Obeid for an offence of misconduct in public office.
Status	The matters are listed for committal on 14 September 2023.

Name	Joseph Tripodi
Offences recommended for DPP consideration	Common law offence of misconduct in public office.
DPP advice	On 28 September 2021, the DPP advised that there was sufficient evidence to prosecute Mr Tripodi for an offence of misconduct in public office.
Status	The matters are listed for committal on 14 September 2023.

Investigation into the conduct of a principal officer of two non-government organisations and others (Operation Tarlo) (September 2018)

Name	Eman Sharobeem
Offences recommended for DPP consideration	Common law offence of misconduct in public office, s 192E Crimes Act 9 (fraud), s 178BA Crimes Act (obtaining a benefit by deception), 192H Crimes Act (publishing a false statement), s 254 Crimes Act (using a false document) and s 87 ICAC Act (false or misleading evidence).
DPP advice	Brief provided to the DPP on 12 November 2019 but subsequently withdrawn by the Commission on 11 April 2022.
Status	New brief being prepared.

Investigation into the conduct of a Department of Finance, Services and Innovation ICT project manager (Operation Yarrow) (January 2019)

Name	Steven Prestage
Offences recommended for DPP consideration	Section 192G Crimes Act (publishing false statements with an intention to obtain a financial advantage), s 92 ICAC Act (wilfully preventing or wilfully endeavouring to prevent a witness from attending the ICAC), s 89 ICAC Act (procuring the giving of false testimony at a compulsory examination pursuant) and s 87 ICAC Act (false or misleading evidence).
DPP advice	On 25 June 2020, the DPP advised there was sufficient evidence to prosecute Mr Prestage for 18 offences under s 192E of the Crimes Act, 12 offences under s 87 of the ICAC Act and one offence under s 89 of the ICAC Act.
Status	The Crimes Act offences are for trial to commence on 28 August 2023. The ICAC Act offences are for trial to commence on 20 November 2023.

Investigation into the conduct of NSW Corrective Services officers at Lithgow Correctional Centre (Operation Estry) (June 2019)

Name	John O'Shea
Offences recommended for DPP consideration	Section 315 Crimes Act (principal in the second degree to the offence of inciting an assault, hindering an investigation), s 319 Crimes Act (perverting the course of justice or attempting or conspiring to do so), the common law offence of misconduct in public office and s 80 ICAC Act (wilfully obstructing the Commission).
DPP advice	On 21 April 2022, the DPP advised that there was sufficient evidence to prosecute one s 319 Crimes Act offence and one misconduct in public office offence.
Status	On 19 May 2023, the matters were set down for a joint trial in the Sydney District Court on 26 February 2024.

Name	Terrence Walker
Offences recommended for DPP consideration	Section 59(1) Crimes Act (assault occasioning actual bodily harm), s 315 Crimes Act (hindering an investigation), s 319 Crimes Act (perverting the course of justice or attempting or conspiring to do so) and the common law offence of misconduct in public office.
DPP advice	On 21 April 2022, the DPP advised that there was sufficient evidence to prosecute one s 59(2) Crimes Act offence (assault occasioning actual bodily harm), one s 319 Crimes Act offence and one misconduct in public office offence.
Status	On 21 April 2023, Mr Walker pleaded guilty to assault occasioning actual bodily harm and misconduct in public office. The charge of intent to pervert the course of justice was withdrawn. Mr Walker was committed to the Sydney District Court for sentence with the first mention listed for 12 May 2023. The Crown made a detention application pursuant to section 22B of the <i>Bail Act 2013</i> (NSW) and bail was revoked. The matter is listed for sentence on 27 July 2023.

Name	Brian McMurtrie
Offences recommended for DPP consideration	Section 315 Crimes Act (hindering an investigation), s 319 Crimes Act (perverting the course of justice or attempting or conspiring to do so), the common law offence of misconduct in public office and s 87 ICAC Act (false or misleading evidence).
DPP advice	On 21 April 2022, the DPP advised that there was sufficient evidence to prosecute for one s 319 Crimes Act offence and one misconduct in public office offence. On 13 July 2022, the DPP advised that there was sufficient evidence to prosecute for two s 87 ICAC Act offences.
Status	On 2 March 2023, Mr McMurtrie pleaded guilty to two s 87 ICAC Act offences and was committed for sentence to the Sydney District Court on 17 March 2023. On 17 March 2023, these matters were adjourned to 9 October 2023 for sentence in the Sydney District Court. On 1 June 2023, Mr McMurtrie pleaded guilty to misconduct in public office. The matter is listed for mention on 21 July 2023 to obtain a sentence date.

Name	Stephen Taylor
Offences recommended for DPP consideration	Section 315 Crimes Act (hindering an investigation), s 319 Crimes Act (perverting the course of justice or attempting or conspiring to do so), s 316(1) Crimes Act (concealing a serious indictable offence) and the common law offence of misconduct in public office.
DPP advice	On 21 April 2022, the DPP advised that there was sufficient evidence to prosecute for an offence of misconduct in public office.
Status	On 12 May 2023, Mr Taylor pleaded not guilty to the offence of misconduct in public office and his matter was further adjourned until 19 May 2023. On 19 May 2023, the matter was set down for a joint trial in the Sydney District Court on 26 February 2024 with an estimate of five–six weeks. A readiness hearing is listed for 8 December 2023 and a call over is listed for 22 February 2024.

Name	Simon Graf
Offences recommended for DPP consideration	Section 315 Crimes Act (hindering an investigation), s 319 Crimes Act (perverting the course of justice or attempting or conspiring to do so), the common law offence of misconduct in public office, s 87 ICAC Act (false or misleading evidence) and s 80 ICAC Act (wilfully obstructing the ICAC).
DPP advice	On 13 July 2022, the DPP advised that there was sufficient evidence to prosecute for two offences of giving false evidence under s 87(1) of the ICAC Act and counts of wilfully making a false statement to an officer of the Commission pursuant to s 80(c) of the ICAC Act. Those offences had since become statute barred and were no longer available, the statute of limitations having expired on 11 January 2021 and 2 August 2020 respectively.
Status	On 16 February 2023, Mr Graf pleaded guilty to two s 87 ICAC Act offences. The matter is listed for sentence on 9 October 2023.

Name	Elliott Duncan
Offences recommended for DPP consideration	Section 315 Crimes Act (hindering an investigation), s 319 Crimes Act (perverting the course of justice or attempting or conspiring to do so), the common law offence of misconduct in public office and s 87 ICAC Act (false or misleading evidence).
DPP advice	On 21 April 2022, the DPP advised that there was sufficient evidence to prosecute for one s 59(2) offence (assault occasioning actual bodily harm), one s 319 offence and one misconduct in public office offence.
Status	On 29 June 2023, Mr Duncan pleaded guilty to misconduct in public office and not guilty to the offences of pervert the course of justice and assault occasioning actual bodily harm. The matters were committed to Sydney District Court and listed for arraignment on 11 August 2023.

Investigation into the over-payment of public funds by the University of Sydney for security services (Operation Gerda) (May 2020)

Name	Emir Balicevac
Offences recommended for DPP consideration	Section 249B Crimes Act (corrupt commissions or rewards), s 192E Crimes Act (fraud) and s 192G Crimes Act (making a misleading statement), regulation 42 of the Security Industry Regulation 2016, regulation 44 of the Security Industry Regulation 2007 and s 87 ICAC Act (false or misleading evidence).
Status	Brief of evidence under preparation.

Name	Daryl McCreadie
Offences recommended for DPP consideration	Section 249B Crimes Act (corrupt commissions or rewards), s 192E Crimes Act (fraud) and s 192G Crimes Act (making a misleading statement) regulation 42 of the Security Industry Regulation 2016 and regulation 44 of the Security Industry Regulation 2007.
Status	Brief of evidence under preparation.

Name	Frank Lu
Offences recommended for DPP consideration	Section 192E Crimes Act (fraud), s 192G Crimes Act (making a misleading statement), regulation 42 of the Security Industry Regulation 2016 and regulation 44 of the Security Industry Regulation 2007.
Status	Brief of evidence under preparation.

Name	George Boutros
Offences recommended for DPP consideration	Section 192E Crimes Act (fraud), s 192G Crimes Act (making a misleading statement), regulation 42 of the Security Industry Regulation 2016 and regulation 44 of the Security Industry Regulation 2007.
Status	Brief of evidence under preparation.

Name	Taher Sirour
Offences recommended for DPP consideration	Section 249B Crimes Act (corrupt commissions or rewards), s 192E Crimes Act (fraud) and s 192G Crimes Act (making a misleading statement), aiding and abetting offences contrary to s 135.1 of the <i>Criminal Code Act 1995</i> (Cth) (dishonestly obtaining a gain from the Commonwealth).
Status	Brief of evidence under preparation.

Name	Dennis Smith
Offences recommended for DPP consideration	Section 249B(1)(a) or s 249B(1)(b) Crimes Act (corrupt commissions or rewards) and s 87(1) ICAC Act (false or misleading evidence).
Status	Brief of evidence under preparation.

Investigation into the alleged corrupt practices of a headlease coordinator at the NSW Department of Family and Community Services (Operation Cygnet) (August 2020)

Name	Chanse Baynham
Offences recommended for DPP consideration	Section 192E Crimes Act (fraud) and common law offences of misconduct in public office.
Status	Brief of evidence provided to the DPP on 22 November 2022.

Investigation into the conduct of councillors of the former Canterbury City Council and others (Operation Dasha) (March 2021)

Name	Michael Hawatt
Offences recommended for DPP consideration	Section 249B Crimes Act (corrupt commissions or rewards), s 249K Crimes Act (blackmail), the common law offence of misconduct in public office and s 87 ICAC Act (false or misleading evidence).
DPP advice	On 19 April 2023, the DPP advised that there was sufficient evidence to charge Mr Hawatt with three offences of giving false or misleading evidence under s 87 of the ICAC Act.
Status	The matter is listed for mention at the Downing Centre Local Court on 21 August 2023.

Name	Pierre Azzi
Offences recommended for DPP consideration	Section 249K Crimes Act (blackmail) and the common law offence of misconduct in public office.
DPP advice	On 19 April 2023, the DPP advised that there was insufficient evidence to charge Mr Azzi. The Commission accepted the DPP's advice.

Name	Spiro Stavis
Offences recommended for DPP consideration	The common law offence of misconduct in public office.
DPP advice	On 19 April 2023, the DPP advised that there was insufficient evidence to charge Mr Stavis. The Commission accepted the DPP's advice.

Name	Charbel Demian
Offences recommended for DPP consideration	Section 87 ICAC Act (false or misleading evidence).
DPP advice	On 19 April 2023, the DPP advised that there was sufficient evidence to charge Mr Demian with one offence of giving false or misleading evidence under s 87 of the ICAC Act.
Status	The matter is listed for mention at the Downing Centre Local Court on 21 August 2023.

Name	Daryl Maguire
Offences recommended for DPP consideration	Section 87 ICAC Act (false or misleading evidence).
DPP advice	On 19 April 2023, the DPP advised that there was sufficient evidence to charge Mr Maguire with one offence of giving false or misleading evidence under s 87 of the ICAC Act.
Status	The matter is listed for mention at the Downing Centre Local Court on 21 August 2023.

Name	Marwan Chanine
Offences recommended for DPP consideration	Section 87 ICAC Act (false or misleading evidence).
DPP advice	On 19 April 2023, the DPP advised that there was insufficient evidence to charge Mr Chanine. The Commission accepted the DPP's advice.

Investigation into the conduct of a Services NSW officer (Operation Mistral) (May 2021)

Name	Diana Benyamin
Offences recommended for DPP consideration	Sections 249B Crimes Act (corrupt commissions or rewards), s 307A Crimes Act (false or misleading application), s 62(1) <i>Privacy and Personal Information Protection Act 1998</i> (NSW) (corrupt disclosure and use of personal information) and s 87 ICAC Act (false or misleading evidence).
Status	Brief of evidence provided to the DPP on 22 December 2022.

Name	Fahad Al-Dakak
Offences recommended for DPP consideration	Section 249B Crimes Act (corrupt commissions or rewards), s 307A Crimes Act (false or misleading application) and s 308H Crimes Act (accessing restricted data), s 62(1) and s 6(2) of the <i>Privacy and Personal Information Protection Act 1998</i> (corrupt disclosure and use of personal information).
Status	Brief of evidence provided to the DPP on 22 December 2022.

Investigation into the sourcing of software systems for the Western Sydney Institute of TAFE (Operation Lancer) (October 2021)

Name	Hasan Mamun
Offences recommended for DPP consideration	Section 249B Crimes Act (corrupt commissions or rewards), s 253 Crimes Act and s 254 Crimes Act (making and using false document) and s 192G Crimes Act (making and concurring in the making or publication of false or misleading statements with the intention of obtaining a financial advantage).
Status	Brief of evidence under preparation.*

Name	Samiul Kabir
Offences recommended for DPP consideration	Section 249B Crimes Act (corrupt commissions or rewards) and s 192G Crimes Act (making and concurring in the making or publication of false or misleading statements with the intention of obtaining a financial advantage).
Status	Brief of evidence under preparation.*

Name	Oscillosoft Pty Ltd
Offences recommended for DPP consideration	Section 249B Crimes Act (corrupt commissions or rewards).
Status	Brief of evidence under preparation.*

Name	Kazi Hassan
Offences recommended for DPP consideration	Section 249B(2) Crimes Act (corrupt commissions or rewards).
Status	Brief of evidence under preparation.*

Name	Ashique Ibrahim
Offences recommended for DPP consideration	Section 249B(2) Crimes Act (corrupt commissions or rewards).
Status	Brief of evidence under preparation.*

Name	Mohammad Suza-Ud-Dawllah
Offences recommended for DPP consideration	Section 249B Crimes Act (corrupt commissions or rewards).
Status	Brief of evidence under preparation.*

Name	Monzurul Hoque
Offences recommended for DPP consideration	Section 192G Crimes Act (publishing false or misleading statements with the intention of obtaining a financial advantage).
Status	Brief of evidence under preparation.*

*Both the complexity of the matter and the need to prioritise resources in other areas have delayed finalisation of the brief.

Investigation into political donations facilitated by Chinese Friends of Labor in 2015 (Operation Aero) (February 2022)

Name	Ernest Wong
Offences recommended for DPP consideration	Section 96HB EFED Act (entering into a scheme), s 110A(7) EFED Act (providing false or misleading document), s 315 Crimes Act (hindering an investigation), s 319 Crimes Act (attempting to pervert the course of justice), s 87 ICAC Act (false or misleading evidence), s 89 ICAC Act (procuring false testimony) and s 112 ICAC Act (breach of non-publication direction).
Status	Brief of evidence under preparation.**

Name	Huang Xiangmo
Offences recommended for DPP consideration	Section 96HB EFED Act (entering into a scheme).
Status	Brief of evidence under preparation.**

Name	Jonathan Yee
Offences recommended for DPP consideration	Section 96HB EFED Act (entering into a scheme), s 96H(2) EFED Act (making a false statement), s 110A(7) EFED Act (providing false or misleading document), s 315 Crimes Act (hindering an investigation), s 87 ICAC Act (false or misleading evidence) and s 89 ICAC Act (procuring false testimony).
Status	Brief of evidence under preparation.**

Name	Kenrick Cheach
Offences recommended for DPP consideration	Section 87 ICAC Act (giving false or misleading evidence) and s 112 ICAC Act (breach of non-publication direction).
Status	Brief of evidence under preparation.**

Name	Valentine Yee
Offences recommended for DPP consideration	Section 96H(2) EFED Act (making a false statement) and s 110A(7) EFED Act (providing false or misleading document), s 87 ICAC Act (false or misleading evidence) and s 89 ICAC Act (procuring false testimony).
Status	Brief of evidence under preparation.**

Name	May Ho Yee
Offences recommended for DPP consideration	Section 87 ICAC Act (false or misleading evidence) and s 112 ICAC Act (breach of non-publication direction).
Status	Brief of evidence under preparation.**

Name	Emperor's Garden Pty Ltd
Offences recommended for DPP consideration	Section 96H(2) EFED Act (making a false statement) and s 110A(7) EFED Act (providing false or misleading document).
Status	Brief of evidence under preparation.**

Name	Lei Mo
Offences recommended for DPP consideration	Section 96H(2) EFED Act (making a false statement), s 110A(7) EFED Act (providing false or misleading document) and s 87 ICAC Act (false or misleading evidence).
Status	Brief of evidence under preparation.**

Name	Patricia Siu
Offences recommended for DPP consideration	Section 96H(2) EFED Act (making a false statement), s 110A(7) EFED Act (providing false or misleading document), s 80 ICAC Act (obstruct or hinder the Commission), s 87 ICAC Act (false or misleading evidence) and s 112 ICAC Act (breach of non-publication direction).
Status	Brief of evidence under preparation.**

Name	Teresa Tam
Offences recommended for DPP consideration	Section 110A(7) EFED Act (providing false or misleading document), s 87 ICAC Act (false or misleading evidence) and s 112 ICAC Act (breach of non-publication direction).
Status	Brief of evidence under preparation.**

Name	Ming Tam
Offences recommended for DPP consideration	Section 87 ICAC Act (false or misleading evidence).
Status	Brief of evidence under preparation.**

Name	Wei Shi
Offences recommended for DPP consideration	Section 96H(2) EFED Act (making a false statement), s 110A(7) EFED Act (providing false or misleading document), s 87 ICAC Act (false or misleading evidence) and s 112 ICAC Act (breach of non-publication direction).
Status	Brief of evidence under preparation.**

Name	Johnnie Lin
Offences recommended for DPP consideration	Section 96H(2) EFED Act (making a false statement), s 110A(7) EFED Act (providing false or misleading document) and s 87 ICAC Act (false or misleading evidence).
Status	Brief of evidence under preparation.**

Name	To Yip
Offences recommended for DPP consideration	Aiding, abetting, counselling or procuring offences under s 96H(2) EFED Act (making a false statement), s 110A(7) EFED Act (providing false or misleading document) and s 87 ICAC Act (false or misleading evidence).
Status	Brief of evidence under preparation.**

Name	Harbour City Group Pty Ltd
Offences recommended for DPP consideration	Section 96H(2) EFED Act (making a false statement) and s 110A(7) EFED Act (providing false or misleading document).
Status	Brief of evidence under preparation.**

Name	Steve Tong
Offences recommended for DPP consideration	Section 110A(7) EFED Act (providing false or misleading document).
Status	Brief of evidence under preparation.**

Name	Alex Wood
Offences recommended for DPP consideration	Section 89 ICAC Act (procuring false testimony).
Status	Brief of evidence under preparation.**

Name	Maggie Wang
Offences recommended for DPP consideration	Section 87 ICAC Act (false or misleading evidence).
Status	Brief of evidence under preparation.**

**The complexity of the briefs, involving a substantial number of people and offences, requires a substantial allocation of time to complete the briefs to an appropriate standard.

Investigation into the awarding of contracts by employees of the former NSW Roads and Maritime Services (Operation Ember) (May 2022)

Name	Samer Soliman
Offences recommended for DPP consideration	Section 192E Crimes Act (fraud) and s 249B Crimes Act (corrupt commissions or rewards), misconduct in public office and s 87 ICAC Act (false or misleading evidence).
Status	Brief of evidence under preparation.***

Name	Stephen Thammiah
Offences recommended for DPP consideration	Section 192E Crimes Act (fraud) and s 249B Crimes Act (corrupt commissions or rewards), aiding and abetting misconduct in public office and s 87 ICAC Act (false or misleading evidence).
Status	Brief of evidence under preparation.***

Name	Ali Hamidi
Offences recommended for DPP consideration	Section 192E Crimes Act (fraud) and s 249B Crimes Act (corrupt commissions or rewards) and aiding and abetting misconduct in public office.
Status	Brief of evidence under preparation.***

***Prioritisation of work in other areas has delayed finalisation of the brief.

Investigation into the conduct of the local member for Drummoyne (Operation Witney) (July 2022)

Name	John Sidoti
Offences recommended for DPP consideration	Misconduct in public office.
Status	Brief of evidence under preparation.

Investigation into dealings involving Awabakal Local Aboriginal Land Council (Operation Skyline) (October 2022)

Name	Nicholas Petroulias
Offences recommended for DPP consideration	Section 192E Crimes Act (fraud), s 249B Crimes Act (corruptly receiving commissions), the common law offence of aiding and abetting misconduct in public office and the offence of conspiracy to defraud.
Status	Brief of evidence under preparation.

Name	Despina Bakis
Offences recommended for DPP consideration	Section 192E Crimes Act (fraud), s 249F Crimes Act (aiding and abetting the receipt or giving of corrupt commissions), the common law offence of aiding and abetting misconduct in public office and the offence of conspiracy to defraud.
Status	Brief of evidence under preparation.

Name	Richard Green
Offences recommended for DPP consideration	Section 192E Crimes Act (fraud), s 249B Crimes Act (corruptly giving commissions), the common law offence of misconduct in public office and the offence of conspiracy to defraud.
Status	Brief of evidence under preparation.

Investigation into the awarding of Roads and Traffic Authority and Roads and Maritime Services contracts (Operation Paragon) (March 2023)

Name	Alexandre Dubois
Offences recommended for DPP consideration	Section 249B(1)(a) Crimes Act (corruptly soliciting and receiving benefits), s 192E Crimes Act (fraud), s 249C Crimes Act (giving documents containing anything false or misleading in a material respect with the intent to defraud), s 192G Crimes Act (dishonestly publishing a statement) and s 249B(2)(a) Crimes Act (corruptly soliciting or receiving a benefit).
Status	Brief of evidence under preparation.

Name	Craig Steyn
Offences recommended for DPP consideration	Section 249B(1) Crimes Act (corruptly soliciting and receiving benefits) and s 87 ICAC Act (false or misleading evidence).
Status	Brief of evidence under preparation.

Name	Chahid Chahine
Offences recommended for DPP consideration	Section 249B Crimes Act (corruptly giving a benefit) and s 193B(1)(a) Crimes Act (conspiring with, or aiding and abetting, in knowingly dealing with proceeds of crime).
Status	Brief of evidence under preparation.

Name	Barrak Hadid
Offences recommended for DPP consideration	Section 249B(2) Crimes Act (corruptly giving a benefit) and s 193B(1)(a) Crimes Act (conspiring with, or aiding and abetting, in knowingly dealing with the proceeds of crime).
Status	Brief of evidence under preparation.

Name	Towfik Taha
Offences recommended for DPP consideration	Section 249B(2) Crimes Act (corruptly giving a benefit), s 193B(1)(a) Crimes Act (conspiring with, or aiding and abetting, in knowingly dealing with the proceeds of crime) and s 87 of the ICAC Act (false or misleading evidence).
Status	Brief of evidence under preparation.

Name	Talal Rifai
Offences recommended for DPP consideration	Section 249B(2)(a) Crimes Act (corruptly giving a benefit).
Status	Brief of evidence under preparation.

Name	Bilal Najjarin
Offences recommended for DPP consideration	Section 249B(2)(a) Crimes Act (corruptly giving a benefit).
Status	Brief of evidence under preparation.

Name	Abdula Nachabe
Offences recommended for DPP consideration	Section 249B(2) Crimes Act (corruptly giving a benefit).
Status	Brief of evidence under preparation.

Name	Gamele Nachabe
Offences recommended for DPP consideration	Section 249B(2) Crimes Act (corruptly giving a benefit).
Status	Brief of evidence under preparation.

Name	Hassan Alameddine
Offences recommended for DPP consideration	Section 249B Crimes Act (corrupt commissions or rewards) and s 193B(1)(a) Crimes Act (conspiring with, or aiding and abetting, in knowingly dealing with the proceeds of crime).
Status	Brief of evidence under preparation.

Name	John Goldberg
Offences recommended for DPP consideration	Section 249B(2) Crimes Act (corruptly giving a benefit), s 193B(1)(a) Crimes Act (conspiring with, or aiding and abetting, in knowingly dealing with proceeds of crime) and s 87 ICAC Act (false or misleading evidence).
Status	Brief of evidence under preparation.

Name	Ashley Alexander
Offences recommended for DPP consideration	Section 249B(2) Crimes Act (corruptly giving a benefit) and s 87 ICAC Act (false or misleading evidence).
Status	Brief of evidence under preparation.

Name	Sandra Alexander
Offences recommended for DPP consideration	Section 249B(2) Crimes Act (corruptly giving a benefit).
Status	Brief of evidence under preparation.

Name	Steven Masters
Offences recommended for DPP consideration	Section 249B(2) Crimes Act (corruptly giving a benefit).
Status	Brief of evidence under preparation.

Investigation into the conduct of the then Member of Parliament for Wagga Wagga and then Premier and others (Operation Keppel) (June 2023)

Name	Daryl Maguire
Offences recommended for DPP consideration	Misconduct in public office and s 88(2) ICAC Act (relating to documents or other things).
Status	Brief of evidence under preparation.

Name	Maggie Wang
Offences recommended for DPP consideration	Section 87(1) ICAC Act (false or misleading evidence) and s 88(2) ICAC Act (relating to documents or other things).
Status	Brief of evidence under preparation.

Name	Philip Elliot
Offences recommended for DPP consideration	Section 87(1) ICAC Act (false or misleading evidence), s 88(2) ICAC Act (relating to documents or other things) and misconduct in public office (whether as a principal in the second degree, as a participant in a joint criminal enterprise or in some other accessorial liability).
Status	Brief of evidence under preparation.

Allegation concerning then Moree Local Aboriginal Land Council Chief Executive Officer, Susan Leslie-Briggs (Operation Kronos) (no public inquiry, no report)

Name	Susan Leslie-Briggs
DPP advice	Section 192E(1)(b) Crimes Act (dishonestly obtain a financial advantage by deception), s 192G(b) Crimes Act (dishonestly make false or misleading statement with intention of obtaining a financial advantage) and s 87 ICAC Act (false or misleading evidence).
Status	Listed for mention on 29 August 2023.

Progress of disciplinary matters in 2022–23

There were no outstanding disciplinary matters during the reporting period.

Appendix 8: Report on the ICAC’s obligations under the Government Information (Public Access) Act 2009

Section 125 of the *Government Information (Public Access) Act 2009* (“the GIPA Act”) requires an agency to prepare an annual report on the agency’s obligations under the GIPA Act. The Government Information (Public Access) Regulation 2018 sets out what must be included in the report. This appendix contains the information required to be reported by the ICAC.

Section 7(3) of the GIPA Act provides that an agency must, at intervals of not more than 12 months, review its program for the release of government information to identify the kinds of government information held by the agency that should in the public interest be made publicly available and that can be made publicly available without imposing unreasonable additional costs on the agency. During the reporting period, one such review was undertaken.

Tables 39–47 provide statistical information about access applications – clause 8(d) and Schedule 2.

Table 39: Number of applications by type of applicant and outcome*

	Access granted in full	Access granted in part	Access refused in full	Information not held	Information already available	Refuse to deal with application	Refuse to confirm/deny whether information is held	Application withdrawn
Media	0	0	0	0	0	0	0	0
Members of Parliament	0	0	0	0	0	0	0	0
Private sector business	0	0	0	0	0	0	0	0
Not-for-profit organisations or community groups	0	0	0	0	0	0	0	0
Members of the public (application by legal representative)	0	0	0	0	0	0	0	0
Members of the public (other)	0	0	0	0	0	0	0	0

* More than one decision can be made in respect of a particular access application. If so, a recording must be made in relation to each such decision. This also applies to Table 40.

Table 40: Number of applications by type of application and outcome

	Access granted in full	Access granted in part	Access refused in full	Information not held	Information already available	Refuse to deal with application	Refuse to confirm/deny whether information is held	Application withdrawn
Personal information applications*	0	0	0	0	0	0	0	0
Access applications (other than personal information applications)	0	0	0	0	0	0	0	0
Access applications that are partly personal information applications and partly other	0	0	0	0	0	0	0	0

* This is an access application for personal information (as defined in clause 4 of Schedule 4 to the GIPA Act) about the applicant (the applicant being an individual).

Table 41: Invalid applications

Reason for invalidity	Number of applications
Application does not comply with formal requirements (s 41 of the GIPA Act)	0
Application is for excluded information of the agency (s 43 of the GIPA Act)	3
Application contravenes restraint order (s 110 of the GIPA Act)	0
Total number of invalid applications received	3
Invalid applications that subsequently became valid applications	0

Table 42: Conclusive presumption of overriding public interest against disclosure: matters listed in Schedule 1 to GIPA Act

	Number of times consideration used*
Overriding secrecy laws	0
Cabinet information	0
Executive Council information	0
Contempt	0
Legal professional privilege	0
Excluded information	0
Documents affecting law enforcement and public safety	0
Transport safety	0
Adoption	0
Care and protection of children	0
Ministerial code of conduct	0
Aboriginal and environmental heritage	0
Information about complaints to Judicial Commission	0
Information about authorised transactions under <i>Electricity Network Assets (Authorised Transactions) Act 2015</i>	0
Information about authorised transaction under <i>Land and Property Information NSW (Authorised Transaction) Act 2016</i>	0

* More than one public interest consideration may apply in relation to a particular access application and, if so, each such consideration is to be recorded (but only once per application). This also applies in relation to Table 40.

Table 43: Other public interest considerations against disclosure: matters listed in table to s 14 of the GIPA Act

	Number of occasions when application not successful
Responsible and effective government	0
Law enforcement and security	0
Individual rights, judicial processes and natural justice	0
Business interests of agencies and other persons	0
Environment, culture, economy and general matters	0
Secrecy provisions	0
Exempt documents under interstate Freedom of Information legislation	0

Table 44: Timeliness

	Number of applications
Decided within the statutory timeframe (20 days plus any extensions)	0
Decided after 35 days (by agreement with applicant)	0
Not decided within time (deemed refusal)	0
Total	0

Table 45: Number of applications reviewed under Part 5 of the GIPA Act (by type of review and outcome)

	Decision varied	Decision upheld	Total
Internal review	0	0	0
Review by Information Commissioner*	0	0	0
Internal review following recommendation under s 93 of GIPA Act	0	0	0
Review by ADT/NCAT	0	0	0
Total	0	0	0

* The Information Commissioner does not have the authority to vary decisions, but can make recommendations to the original decision-maker. The data in this case indicates that a recommendation to vary or uphold the original decision has been made by the Information Commissioner.

Table 46: Applications for review under Part 5 of the GIPA Act (by type of applicant)

	Number of applications for review
Applications by access applicants	0
Applications by persons to whom information the subject of access application relates (see s 54 of the GIPA Act)	0

Table 47: Applications transferred to other agencies under Division 2 of Part 4 of the GIPA Act (by type of transfer)

	Number of applications transferred
Agency-initiated transfers	0
Applicant-initiated transfers	0

Appendix 9 – Commissioners and executive officers

The Hon John Hatzistergos AM commenced his five-year term as Chief Commissioner on 7 August 2023. The previous Chief Commissioner was the Hon Peter Hall KC, who completed his five-year term on 5 August 2023.

The Chief Commissioner's salary is calculated at 160% of the remuneration of a NSW Supreme Court puisne judge. The total annual remuneration package for Mr Hatzistergos is \$796,128.

The remuneration paid to the Commissioners, based on hours worked, is the Attorney General's rates for Senior Counsel to a maximum 50% of the Chief Commissioner's remuneration.

Executive management

In 2022–23, the Commission's Executive Management Team comprised:

- the Hon Peter Hall KC, Chief Commissioner, BA/LLM (University of Sydney) until 5 August 2022
- Patricia McDonald SC, Commissioner, BEc (Hons) LLB (Hons) (University of Sydney), BCL (Hons) (Oxford University) until 5 August 2022
- Stephen Rushton SC, Commissioner, BA/LLB (University of Sydney) until 5 August 2022
- the Hon John Hatzistergos AM, Chief Commissioner, BEc, LLB, LLM (University of Sydney) from 7 August 2022
- the Hon Helen Murrell SC, Commissioner, BA/LLB, Dip Crim (University of Sydney) from 7 August 2022
- His Honour Paul Lakatos SC, Commissioner, LLB, Dip Crim, LLM (Hons) (University of Sydney) from 12 September 2022
- Philip Reed, Chief Executive Officer, BSc (Hons) (James Cook University), MAICD, until 11 April 2023
- Bernadette Dubois, Executive Director, Investigation Division, Grad Dip Public Policy and Administration (Charles Sturt University)
- Stephanie Foster, Director, Investigation Services, BSoc, Security and Counter-Terrorism (Swinburne University)
- Timothy Fox, Director, Strategic Capability Unit, from 22 May 2023
- Andrew Koureas, Executive Director, Corporate Services, BComm, MComm (University of NSW), LLB (University of Technology, Sydney), FCPA, until 9 November 2022
- Michelle Ward, Executive Director, Corporate Services and Chief Financial Officer, BComm (University of Wollongong), CPA, from 12 May 2023
- Lewis Rangott, Executive Director, Corruption Prevention, BEc (University of NSW), MComm (University of Sydney)
- Roy Waldon, Executive Director, Legal, and Solicitor to the Commission, LLB (Hons) (University of Tasmania).

The percentage of total employee-related expenditure in the reporting period that relates to senior executives compared with the percentage at the end of the previous year was 15% in June 2021, 16.6% in June 2022 and 15.95% in June 2023.

Table 48: Band and gender of senior executives as at 30 June 2023

Band	2020–21		2021–22		2022–23	
	Male	Female	Male	Female	Male	Female
Chief Commissioner	1	0	1	0	1	0
Commissioner	1	1	1	1	1	1
Band 4	0	0	0	0	0	0
Band 3	0	0	0	0	0	0
Band 2	1	0	1	0	0	0
Band 1	3	1	3	2	3	3
Totals	6	2	6	3	5	4
	8		9		9	

Table 49: Remuneration of senior executives

Band level	Range (\$)	Average remuneration		
		2020–21 (\$)	2021–22 (\$)	2022–23 (\$)
Chief Commissioner	\$780,512	\$761,472	\$780,512	\$796,128
Commissioner	\$398,064 (maximum)	\$380,736	\$390,256	\$398,064
Band 4	\$509,251–588,250	\$0	\$0	\$0
Band 3	\$361,301–\$509,250	\$0	\$0	\$0
Band 2	\$287,201–361,300	\$317,238	\$325,169	\$331,672.38
Band 1	\$201,350–\$287,200	\$247,263	\$244,486	\$240,605.26

Note: Commission executive staff employed at the equivalent of the Senior Executive Bands.

Table 50: Number of female executive staff as at 30 June 2022

Year	Number
2022–23	4
2021–22	3
2020–21	2
2019–20	2
2018–19	1

Appendix 10 – Workforce diversity

The Commission recognises that a diverse workforce will add value to its effective service delivery and is committed to ensuring workforce diversity is integrated into its strategic workforce planning. A workplace built on diverse people drives creativity and innovation and is reflective of a diverse community.

The Commission endeavours to diversify its workforce and initiate inclusive work practices. It provides flexible work arrangements for its employees and promotes this availability through both its recruitment processes and on an ongoing basis.

Key objectives of the Commission's *Strategic Plan 2022–2023* were to:

- continue to develop as a learning organisation that embraces a culture of continuous improvement, excellence and sharing of knowledge
- provide a safe, equitable, productive and satisfying workplace
- be a lead agency in our governance and corporate infrastructure
- monitor our performance to ensure work quality and effective resource management.

In 2022–23, workforce diversity actions included:

- promotion of workforce diversity as part of everyday Commission business
- provision of flexible work practices to all staff
- substantial revision of the Commission's Flexible Working Arrangements policy
- equitable practices for accessing learning and development opportunities
- merit-based talent assessment and selection processes and training for staff likely to participate on recruitment panels, including content on the influence of, and how to address, unconscious prejudice in order to make merit-based decisions
- provision of an accessible and inclusive environment for staff and visitors to Commission premises
- continued engagement of an Employee Assistance Program (EAP) provider in 2022–23, to support the mental health of employees (noting witnesses and other persons associated with Commission investigations and hearings are also able to access the EAP)
- provision of mental health first aid learning programs
- development of a diversity and inclusion strategy and action plan, including actions to address the Commission's responsibilities under the Multicultural Policies and Services Program.

Key workforce and community diversity strategies proposed for 2023–24 in the Commission's diversity and inclusion strategy include:

- leadership workshops to develop understanding of the benefits of inclusive and respectful practices in the workplace
- education for staff on the influence of, and how to address, unconscious bias in the workplace
- promotion of major cultural and diversity events and days of significance
- review of the Commission's processes and instructions for staff and the public to access interpreter services, including the Commission's bilingual staff directory, the Community Language Allowance Scheme, and external interpreter and translation services
- review of published Commission instructions and guidelines to identify where it may be appropriate for further documents to be issued in community languages.

Table 51: Workforce Diversity Actual Staff Numbers (Non-casual Headcount at Census Date) – 2023

Remuneration level of substantive position	Total staff (men, women & unspecified)	Respondents	Men	Women	Unspecified gender	Aboriginal & Torres Strait Islander people	People from racial, ethnic, ethno-religious minority groups	People whose language first spoken as a child was not English	People with a disability	People with a disability requiring work-related adjustment
\$0 – \$51,756	0	0	0	0	0	0	0	0	0	0
\$51,756 – \$67,975	0	0	0	0	0	0	0	0	0	0
\$67,975 – \$75,992	0	0	0	0	0	0	0	0	0	0
\$75,992 – \$96,164	18	17	5	13	0	0	6	5	2	1
\$96,164 – \$124,357	33	31	9	24	0	0	10	5	0	0
\$124,357 – \$155,445	55	49	31	24	0	0	13	11	3	0
\$155,445 > (Non SES)	16	15	8	8	0	0	2	0	0	0
\$155,445 > (SES)	9	9	5	4	0	0	1	2	1	0
Total	131	121	58	73	0	0	32	23	6	1

Appendix 11 – Work health and safety

A key objective of the Commission’s *Strategic Plan 2022–2023* was to provide a safe, equitable, productive and satisfying workplace. The Commission is committed to protecting the health and safety of its staff and other people on its premises by eliminating or minimising risks arising from work or workplaces.

Work health and safety (WHS) principles are incorporated into all facets of business planning and operational activities.

The COVID-19 pandemic continued into 2022–23. Accordingly, the Commission progressively updated its Return to the Office Plan and hearing protocols to address risk assessments and the latest advice from NSW Health. Later in 2022–23, the COVID-19 Return to the Office Plan was superseded by the Commission’s COVID-19 Safety Plan, and the amended Flexible Work Arrangements policy.

During 2022–23, the Commission implemented the following initiatives:

- provision of special leave to attend COVID-19 vaccination appointments
- provision of a flu vaccine program for all interested staff
- ergonomic workstation assessments by an accredited specialist and the provision of equipment, including electronic desks, as recommended
- provision of accredited first aid and CPR training for staff and first aid officers
- provision of training for fire wardens
- safety testing and tagging of electrical equipment, and checking of fire extinguishers
- conduct of an emergency evacuation exercise
- conduct of mental health first aid programs.

In 2022–23, the Commission’s WHS Committee included:

- Catherine Agoratsios, Executive Support Unit
- John Biady, Corruption Prevention Division
- Carolyn Cecere, Investigation Division
- Andrew Koureas, Corporate Services Division
- Michelle Ward, Corporate Services Division
- Natasha Lonergan, Investigation Division
- Kristy McMillan, Investigation Division
- Georgia Pelle, Assessments Section
- Georgina Ross, Legal Division
- Stephen Wood, Corruption Prevention Division.

Table 52: WHS incidents, injuries and claims in 2022–23

Body stress	1
Fall, slip, trip	2
Heat/electricity	nil
Journey	nil
Mental health	nil
Other/unspecified	2
Total	5
Number of new workers compensation claims	0
Number of continuing workers compensation claims at year end	3

Appendix 12 – Engagement and use of consultants

Consultancies equal to or greater than \$50,000

During 2022–23, the Commission engaged the following four consultancies valued individually at greater than \$50,000:

Table 53: Engagement and use of consultants

Consultant	Project	Cost
Information Professionals Group	Development of an information management and application strategy roadmap (for baseline budget review)	\$183,110
KPMG	Sustainable Workforce Review (for baseline budget review)	\$86,800
The Hon Ruth McColl AO SC*	Drafting the Operation Keppel Report	\$232,200
Mr Stephen Rushton SC*	Drafting the Operation Galley Report	\$82,573

* Both Ms McColl and Mr Rushton were initially engaged as Assistant Commissioners but when their appointments expired were then engaged pursuant to s 104B of the ICAC Act to complete their work on drafting the respective reports.

Engagements costing less than \$50,000

During 2022–23, the Commission engaged six consultants, where each engagement was for less than \$50,000, with a combined total of \$94,179.

Appendix 13 – Payment performance indicators

Table 54: Aged analysis at end of each quarter 2022–23

Quarter	Current (ie. within due date) (\$'000)	Less than 30 days overdue (\$'000)	Between 30 and 60 days overdue (\$'000)	Between 60 and 90 days overdue (\$'000)	More than 90 days overdue (\$'000)
All suppliers					
September	3,318,964.35	32,201.15	0.00	0.00	0.00
December	1,144,482.66	19,918.81	0.00	0.00	0.00
March	1,526,006.77	26,241.24	0.00	0.00	0.00
June	3,293,369.09	22,020.84	0.00	0.00	0.00
Small business suppliers*					
September	22,533.35	–	–	–	–
December	16,578.12	–	–	–	–
March	5,103.33	–	–	–	–
June	31,678.39	681.64	–	–	–

The Commission did not make any interest payments for late payment of accounts. Where there were delays in the payment of accounts, the reasons can be attributed to inaccuracies/incompleteness of the original invoices and/or minor disputes requiring the adjustment of invoice details prior to eventual payment.

* All small business accounts were paid on time during the current reporting period.

Table 55: Accounts due or paid within each quarter

Measure	September	December	March	June
All suppliers				
Number of accounts due for payment	277	255	242	345
Number of accounts paid on time	275	251	238	338
Actual percentage of accounts due for payment	99%	98%	98%	98%
Dollar amount of accounts due for payment	3,351,165.50	1,164,401.47	1,552,248.01	3,315,389.93
Dollar amount of accounts paid on time	3,318,964.35	1,144,482.66	1,526,006.77	3,293,369.09
Actual percentage of accounts paid on time (based on \$)	99%	98%	98%	99%
Number of payments for interest on overdue accounts	–	–	–	–
Interest paid on overdue accounts	–	–	–	–
Small business suppliers				
Number of accounts due for payment	1	3	1	1
Number of accounts paid on time	1	3	1	1
Actual percentage of accounts due for payment	100%	100%	100%	100%
Dollar amount of accounts due for payment	22,533.35	16,578.12	5,103.33	32,360.03
Dollar amount of accounts paid on time	22,533.35	16,578.12	5,103.33	31,678.39
Actual percentage of accounts paid on time (based on \$)	100%	100%	100%	98%
Number of payments for interest on overdue accounts	–	–	–	–
Interest paid on overdue accounts	–	–	–	–

The Commission did not make any interest payments for late payment of accounts. Where there were delays in the payment of accounts, the reasons can be attributed to inaccuracies/incompleteness of the original invoices and/or minor disputes requiring the adjustment of invoice details prior to eventual payment.

Appendix 14 – Credit card certification

The Chief Executive Officer certifies that credit card usage in the Commission has met best practice guidelines in accordance with Premier's Memoranda and Treasury Directions.

Appendix 15 – Overseas travel

No overseas travel was conducted during the reporting period.

Appendix 16 – Major works

Table 56 lists major works in progress during 2022–23, including the cost of those works to date and the estimated date of completion.

Table 56: Major works (projects over \$250,000) during 2022–23

Item description	Costs to 30 June 2023 (\$m)	Completion date (actual or estimated)
NUIX system upgrade	0.65	Estimated completion 2023–24
Office fit-out	0.4	Estimated completion 2023–24
Physical security system upgrade	0.26	June 2023

Index

A

Aboriginal Land Rights Act 1983, 49, 114
Acacia (Operation), 118–119
access to information, 53, 63, 137–139
accountability *See* compliance and accountability
Accountable Authority *See* Chief Executive Officer (CEO)
administration of government grants, 114, 115
Administrative Appeals Tribunal (Cth), 54
advice
 Assessments Section, 20, 24
 Corruption Prevention Division, 6, 9, 12, 13, 30, 44
 prosecution advice, 6, 11, 12, 33, 34–35, 55, 67
 publications *See* publications
Aero (Operation), 13, 45, 47, 130–132
AGSVA *See* Australian Government Security Vetting Agency (AGSVA)
aims and functions, 9, 12, 33, 43 *See also* goals (*Strategic Plan 2022-2025*); mission; objectives (*Strategic Plan 2022-2023*)
ALALC *See* Awabakal Local Aboriginal Land Council (ALALC)
alliances, strategic, 12, 115–116
allowances *See* remuneration
Annotated Code of Conduct for Members, 47
annual financial statements *See* financial statements
annual report
 2020-21, 56
 2021-22, 33, 65
anonymous complaints, 20–21
 “Allegations that don’t stack up” (case study), 20
anti-corruption *See* Corruption Prevention Division
applications strategy, 74
APSACC *See* Australian Public Sector Anti-Corruption Conference (APSACC)
ARC *See* Audit and Risk Committee (ARC)
Artek (Operation), 123
Assessing corruption control maturity, 43, 66
Assessment Panel, 18, 26, 29–30, 36
 decisions 2022-23, 29, 31, 37
Assessments Section, 9, 11, 17–31, 36, 69, 144
 assessment process, 26, 29–30
 case studies *See* complaints (case studies)
 complaints against, 62
 complaints handling *See* complaints
 COVID-19, impact of, 20
 key quantitative results, 13
 matters received, profile of, 18, 19–20
 performance in 2022-23, 18
 PIDs *See* public interest disclosures (PIDs)
 Strategic Plan 2022-2023, 12
 Strategic Plan 2022-2025, 15, 26, 29
 turnaround targets, 13, 18
assets, 16 *See also* financial statements
Assistant Commissioners, 10, 69, 144
assumed identities, 14, 53, 54
Attorney General *See* NSW Attorney General
Attorney General’s Department (Cth), 115–116
Audit and Risk Committee (ARC), 53, 70–71, 72, 73
 Internal Audit and Risk Management Attestation Statement, 73
Auditor-General *See* NSW Auditor-General
auditor’s report, 79–80
Australia and New Zealand Counter Terrorism Committee, 116

Australia and New Zealand School of Government, 45
Australian Accounting Standards, 59, 78, 79, 80
Australian Commission for Law Enforcement Integrity, 40, 47, 112, 115
Australian Federal Police, 40, 112
Australian Government Security Vetting Agency (AGSVA), 71
Australian Public Sector Anti-Corruption Conference (APSACC), 5, 47
Australian Taxation Office, 40, 85, 112, 115
Avoca (Operation), 60, 116
Avon/Mezzo (Operation), 114, 115
Awabakal Local Aboriginal Land Council (ALALC), 49, 66, 114, 133–134

B

BDO Services Pty Ltd, 72
BPM *See* Business Process Management (BPM)
brief preparation, 11, 33, 34–35, 55
business continuity, 71
business plans, 12, 70, 143
Business Process Management (BPM), 41

C

case management system, 35, 41
CCG *See* Commission Consultative Group (CCG)
CEO *See* Chief Executive Officer (CEO)
Chief Commissioner (Hall), 10, 140
Chief Commissioner (Hatzistergos), 9, 10, 11, 61, 69, 140
 assessing matters, 18, 21, 23, 26
 foreword, 4–5
 internal governance, 53, 54, 55
 Parliamentary Committee on the ICAC, 56, 57
 participation in inductions for new MPs, 47
 remuneration, 69, 106, 140, 141
 transmission letter, 3
Chief Executive Officer (CEO), 5, 9, 10, 11, 26, 78, 79, 80, 140, 146
 Accountable Authority, 59, 72, 73
 Cyber Security Annual Attestation Statement, 76
 internal governance, 53, 54, 55, 72
 transmission letter, 3
Chief Financial Officer, 140
CLE *See* Continuing Legal Education (CLE)
codes of conduct
 Code of Conduct for Members, 47, 48
 Code of Conduct (ICAC), 62, 71
 NSW Ministerial Code of Conduct, 48, 59, 138
Commission Consultative Group (CCG), 53, 70, 72
Commissioners, 9, 10, 11, 56, 69, 140, 141
 assessing matters, 18, 21, 23, 26
 Assistant Commissioners, 10, 69, 144
 Hall, Peter *See* Chief Commissioner (Hall)
 Hatzistergos, John *See* Chief Commissioner (Hatzistergos)
 internal governance, 53, 54, 55
 Lakatos, Paul, 5, 9, 10, 140
 McCull, Ruth, 69, 144
 McDonald, Patricia, 10, 140
 Murrell, Helen, 5, 9, 10, 57, 140

part-time Commissioners, 10, 69
 remuneration, 69, 106, 140, 141
 Rushton, Stephen, 10, 140, 144
 Commonwealth Ombudsman, 14, 53, 59, 116
 Communications and Media Section, 9, 11, 44, 69
 complaints, 4, 11, 12, 18, 19, 63
 anonymous complaints, 20–21
 assessment process, 26, 29–30
 case studies See complaints (case studies)
 Commission officers, against 61–62
 complaints profile, 108–110
 outcomes of matters, 113
 PIDs See public interest disclosures (PIDs)
 public authorities and ministers See reports from public
 authorities and ministers
 public complaints, 21–23
 statutory reporting, 63, 112, 113
 complaints (case studies)
 “Allegations that don’t stack up”, 20
 “Favouring your mates and misusing agency resources,” 22
 “Leaking confidential information,” 24
 “Whistleblowers taken seriously,” 28
 compliance and accountability, 5, 12, 14, 39, 52–67, 74, 75
 access to information, 53, 63, 137–139
 complaints against Commission officers, 61–62
 compliance framework, 53–54
 external governance See external governance
 internal governance See internal governance
 litigation, 60–61
 Policy and Legislative Compliance register, 70–71
 principal legal changes, 59–60
 privacy and personal information, 53, 57, 60, 62, 138
 prosecution/disciplinary action, 67, 116–136
 public inquiries See public inquiries
 public reports See publications
 Strategic Plan 2022-2023, 14
 Strategic Plan 2022-2025, 15, 41, 58, 65, 66
 compulsory examinations, 10, 11, 13, 39, 65, 71
 snapshot 2022-23, 6
 statutory reporting, 63, 112
 conditions of employment, 69
 cones of silence See ethics walls
 conflicts of interest, 44, 48, 65
 consultants, 34, 41, 72, 144
 Continuing Legal Education (CLE), 70
 contractors, 34, 71
 cooperation policy, 65
 Corporate Services Division, 9, 11, 14, 68–76, 140, 144
 Audit and Risk Committee (ARC), 53, 70–71, 72, 73
 Commission Consultative Group (CCG), 53, 70, 72
 conditions of employment, 69
 consultants, 34, 41, 72, 144
 COVID-19, impact of, 71
 credit card certification, 146
 crisis management plan, 71
 Employee Assistance Program (EAP), 142
 Employee Self Service system, 70
 finance See funding and resourcing
 ICAC Award, 69, 70, 72
 industrial relations, 69
 information management See information management and
 technology
 insurance activities, 74
 internal committees, 72–74
 learning and development See training
 major works, 146
 Modern Slavery Act 2018 (NSW) reporting requirements,
 74–75
 organisational culture, 14, 59, 69–70, 142
 overseas travel, 146
 payment performance indicators, 145
 policies and procedures, 70–71
 Policy and Legislative Compliance register, 70–71
 privacy management plan, 62
 risk management See risk management
 salaries and allowances, 69
 security vetting, 71
 staff numbers, 69, 143
 staff performance development, 70
 Strategic Plan 2022-2023, 14
 Strategic Plan 2022-2025, 15, 58, 69, 70
 training See training
 workforce diversity, 142–143
 work health and safety See work health and safety (WHS)
 Work Health Safety and Equity Committee (WHS&E
 Committee), 53, 70, 71, 72, 144
 correction to *Annual Report 2021-2022*, 33
 corrupt conduct, 4, 5, 9, 10, 11, 12, 19, 21, 22, 23, 24, 26, 28,
 30, 35, 36, 39, 40, 43, 44, 47, 48, 49, 50, 53, 56, 61, 65, 111
 assessment process, 26, 29–30
 findings and recommendations, 13, 67
 investigation See Investigation Division
 prevention See Corruption Prevention Division
 snapshot 2022-23, 6
 types of corrupt conduct alleged, 22, 27, 110
Corruption Matters (e-newsletter), 7, 66
 Corruption Prevention Division, 9, 10, 42–51, 55, 69, 140, 144
 advice, provision of, 6, 9, 12, 13, 30, 44
 Annotated Code of Conduct for Members, 47
 Assessing corruption control maturity, 43, 66
 assessment process, 26, 29
 case studies See operations (case studies)
 Corruption prevention for ICT professionals (workshop), 45,
 46
 Corruption Prevention Network (CPN), 45
 Corruption Prevention Policy Framework, 55, 71
 corruption prevention projects, 43–44
 corruption prevention recommendations, adoption of, 4, 13,
 50, 114–115
 COVID-19, impact of, 4, 13, 45
 education See Corruption Prevention Division (education/
 training)
 *Investigation into dealings involving Awabakal Local Aboriginal
 Land Council land* (Operation Skyline), 49, 66, 114,
 133–134
 *Investigation into the awarding of Roads and Traffic Authority
 and Roads and Maritime Services contracts* (Operation
 Paragon), 50, 65, 66, 114, 134–136
 *Investigation into the conduct of the then member of
 Parliament for Wagga Wagga and then premier and
 others* (Operation Keppel), 4, 13, 47, 48, 66, 69, 136, 144
 key quantitative results, 13
 *Managing conflicts of interest—a tip sheet for Local Aboriginal
 Land Councils*, 44, 65

Managing corruption risks in regulatory work, 43, 65
Mature corruption control: the key outcomes of better practice, 43, 66
 preventing corruption, 4, 5, 12, 13, 15, 25, 30, 35, 40, 42–51, 53, 55, 63, 65
Probity aspects of ethics walls: guidance for dealing with commercial activities and other complex scenarios, 43–44, 65
 publications See publications
Report on investigation into pork barrelling in NSW (Operation Jersey), 45, 66, 115
 speaking engagements See Corruption Prevention Division (education/training)
 strategic alliances, 12, 115–116
 Strategic Intelligence and Research Unit (SIRU), support from, 35, 36
Strategic Plan 2022-2023, 12
Strategic Plan 2022-2025, 15, 43, 45
 training See Corruption Prevention Division (education/training)

Corruption Prevention Division (education/training), 4, 5, 6, 13, 43, 44–47
 Australian Public Sector Anti-Corruption Conference (APSACC), 5, 47
Corruption prevention for ICT professionals (workshop), 45, 46
 educating members of Parliament and staff, 5, 47
 educational videos, 4, 44, 66
 rural and regional outreach, 4, 13, 45, 46
 speaking engagements, 4, 6, 45, 46, 50
Strategic Plan 2022-2025, 15, 45, 65
 training, 6, 13, 15, 44, 45, 46

Corruption prevention for ICT professionals (workshop), 45, 46
 Corruption Prevention Network (CPN), 45
 Corruption Prevention Policy Framework, 55, 71
 COVID-19, 5

Assessments Section, 20
 Corporate Services Division, 71
 Corruption Prevention Division, 4, 13, 45
 ICAC office closure, 20
 Investigation Division, 37
 Operation Hector, 37
 public inquiries, 64–65, 71
 Return to the Office Plan, 143
 rural and regional outreach, 4, 13
 Safety Plan, 71, 143
 training, impact on, 45
 work health and safety, 143

CPN See Corruption Prevention Network (CPN)
 credit card certification, 146
 Credo (Operation), 123–124
Criminal Assets Recovery Act 1990 (NSW), 40
 crisis management plan, 71
 culture See organisational culture
 cyber security See information management and technology
 Cyber Security NSW, 74
 Cygnet (Operation), 114, 115, 127

D

Dasha (Operation), 47, 60, 115, 127–128
 Department of Communities and Justice, 114
 Department of Family and Community Services, 115, 127
 Department of Health and Aged Care, 40
 Department of Planning, Industry and Environment, 115
 Department of Planning and Environment, 114
 Department of Premier and Cabinet, 115
 Digital Evidence Access Orders, 59–60
 digital transformation strategy, 35, 41
 Director, Strategic Capability See Strategic Capability Unit
 Director of Public Prosecutions (DPP), 4, 6, 11, 12, 15, 35, 40, 55, 60, 61, 67
 progress of prosecution matters in 2022-23, 116–136
 diversity and inclusion strategy and action plan, 142
 DPP See Director of Public Prosecutions (DPP)

E

EAP See Employee Assistance Program (EAP)
 Eclipse (Operation), 114
 education See training
Electoral Funding Act 2018, 33
 Ember (Operation), 45, 114, 133
 EMG See Executive Management Group (EMG)
 Employee Assistance Program (EAP), 142
 Employee Self Service system, 70
 employment conditions, 69
 errors in previous annual reports, 33
 Estry (Operation), 125–126
 ethics walls, 43–44, 65
 Executive Management Group (EMG), 12, 53, 54, 55, 70, 72
 executive officers, 140–141 See also Chief Executive Officer (CEO); Executive Management Group (EMG); Senior Leadership Forum (SLF)
 gender, 141
 remuneration, 69, 106, 140, 141
 Executive Support Section, 9, 11, 69, 144
 Expenditure Review Committee, 48, 72
 expenses, 16, 72 See also financial statements
 external governance, 53–54, 55–59
 Commonwealth Ombudsman, 14, 53, 59, 116
 Inspector of the ICAC See Inspector of the ICAC
 Inspector of the Law Enforcement Conduct Commission, 14, 53, 57, 59
 NSW Auditor-General, 53, 59, 79, 80
 Parliamentary Committee on the ICAC, 5, 14, 53, 55–57

F

female staff See gender of staff
 Finance team, 72
 Financial Investigation Unit (FIU), 9, 10, 40
 financial overview, 16
 financial statements, 77–106
 FIU See Financial Investigation Unit (FIU)
 Flexible Work Arrangements policy, 71, 142, 143
 Fraud and Corruption Control Policy, 71
 functions See aims and functions

funding and resourcing, 5, 33, 34–35, 37, 41, 56–57, 58, 72, 74, 76
Investigation Division, 5, 33, 34–35, 37, 41, 56–57
Furness, Gail, 57 *See also* Inspector of the ICAC

G

Galley (Operation), 13, 39, 63–64, 144
gender of staff, 141, 143
Gerda (Operation), 126–127
GIPA Act *See* *Government Information (Public Access) Act 2009*
goals (*Strategic Plan 2022-2025*)
a fair and trusted integrity agency, 15, 35, 41, 65, 70
impact and awareness, 15, 29, 34, 40, 43, 65
influence and effectiveness, 15, 26, 35, 44, 45, 65
organisational capability, 15, 58, 69
governance, external *See* external governance
governance, internal *See* internal governance
Government Information (Public Access) Act 2009, 63, 137–139
Government Information (Public Access) Regulation 2018, 137
Government Sector Audit Act 1983, 59
Government Sector Finance Act 2018, 59, 78, 79, 80, 85
amendments to, 90, 115
Government Sector Finance Regulation 2018, 78, 79, 80, 90
Gows Heat Pty Ltd, 49
Grants Administration Guide, 114, 115
GSF Act *See* *Government Sector Finance Act 2018*
guidance publications *See* publications

H

Hall, Peter *See* Chief Commissioner (Hall)
Hatzistergos, John *See* Chief Commissioner (Hatzistergos)
hazards (work health and safety), 71, 144
Health Records and Information Privacy Act 2002, 62
Hector (Operation), 36, 37, 39, 57, 63, 64

I

IBAC *See* Independent Broad-based Anti-corruption Commission (IBAC)
ICAC Act *See* *Independent Commission Against Corruption Act 1988*
ICAC Award, 69, 70, 72
ICAC Learning Hub, 70
ICAC website *See* website (ICAC)
ICT *See* information management and technology
ICT Acceptable Use Policy, 62
ICT cloud strategy, 74
IMG *See* Investigation Management Group (IMG)
incidents (work health and safety), 71, 144
income, 16 *See also* financial statements
Independent Broad-based Anti-corruption Commission (IBAC), 41
Independent Commission Against Corruption Act 1988, 9, 10, 20, 29, 33, 39, 44, 47, 48, 53, 54, 56–57, 65, 69, 85, 108, 114
amendments to, 59
Parliamentary Committee on the ICAC review of, 56–57
Part 8A, 59
s 10, 18, 19, 21, 22, 23, 62, 108–110, 113
s 11, 4, 18, 19, 23, 24, 25, 26, 27, 29, 48, 53, 108–110, 113

s 12A, 26
s 13A, 18, 33
s 14, 36
s 16(1), 18, 23
s 20, 18, 35
s 20(5), 53
s 21, 39, 58
s 22, 39, 58
s 23, 39
s 31B, 53
s 35, 39
s 36, 39
s 39, 39
s 40, 39, 59
s 47, 85
s 47 Division 4A, 102
s 50, 59
s 53, 11, 28, 29, 30
s 54, 11, 28, 29, 30
s 57B, 57
s 64, 55
s 73, 18
s 74, 39, 56, 57
s 74A(2), 60
s 75, 72
s 76, 63
s 76(2), 112
s 76(2)(ba)(i), 112, 113
s 76(2)(ba)(ii), 112
s 76(2)(ba)(iii), 112, 113
s 76(2)(ba)(iv), 112
s 76(2)(ba)(v), 112
s 76(2)(ba)(vi), 66, 112
s 76(2)(d), 112
s 87, 60
s 104B, 144
s 111E, 4, 51
s 111E(2), 114
s 112, 58
s 112(3), 58
s 114(3)(d), 58

independent funding model *See* funding and resourcing

Indus (Operation), 117

industrial relations, 69

information barriers *See* ethics walls

Information for Witnesses (brochure), 65

information management and technology, 15, 35, 41, 45, 70, 74, 146

Cyber Security Annual Attestation Statement, 76

digital transformation strategy, 35, 41

ICT Acceptable Use Policy, 62

ICT cloud strategy, 74

information security, 74, 76

information technology upgrades, 74

new projects, 74

NSW Government Cyber Security Policy, 74, 76

review of information systems, 41, 72, 144

Information Professionals Group, 72, 144

information security *See* information management and technology

Information Security Registered Assessors Program (IRAP), 74

information technology (IT) *See* information management and technology

injuries (work health and safety), 71, 144

- inquiries, public See public inquiries
- Inspector of the ICAC, 5, 12, 14, 53, 55–56, 57–58
 complaints against Commission officers, 61, 62
 memorandum of understanding between ICAC and the
 Inspector, 57–58, 61
 special report regarding an audit of the welfare of witnesses
 and other people involved in Commission investigations,
 58, 72
- Inspector of the Law Enforcement Conduct Commission, 14, 53,
 57, 59
- Institute of Public Administration Australia NSW Division, 40
- insurance activities, 74
- Integrity Legislation Amendment Act 2022*, 59
- intelligence practitioners working group, 36, 116
- Inter-agency Technical Group, 115
- Interception Consultative Committee, 115
- internal audit arrangements, 71, 72, 73
 Internal Audit and Risk Management Attestation Statement,
 73
- internal governance, 53, 54–55, 70–71, 72
 Audit and Risk Committee (ARC), 53, 70–71, 72, 73
 Commission Consultative Group (CCG), 53, 70, 72
 Corruption Prevention Policy Framework, 55, 71
 Executive Management Group (EMG), 12, 53, 54, 55, 70, 72
 Investigation Management Group (IMG), 30, 53, 55, 72
 Investigation Policy Framework, 35, 55, 62
 legal review, 54
 Operations Manual, 55
 Prevention Management Group (PMG), 53, 55, 72
 Senior Leadership Forum (SLF), 53, 55, 58, 70, 71, 72
 Work Health Safety and Equity Committee (WHS&E
 Committee), 53, 70, 71, 72, 144
- interpreter services, 142
- Investigation Division, 4, 5, 9, 10, 12, 26, 30, 32–41, 140, 144
 brief preparation, 33, 34–35, 55
 Business Process Management (BPM), 41
 capability enhancement, 36
 challenges impacting investigations in 2022–23, 33
 compulsory examinations See compulsory examinations
 COVID-19, impact of, 37
 digital transformation strategy, 35, 41
 Financial Investigation Unit (FIU), 9, 10, 40
 investigation outcomes, 40, 113
 Investigation Policy Framework, 35, 55, 62
 investigation reports, 6, 13, 65
 Investigation Section, 9, 10
 Investigation Services Section, 9, 10, 140
 investigations summary, 33
 Investigative Case Management System, 35, 41
 key quantitative results, 13
 KPIs, 36, 37–38
 National Anti-Corruption Investigation Network (NACIN), 41,
 116
 National Intelligence Network (NIN), 5, 36, 41, 116
 National Investigations Symposium (NIS), 5, 40–41
 preliminary investigations, 4, 7, 13, 30, 33, 35, 36–37, 38
 proceeds of crime, 40
 referrals and other disseminations, 40
 resourcing, 5, 33, 34–35, 37, 41, 56–57
 risk management, 72
 statutory powers, use of, 39
 strategic alliances, 12, 115–116
 Strategic Capability Committee (SCC), 35
 Strategic Capability Unit, 9, 10, 34, 35, 140
 strategic initiatives, 35–36
 Strategic Intelligence and Research Unit (SIRU), 7, 9, 10, 13,
 35–36, 37
Strategic Plan 2022–2023, 12
Strategic Plan 2022–2025, 15, 34, 35, 40, 41
 Workforce and Process Review, 34–35, 72
- Investigation into dealings involving Awabakal Local Aboriginal
 Land Council land* (Operation Skyline), 49, 66, 114, 133–134
- Investigation into the awarding of Roads and Traffic Authority and
 Roads and Maritime Services contracts* (Operation Paragon),
 50, 65, 66, 114, 134–136
- Investigation into the conduct of the then member of Parliament
 for Wagga Wagga and then premier and others* (Operation
 Keppel), 4, 13, 47, 48, 66, 69, 136, 144
- Investigation Management Group (IMG), 30, 53, 55, 72
- Investigation Policy Framework, 35, 55, 62
- Investigation Section, 9, 10
- Investigation Services Section, 9, 10, 140
- Investigative Case Management System, 35, 41
- IRAP See Information Security Registered Assessors Program
 (IRAP)
- IT See information management and technology
- ## J
- Jasper (Operation), 117–118
- Jersey (Operation), 45, 66, 114, 115
- ## K
- Keppel (Operation), 4, 13, 47, 48, 66, 69, 136, 144
- KPMG, 34, 72, 144
- Kronos (Operation), 136
- ## L
- Lakatos, Paul (Commissioner), 5, 9, 10, 140
- LALCs See Local Aboriginal Land Councils (LALCs)
- Lancer (Operation), 115, 129–130
- Law Enforcement and National Security (Assumed Identities) Act
 2010* (NSW), 53, 54
- Law Enforcement Conduct Commission Act 2016*, 57
- Law Enforcement Conduct Commission (LECC), 19, 47, 116
 Inspector, 14, 53, 57, 59
- Law Enforcement (Controlled Operations) Act 1997* (NSW), 53
- Law Enforcement (Powers and Responsibilities) Act 2002*, 59–60
- Law Enforcement (Powers and Responsibilities) Amendment
 (Digital Evidence Access Orders) Bill 2023*, 59–60
- leadership development strategy, 69
- learning and development See training
- LECC See Law Enforcement Conduct Commission (LECC)
- LECC Inspector See Inspector of the Law Enforcement Conduct
 Commission
- Legal Division, 9, 11, 26, 35, 69, 140 See also compliance and
 accountability
 complaints against Commission officers, 61
 internal governance, 54, 55, 144
 legal review, 54
 use of statutory powers, 39

legal expenses, 72
Legislative Council Privileges Committee, 48
liabilities, 16 *See also* financial statements
litigation, 60–61
live streaming of public inquiries, 39, 54, 65
Lobbying of Government Officials Act 2011, 33
Local Aboriginal Land Councils (LALCs), 44, 49, 65, 66, 114,
133–134, 136
Local Court, 54, 59, 61

M

major works, 146
male staff *See* gender of staff
*Managing conflicts of interest—a tip sheet for Local Aboriginal
Land Councils*, 44, 65
Managing corruption risks in regulatory work, 43, 65
Mature corruption control: the key outcomes of better practice,
43, 66
McCull, Ruth, 69, 144
McDonald, Patricia, 10, 140
members of Parliament (MPs) and staff, 5, 47, 48, 137
memorandum of understanding, ICAC and the Inspector, 57–58,
61
Mezzo (Operation), 114, 115
Microsoft 365 security compliance project, 74
Ministerial Code of Conduct, 48, 59, 138
ministers, reports from *See* reports from public authorities and
ministers
mission, 8
Mistral (Operation), 115, 128–129
Modern Slavery Act 2018 (NSW), 74–75
MPs *See* members of Parliament (MPs) and staff
Multicultural Policies and Services Program, 142
Murrell, Helen (Commissioner), 5, 9, 10, 57, 140

N

NACIN *See* National Anti-Corruption Investigation Network
(NACIN)
National Anti-Corruption Commission, 5, 60
*National Anti-Corruption Commission (Consequential and
Transitional Provisions) Bill 2022*, 60
National Anti-Corruption Investigation Network (NACIN), 41, 116
National Intelligence Network (NIN), 5, 36, 41, 116
National Investigations Symposium (NIS), 5, 40–41
NCAT *See* NSW Civil and Administrative Tribunal (NCAT)
net equity, 16 *See also* financial statements
NIN *See* National Intelligence Network (NIN)
NIS *See* National Investigations Symposium (NIS)
Northern Territory Independent Commissioner Against Corruption,
47
NSW Anti-slavery Commissioner, 75
NSW Attorney General, 53, 54, 65, 140
NSW Auditor-General, 53, 59, 79, 80
NSW Civil and Administrative Tribunal (NCAT), 60
NSW Crime Commission, 40, 112, 115
NSW Electoral Commission, 12, 33, 40, 112
NSW Government, 74
ICAC funding from, 5, 34, 41, 72
recommendations to, 4, 56, 57, 58, 114

NSW Government Cyber Security Policy, 74, 76
NSW Government Procurement Framework, 50
NSW Health, 143
NSW Ministerial Code of Conduct, 48, 59, 138
NSW Ombudsman, 24, 29, 40, 71
NSW Police Force, 40, 71, 106, 112, 115, 116
NSW Procurement Board, 114
NSW Roads and Maritime Services (RMS), 50, 65, 66, 133,
134–136
NSW Roads and Traffic Authority, 50, 65, 66, 134–136
NSW Supreme Court, 53, 54, 60, 61, 140
NSW Treasury, 53, 74, 146
Treasury Managed Fund (TMF), 74
NUIX system upgrade, 146

O

objectives (*Strategic Plan 2022-2023*)
accountability *See* compliance and accountability
exposing corruption *See* Assessments Section; Investigation
Division
our organisation *See* Corporate Services Division
preventing corruption *See* Corruption Prevention Division
office fit-out, 146
Office of Local Government, 24, 40, 115
online training *See* training
operations, 7, 15, 30, 33, 36–38, 39, 53, 54, 59
case studies *See* operations (case studies)
Operation Acacia, 118–119
Operation Aero, 13, 45, 47, 130–132
Operation Artek, 123
Operation Avoca, 60, 116
Operation Avon, 114, 115
Operation Credo, 123–124
Operation Cygnet, 114, 115, 127
Operation Dasha, 47, 60, 115, 127–128
Operation Eclipse, 114
Operation Ember, 45, 114, 133
Operation Estry, 125–126
Operation Galley, 13, 39, 63–64, 144
Operation Gerda, 126–127
Operation Hector, 36, 37, 39, 57, 63, 64
Operation Indus, 117
Operation Jasper, 117–118
Operation Jersey, 45, 66, 114, 115
Operation Keppel, 4, 13, 47, 48, 66, 69, 136, 144
Operation Kronos, 136
Operation Lancer, 115, 129–130
Operation Mezzo, 114, 115
Operation Mistral, 115, 128–129
Operation Paragon, 50, 65, 66, 114, 134–136
Operation Ricco, 122
Operation Skyline, 49, 66, 114, 133–134
Operation Spicer, 120
Operation Tarlo, 124
Operation Tolosa, 13, 39
Operation Tunic, 119
Operation Whitney, 13, 45, 47, 61, 66, 114, 133
Operation Yancey, 121
Operation Yarrow, 124
operations (case studies), 48–50
Operation Keppel, 48

- Operation Paragon, 50
- Operation Skyline, 49
- Operations Manual, 55
- organisational chart, 9
- organisational culture, 14, 59, 69–70, 142
- organisational structure, 9, 10–11
- overseas travel, 146
- overview, 8–16

P

- Paragon (Operation), 50, 65, 66, 114, 134–136
- Parliamentary Committee on the ICAC, 5, 14, 53, 55–57
- parliamentary friendship groups, 48
- parliamentary secretaries, 59
- part-time Commissioners, 10, 69
- payment performance indicators, 145
- People Matter Employee Survey, 69
- performance development, staff, 70
- personal information See privacy and personal information
- physical security See security
- PID Act See *Public Interest Disclosures Act 1994*
- PIDs See public interest disclosures (PIDs)
- PMG See Prevention Management Group (PMG)
- Policy and Legislative Compliance register, 70–71
- PPIP Act See *Privacy and Personal Information Protection Act 1998*
- preliminary investigations, 4, 7, 13, 30, 33, 35, 36–37, 38 See also Investigation Division
- Prevention Management Group (PMG), 53, 55, 72
- principal officers, reports from See reports from public authorities and ministers
- privacy and personal information, 53, 57, 60, 62, 138
- Privacy and Personal Information Protection Act 1998*, 60, 62
- privacy management plan, 62
- Probity aspects of ethics walls: guidance for dealing with commercial activities and other complex scenarios*, 43–44, 65
- proceeds of crime, 40
- procurement
 - consultants, 34, 41, 72, 144
 - contractors, 34, 71
 - Modern Slavery Act 2018* (NSW) reporting requirements, 74–75
 - Operation Paragon case study, 50
 - payment performance indicators, 145
- PSA See Public Service Association (PSA) of NSW
- publications, 4, 11, 36, 43–44, 53, 54, 55, 65–66, 142
 - Annotated Code of Conduct for Members, 47
 - Annual Report 2021-22*, 65
 - Assessing corruption control maturity*, 43, 66
 - Corruption Matters* (e-newsletter), 7, 66
 - Information for Witnesses*, 65
 - Investigation into dealings involving Awabakal Local Aboriginal Land Council land* (Operation Skyline), 49, 66, 114, 133–134
 - Investigation into the awarding of Roads and Traffic Authority and Roads and Maritime Services contracts* (Operation Paragon), 50, 65, 66, 114, 134–136
 - Investigation into the conduct of the then member of Parliament for Wagga Wagga and then premier and others* (Operation Keppel), 4, 13, 47, 48, 66, 69, 136, 144
 - investigation reports, 6, 13, 65

- Managing conflicts of interest—a tip sheet for Local Aboriginal Land Councils*, 44, 65
- Managing corruption risks in regulatory work*, 43, 65
- Mature corruption control: the key outcomes of better practice*, 43, 66
- Probity aspects of ethics walls: guidance for dealing with commercial activities and other complex scenarios*, 43–44, 65
- public authorities, reports from See reports from public authorities and ministers
- public complaints, 21–23
- public inquiries, 10, 11, 13, 33, 34, 36, 39, 53–54, 55, 57, 63–65, 66, 112 See also operations
 - COVID-19 impact on, 64–65, 71
 - live streaming of, 39, 54, 65
 - snapshot 2022-23, 6
- Public Interest Disclosures Act 1994*, 20, 21, 23, 24, 59, 71
- Public Interest Disclosures Act 2022*, 24, 59, 71
- public interest disclosures (PIDs), 20–21, 23–24, 25, 28, 111
 - “Favouring your mates and misusing agency resources” (case study), 22
- Public Service Association (PSA) of NSW, 69
- purchasing See procurement

R

- Reed, Philip See Chief Executive Officer (CEO)
- regional outreach See rural and regional outreach
- regulatory work, 43
- remuneration, 69, 70, 143
 - senior executive staff and Commissioners, 69, 106, 140, 141
- Report on investigation into pork barrelling in NSW* (Operation Jersey), 45, 66, 115
- reports from public authorities and ministers, 4, 11, 12, 18, 19, 24–26, 27, 29
 - complaints profile, 108–110
 - “Leaking confidential information” (case study), 24
- resourcing See funding and resourcing
- Return to the Office Plan, 143
- revenue, 16 See also financial statements
- Ricco (Operation), 122
- risk management, 11, 54, 70, 71, 72, 73, 75, 76
 - Internal Audit and Risk Management Attestation Statement, 73
- Risk Management Policy, 71
- RMS See NSW Roads and Maritime Services (RMS)
- rural and regional outreach, 4, 13, 45, 46
- Rushton, Stephen (Commissioner), 10, 140, 144

S

- salaries See remuneration
- SCC See Strategic Capability Committee (SCC)
- security, 71, 146
 - information security, 74, 76
 - security vetting, 71
- SEDNode User Group, 115
- senior executive staff See executive officers
- Senior Leadership Forum (SLF), 53, 55, 58, 70, 71, 72
- Service NSW, 115
- SIRU See Strategic Intelligence and Research Unit (SIRU)

Skyline (Operation), 49, 66, 114, 133–134
 SLF See Senior Leadership Forum (SLF)
 snapshot 2022-23, 6–7
 social media, 11, 12, 14
 YouTube channel, 7, 44
 South Australia Police, 116
 Special Networks Committee, 115
 Spicer (Operation), 120
 staffing levels and shortages See funding and resourcing
 staff performance development, 70
 Statutory and Other Offices Remuneration Tribunal, 69
 statutory powers, 11, 39, 53, 54, 55, 56
 Inspector of the ICAC, 57
 principal legal changes, 59–60
 statutory reporting, 5, 63–66, 74–75, 112–113
 strategic alliances, 12, 115–116
 Strategic Capability Committee (SCC), 35
 Strategic Capability Unit, 9, 10, 34, 35, 140
 Strategic Intelligence and Research Unit (SIRU), 7, 9, 10, 13, 35–36, 37
Strategic Plan 2022-2023, 12–14, 142, 143
 objectives See objectives (*Strategic Plan 2022-2023*)
Strategic Plan 2022-2025, 4–5, 14–15, 66
 goals See goals (*Strategic Plan 2022-2025*)
 reporting against in this annual report, 15
 Strategic Workforce Framework, 35
 structure See organisational structure
Surveillance Devices Act 2007 (NSW), 53

T

TAFE NSW, 115, 129–130
 Tarlo (Operation), 124
Telecommunications Act 1997 (Cth), 60
Telecommunications and Other Legislation Amendment (Assistance and Access) Act 2018 (Cth), 56, 60
Telecommunications (Interception and Access) Act 1979 (Cth), 39, 53, 116
 TfNSW See Transport for NSW (TfNSW)
 TMF See Treasury Managed Fund (TMF)
 TOLA Act See *Telecommunications and Other Legislation Amendment (Assistance and Access) Act 2018* (Cth)
 Tolosa (Operation), 13, 39
 training, 69–70, 71, 74, 116, 142, 143
 Continuing Legal Education (CLE), 70
 Corruption Prevention Division See Corruption Prevention Division (education/training)
 COVID-19, impact of, 45
 ICAC Learning Hub, 70
 Investigation Division, 35
 leadership development strategy, 69
 staff attendances at learning activities, 7, 70
 Strategic Plan 2022-2025, 15, 69
 witness welfare, 58
 women's network, 69
 transparency See compliance and accountability
 Transport for NSW (TfNSW), 50, 64, 114
 Treasury Managed Fund (TMF), 74
 Tunic (Operation), 119

V

vetting, security, 71
 videos, educational, 44

W

website (ICAC), 11, 14, 20, 24, 50, 56, 58, 62, 63, 65, 66, 114
 contact method for matters, 19, 20
 external visitor sessions to, 7, 66
 public inquiries, 54, 65
 WHS See work health and safety (WHS)
 WHS&E Committee See Work Health Safety and Equity Committee (WHS&E Committee)
 witnesses, 37, 39, 54, 65
 witness welfare, 15, 58, 72, 142
 Witney (Operation), 13, 45, 47, 61, 66, 114, 133
 women's network, 69
 workers compensation matters, 71, 74, 144
 Workforce and Process Review, 34–35, 72
 workforce diversity, 142–143
 work health and safety (WHS), 71, 143–144
 Work Health Safety and Equity Committee (WHS&E Committee), 53, 70, 71, 72, 144

Y

Yancey (Operation), 121
 Yarrow (Operation), 124
 YouTube channel (ICAC), 7, 44



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