

I·C·A·C

INDEPENDENT COMMISSION  
AGAINST CORRUPTION



annual report

2010–  
2011

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INDEPENDENT COMMISSION  
AGAINST CORRUPTION

The Hon Don Harwin MLC  
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Parliament House  
Sydney NSW 2000

The Hon Shelley Hancock MLA  
Speaker  
Legislative Assembly  
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Mr President  
Madam Speaker

I am pleased to furnish to you the ICAC Annual Report for the year ended 30 June 2011. The report has been prepared in accordance with the requirements of the *Independent Commission Against Corruption Act 1988* and the *Annual Reports (Departments) Act 1985*.

Pursuant to section 78(2) of the ICAC Act, I recommend 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 faithfully

A handwritten signature in black ink, appearing to read 'D Ipp'.

The Hon David Ipp AO QC  
Commissioner

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The Hon David Ipp AO QC

# Foreword

The Independent Commission Against Corruption experienced another year of increased activity across the organisation in 2010–11. We finalised 116 preliminary investigations, finalised 15 full investigations, furnished 12 investigation reports to Parliament, and made corrupt conduct findings against 26 people. The Commission also made 110 corruption prevention recommendations, which is more than double those made in the previous year.

The Commission also continued to improve efficiency, reducing the time taken to finalise matters in our Assessments Section by 24%, compared to a 16% reduction in the previous year, and reducing the time taken to report straightforward matters to the Assessment Panel by 32%. We also exceeded our target of completing 90% of full investigations within 12 months.

This demonstrates that the Commission is continuing to investigate and expose corrupt conduct in a timely and efficient manner.

In addition to our investigation work, 2010–11 has also been a significant year for our corruption prevention work.

The Commission produced an important paper during November 2010 that examined Part 3A of the NSW *Environmental Planning and Assessment Act 1979*. In this paper, we recommended significant changes to reduce the perceptions of corruption in town planning matters that were inherent in the exercise of powers under the old legislation. Substantial changes were made to legislation governing Part 3A processes following the release of that paper.

During 2010–11, the Commission continued its major corruption-prevention based investigation focusing on lobbying practices in NSW. Forty-eight witnesses from lobby-related sectors gave evidence at a public inquiry held in August 2010, after which the Commission released a report that made 17 recommendations to government to achieve greater transparency in the NSW regulatory system.



Some legislative changes have been made since the report was released, including the abolition of success fees, and the introduction of a requirement that ministers and parliamentary secretaries not engage in lobbying relating to matters they had dealings with during the last 18 months of office for a period of 18 months after leaving office. We remain hopeful that our other recommendations will be reflected in legislation in due course.

Procurement has been a focus of both our corruption prevention and investigative work this year. In addition to our survey of suppliers to the NSW public sector and their perceptions of corruption in procurement, which was used to inform recommendations to government about procurement, the Commission also conducted extensive investigations into allegations of corruption in the way procurement has been undertaken by councils and other public sector bodies.

While public inquiries are the most visible and an important part of the Commission's work, there is plenty of other work we do that has beneficial effects, even though it may not be on the public radar. When we decide to investigate a matter, in an overwhelming majority of cases one of three decisions results:

1. We proceed to a public inquiry.
2. We determine that, while there may be some concerns relating to corrupt conduct, the matter does not warrant a public inquiry but recommendations should be made to the relevant agency.
3. We determine that there is no evidence of corruption.

It follows from all of this that the number of public inquiries is not a true measure of the extent of the Commission's workload in a year. Much of the Commission's work falls into the latter two categories.

We take very seriously the criteria under our statute that must be taken into account when deciding whether or not to hold a public inquiry. This means that, in determining whether or not it is in the public interest to conduct a public inquiry, the Commission must consider factors including the benefit of exposing to the public, and making it aware of, the corrupt conduct, the seriousness of the allegation or complaint being investigated, any risk of undue prejudice to a person's reputation (including prejudice that might arise from not holding an inquiry),

and whether the public interest in exposing the matter is outweighed by the public interest in preserving the privacy of the persons concerned.

The Commission was grateful to receive extra funding during the year. Unfortunately, because of the timing of the funding late in 2010, we were unable to employ much-needed staff on a permanent basis. We were, nevertheless, able to use the funds to employ staff on a contract basis, which was extremely helpful in enabling us to maintain the high level of compulsory examinations we carried out (130 in total, with our own lawyers acting as counsel in 126 of these examinations). The number of compulsory examinations held is another indication of why the worth and volume of our work should not be measured only by the number of public inquiries we hold.

The Commission recommended that the advice of the Director of Public Prosecutions (DPP) be sought with respect to the prosecution of 16 individuals during 2010–11. Of course, the ICAC's work cannot be judged by the number of convictions recorded that arise from recommendations to seek DPP advice. This is for several reasons, the most important of which is that in the vast majority of instances, the evidence available to the Commission in making findings of corrupt conduct is not admissible in criminal prosecutions. Thus, our core functions are to expose, investigate and work to prevent corruption in the NSW public sector.

The Commission's staff have continued to work to high standards and levels of commitment over the past 12 months, as demonstrated by the many achievements and challenges documented in this report.

I hope the Commission's *Annual Report 2010–2011* provides readers with useful information that enhances their understanding of the Commission and its performance, roles and functions.



The Hon David Ipp AO QC  
Commissioner

# CHAPTER 1

# Overview



Commission staff



# Our charter

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

The principal objectives of the Commission are:

- **investigating, exposing and preventing** corruption
- **educating** public authorities, public officials and members of the public **about corruption** and its detrimental effects.

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# Our mission

## Combat corruption and improve the integrity of the NSW public sector.

### What we do

The Independent Commission Against Corruption investigates allegations of corrupt conduct in the NSW public sector, and drives programs and initiatives to minimise the occurrence of such conduct in the state. The Commission's overarching aims are to protect the public interest, prevent breaches of public trust, and guide the conduct of public officials.

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. It has extensive powers of investigation and may conduct hearings to obtain evidence of corruption.

The Commission works to minimise corruption by providing advice and guidance via information, resources and training to public sector agencies to address existing or potential corruption problems. It assists organisations to identify and deal with significant corruption risks, conducts research to identify and help remedy specific areas of corruption risk, and also provides advice and guidance to the wider community about corruption and how to report it.

The Commission is a public authority but is independent of the government of the day. It is accountable to the people of NSW through the NSW Parliament.

### 2010–11: The year in review

The Commission's Strategic Plan 2010–14 sets out four key result areas for 2010–11:

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

In 2010–11, each division developed and worked to an individual operational plan aligned with the Commission's Strategic Plan. Each division reported quarterly to the Executive Management Group against its operational plan.

The following sections specify the Commission's objectives for each result area and summarise activity and performance against each in 2010–11. More detailed information and results for each key result area are provided in the chapters that follow.

### Exposing corruption

Investigating and publicly exposing corrupt conduct is one of the Commission's major functions. The *Independent Commission Against Corruption Act 1988* ("the ICAC Act") gives the Commission broad jurisdiction to investigate any allegation or circumstance which, in its opinion, implies that corrupt conduct has occurred. The Commission can also investigate conduct likely to allow, encourage or cause corrupt conduct.

The objectives for exposing corruption are to:

- detect and investigate corrupt conduct
- identify corruption prevention issues through investigations
- ensure a best practice approach for all investigations
- enhance complaint-handling processes
- maintain strategic alliances to optimise investigative and preventative outcomes.

A detailed description of Commission activities and results relating to this key results area is outlined 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 2010–11.

### Achievements

In 2010–11, the Commission:

- finalised 116 preliminary investigations from 133 on hand, which included 74<sup>1</sup> matters carried over from the previous year
- finalised 15 full investigations
- reduced the time taken to finalise matters in Assessments by 24%, compared to the previous year's reduction of 16%
- conducted nine public inquiries over 65 days

<sup>1</sup> This is a revised figure from that reported in the *Annual Report 2009–2010*.

- conducted 130 compulsory examinations, in which our lawyers acted as counsel in 126, compared to the 124 compulsory examinations in 2009–10, in which our lawyers acted as counsel in 118
- reduced the average time taken to report straightforward matters to the Assessment Panel by 32%
- made corrupt conduct findings against 26 people
- recommended that the advice of the Director of Public Prosecutions (DPP) be sought with respect to the prosecution of 16 people
- recommended to relevant public sector agencies that disciplinary action be taken against 11 people
- published 12 investigation reports, compared to nine in 2009–10
- instigated a survey of those who submitted complaints and protected disclosures to the Commission, and completed a project on how the Commission handles protected disclosure matters.

## Looking forward

In 2011–12, the Commission will:

- continue to survey complainants and whistleblowers in order to assess how well we are handling their matters
- formulate tools to assist principal officers of agencies to report suspected corrupt conduct to the Commission
- undertake training in cognitive interviewing techniques to enhance the skills of Assessments Section staff
- enhance investigation procedures through ongoing review and implementation of investigation standards to ensure continued good practice
- enhance our electronic forensic capacity and develop better methods of capturing and analysing large amounts of digital data
- improve the timeliness of our investigations and continue to regularly expose corrupt conduct through public inquiries.

**Table 1: Key quantitative results for corruption exposure activities**

Measure	Target*	2010–11	2009–10	2008–09
Matters received	n/a	2,867	2,710	2,714
Average time to deal with matters (days) in Assessments Section	68	48	63	75
Preliminary investigations commenced	n/a	66**	138	58
Full investigations commenced	n/a	15	20	7
Percentage of full investigations completed within 12 months	>90%	93%	90%	87%
Number of public inquiries	n/a	9	12	7
Number of public inquiry days	n/a	65	70	28
Number of compulsory examinations	n/a	130	124	33
Number of persons subject to corrupt conduct findings	n/a	26	28	52
Number of investigation reports to Parliament	n/a	12	9	13
Percentage of investigation reports completed within the ICAC's target***	80%	50%****	89%	77%
Number of persons prosecuted arising from investigations	n/a	18	16	21
Number of persons against whom disciplinary action commenced arising from investigations	n/a	9	1	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.

\*\* Four were conducted in divisions other than the Investigation Division.

\*\*\* For the period 2008–09, the target was three months from the completion of the public inquiry. In 2009–10 and 2010–11, the target was 60 days where the public inquiry was five days or less, and 90 days otherwise.

\*\*\*\* The decrease in the percentage of reports completed within the Commission's target times was due to a combination of factors, including an increase in the number of reports prepared, the complexity of some reports that required more time to complete, and competing work priorities. The six reports that exceeded the Commission's target times did so by an average of 28 days.

## Preventing corruption

The ICAC Act requires the Commission to actively examine policy and operating and management procedures in the public sector to minimise or eliminate opportunities for corrupt behaviour.

The objectives for preventing corruption are to:

- proactively focus our resources, through the use of task groups, on high-risk organisations and activities
- provide advice, education and training on corruption prevention to the NSW public sector
- encourage public reporting of corruption.

A detailed description of Commission activities and results for this key result area is outlined in Chapter 4 (Preventing corruption). Table 2 sets out the key quantitative results for workload, work activity and performance for this key result area in 2010–11.

## Achievements

In 2010–11, the Commission:

- held the first major corruption prevention-based public inquiry focusing on lobbying practices in NSW and made 17 recommendations to government with the aim of achieving greater transparency in the NSW regulatory system for lobbying
- introduced fee-free corruption prevention training and delivered 89 sessions, which, along with 50 speaking engagements, meant we reached an audience of over 3,700 people
- examined the corruption risks attached to Part 3A of the *Environmental Planning and Assessment Act 1979* and made 20 recommendations for change
- showed, via reports received from agencies, that 100% of our corruption prevention recommendations were fully or partially implemented or implemented in an alternative way at the time of the final report
- received a total of 97 telephone/email advice requests, compared to 155 in 2009–10, which may be due to the release of the Commission's online corruption prevention toolkit on best practice
- published seven research and corruption prevention publications
- re-structured the Corruption Prevention Division into four project clusters to improve efficiency and manage workload.

## Looking forward

In 2011–12, the Commission will:

- release advisory and guideline resources for agencies, in both print and online formats, about the management of procurement
- develop, as a result of the findings from Commission investigations, relevant and practical recommendations about corruption prevention strategies for agencies to implement
- continue to educate the NSW public sector and the community more broadly about corruption prevention
- work with the Corruption and Crime Commission (WA) and the Crime and Misconduct Commission (Queensland) to plan and deliver the third Australian Public Sector Anti-Corruption Conference in Fremantle in November 2011.

## Accountability

The ICAC Act confers significant powers and discretion on the Commissioner and staff. Given these extensive powers, it is important that there is a comprehensive accountability framework in place to ensure the Commission's powers are not abused and that it meets its legislative responsibilities.

The objectives for accountability are to:

- provide timely, accurate and relevant reporting to the Inspector of the ICAC, and the Parliamentary Committee on the ICAC
- ensure all business activity complies with all regulatory and standards requirements
- report publicly about the work of the Commission.

## Achievements

In 2010–11, the Commission:

- completed 12 investigation reports, compared to nine in 2009–10
- conducted 130 compulsory examinations, compared to 124 in 2009–10
- used our lawyers as counsel in 126 compulsory examinations, compared to 118 in 2009–10
- ensured that all requests for the exercise of statutory powers were reviewed by our lawyers to ensure they met all relevant legislative and internal requirements
- responded promptly and accurately to 34 questions on notice from our Parliamentary Committee, provided five responses to the Inspector of the ICAC, and cooperated fully with two audits conducted by the Inspector, and two records inspections by the NSW Ombudsman.

**Table 2: Key quantitative results for corruption prevention activities**

Measure	Target	2010–11	2009–10	2008–09
Telephone/email enquiries for corruption prevention advice	n/a	97	155	252
Written requests for corruption prevention advice	n/a	28	22	22
Corruption prevention advice relating to complaints and reports of corrupt conduct	n/a	10	8	34
Rural and regional outreach visits	2	2	2	2
Training sessions delivered	40	89	76	87
Corruption prevention recommendations in investigation reports published in the period	n/a	93	45	84
Percentage of corruption prevention recommendations in investigation reports addressed as at 30 June 2011	80%	100%	98%	93%
Percentage of public inquiries that resulted in the making of corruption prevention recommendations	90%	83%	67%	85%
Number of external visitor sessions on the ICAC website	n/a	264,232*	317,341	372,782
Number of editions of <i>Corruption Matters</i> newsletter published	2	2	2	2
Number of prevention or research reports published	3	6	8	3
Number of advice tipsheets published	n/a	1	47	0

\* This reduced figure may be the result of using new and more accurate website monitoring technology.

**Table 3: Key quantitative results for accountability activities**

Measure	2010–11	2009–10	2008–09
Parliamentary Committee on the ICAC meetings	2	1	3
NSW Ombudsman inspections of telephone intercept and controlled operation records	2	4	2
Number of reports provided to the Inspector of the ICAC	5	0	7
Number of audits conducted by the Inspector of the ICAC	2	3	1
Number of assumed identity audits	1	1	1

## Looking forward

In 2011–12, the Commission will:

- ensure our lawyers review all applications for the exercise of statutory powers to check compliance with relevant legislative and internal requirements
- provide efficient and effective legal support to public inquiries, compulsory examinations, the writing of investigation reports, and the preparation of briefs of evidence for the DPP
- respond to requests from the Parliamentary Committee and the Inspector of the ICAC by providing accurate and relevant information in a timely manner.



## Our organisation

The Commission is committed to developing as a learning organisation that embraces a culture of continuous improvement, and provides a safe and satisfying workplace.

The objectives 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.

## Achievements

In 2010–11, the Commission:

- completed the development and implementation of enhancements to the MOCCA (Management of Cases, Complaints and Assessments) system
- completed the the information, communications and technology (ICT) infrastructure review and prepared a business case to the NSW Treasury for funding to upgrade the ICT infrastructure
- upgraded our computers to Windows 7
- upgraded the Aurion Payroll and Sun financial systems
- implemented the Aurion Timekeeper module to record time spent on projects and investigations
- upgraded the TRIM (Tower Records and Information Management) electronic document and records management system
- successfully completed the compliance audit by the independent auditor for ISO27001 Standards for Information Security.

## Looking forward

In 2011–12, the Commission will:

- commence the ICT Infrastructure Upgrade Project; a large and complex initiative that will be completed in various stages over a two-year period
- continue enhancement of MOCCA (Management of Cases, Complaints and Assessments)
- develop webcasts for MOCCA and TRIM
- continue to provide staff with suitable training and development opportunities.



The Communications and Media Section manages the Commission's media relations and publishing activities.

**Table 4: Key quantitative results for activities relating to our organisation**

Measure	Target	2010–11	2009–10	2008–09
Average full-time equivalent staff numbers	117.4	117.1	117.6	111.9
Participants in training courses	500	345	572	648
Average training sessions per employee	>5	3.0	4.9	5.8

# Financial overview

## Operating result

ICAC's Net Cost of Services result was \$1.144 million unfavourable before budget supplementation of \$1.2 million, resulting in a favourable variation of \$56,000.

**Table 5: Operating result 2010–11**

	\$'000
Expenses	20,978
Revenue	526
Gain/(loss) on disposal	(3)
Net Cost of Services	20,455
Government contributions	20,093
(Deficit) for the 2010–11 year	(362)

## Financial position

**Table 6: Financial position 2010–11**

	\$'000
Assets	3,854
Liabilities	1,901
Net Assets	1,953

## Revenue

Our primary source of revenue is government contributions (\$20.093 million compared to \$18.867 million in 2009–10). The increase includes a Treasurer's Advance of \$1.2 million. Other revenue includes fees from the provision of shared services and interest from investments.

## Expenses

Total expenses were \$20.978 million, an increase of \$957,000 or 4.6%. Employee-related expenses were \$15.282 million (72.8%), other operating expenses \$4.957 million (23.7%) and depreciation \$0.739 million (3.5%).

## Assets

Assets decreased by \$0.511 million due largely to reductions in property, plant and equipment of \$0.322 million and intangible assets of \$0.181 million.

## Liabilities

Liabilities decreased by \$0.149 million due to lower accrued expenses.

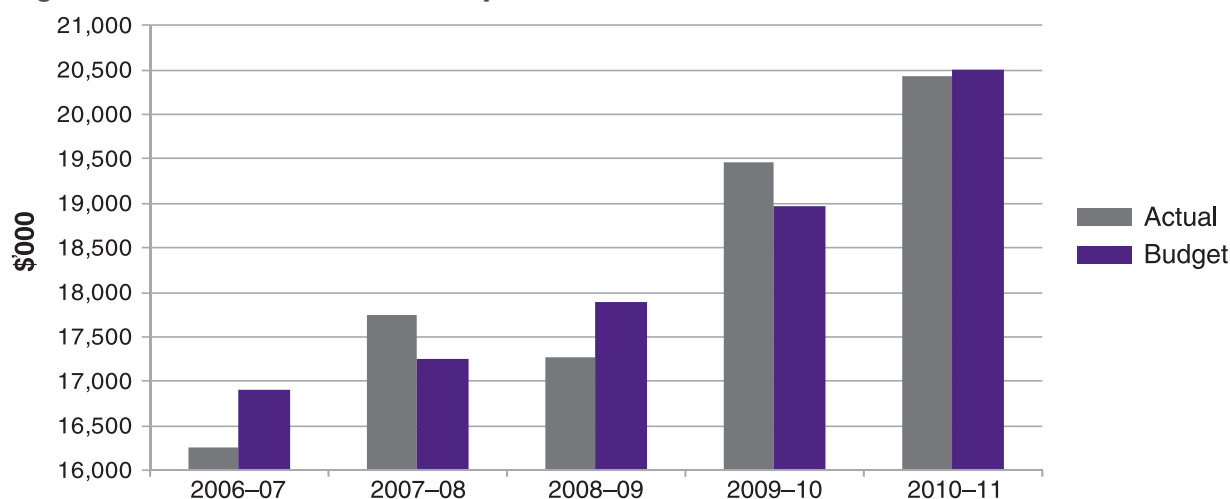
## Net Equity

Equity decreased by \$0.362 million (15.6%) due mainly to a reduction in assets offset by a reduction to accrued expenses.

**Table 7: Comparison of finances from 2006–07 to 2010–11**

Actual	2006–07 \$'000	2007–08 \$'000	2008–09 \$'000	2009–10 \$'000	2010–11 \$'000
Expenses	16,729	18,622	18,052	20,021	20,978
Revenue	487	882	771	559	526
Gain/(loss) on disposal	(1)	—	11	1	(3)
Net Cost of Services	16,243	17,740	17,270	19,461	20,455

**Figure 1: Net Cost of Services comparison\***



\* Includes budget supplementation.



Staff of the Commission's Assessments Section.

## CHAPTER 2

# Assessing matters



“ We strengthened our capacity to oversee investigations referred to other agencies and, once again, further reduced the time taken to assess and finalise matters. ”

**Jacqueline Fredman**  
Manager, Assessments Section

# Highlights 2010–11

- We reduced the average time taken to finalise matters by 24%.
- We reduced the average time taken to report straightforward matters to the Assessment Panel by 32%.
- We instigated a survey of those who submitted complaints and protected disclosures to the Commission.
- We undertook training in better oversight of referred investigations, as well as training in the practices and principles associated with procurement and recruitment in the NSW public sector.
- We completed a project on how the Commission handles protected disclosure matters.

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# Assessments: Key objectives

Detect corrupt conduct.

Enhance complaint-handling procedures.

## About the Assessments Section

The Assessments Section is the first point of contact for complaints and reports to the Commission. The Section receives and registers all complaints and reports, makes an initial assessment, and obtains any further information required to determine the next course of action.

Assessments Section staff are also able to recommend that the Commission take action on an “own initiative” basis, without the need for a complaint or report. These matters can be based on information from various sources, including information that is in the public domain or that emerges from other Commission investigations.

The Assessments Section reports all matters within the Commission’s jurisdiction to an Assessment Panel, made up of senior executives of the Commission, whose role is to decide how each matter should proceed. A matter is not reported to the Assessment Panel if it is assessed as nothing more than an enquiry or feedback, or if it is outside jurisdiction, in that it involves private entities or non-NSW public authorities (see p. 24).

The budget of the Assessments Section is \$1.3 million. The Section is managed by Jacqueline Fredman and at 30 June 2011 had 14 permanent and two temporary staff members.

## The year in review

In 2010–11, the Assessments Section received and managed 2,867 matters, which represents an increase on the two previous years (2,710 matters were received in 2009–10, and 2,714 in 2008–09).

In 2009–10, the Section took, on average, 63 days to deal with a matter. This year, this figure was reduced by 24% to 48 days. Between 2006–07 (when the average time to deal with a matter was 103 days) and 2010–11, the Assessments Section has improved its finalisation rates by 53%.

## Challenges we faced in 2010–11

The Assessments Section experienced some staffing changes during the year, including the commencement of extended leave by a team leader and the recruitment of a new deputy manager. Whilst this presented higher duty opportunities for officers of the Assessments Section, it meant that caseloads were, at times, increased beyond their usual levels. Notwithstanding this, and the increase in matters received for the year overall, the Section performed exceptionally well and indeed generally improved its response times. Two of the strategies that helped keep response times down were:

- ensuring that further enquiries to clarify allegations were made only for matters where there was a reasonable suspicion of corrupt conduct
- making a concerted effort to identify better, and to report promptly, to the Assessment Panel, serious matters that would warrant early referral to the Investigation Division.



## How we performed in 2010–11

### Turnaround targets

The Assessments Section has established targets for turnaround times at key stages of a complaint's lifecycle. Examples of these targets, and achievements during the reporting period, are as follows:

**Table 8: Some internal targets and achievements of the Assessments Section**

Measure	Target	Achievement
(a) Average days to register a matter from receipt	7	4
(b) Average days to present a "straightforward" matter to the Assessment Panel from date of receipt	21	17
(c) Average days to present a "moderate-complex" matter to the Assessment Panel from date of receipt	42	31

In 2009–10, the achievements for (b) and (c) were 25 days and 40 days respectively and this year's figures represent significant improvements in those areas.

### Commitments made last year

In 2009–10, we resolved to reduce the time taken to report straightforward matters to the Assessment Panel by 20%. Straightforward matters are those where no enquiries are required to clarify facts or undertake searches and the like. The Section exceeded this target and achieved a 32% reduction.

As noted in the *Annual Report 2009–2010*, a survey of complainants and whistleblowers was commenced, and the Assessments Section will act on reasonable feedback in 2011–12, when an analysis of the survey results has been completed.

### Improvements to the oversight of agency investigations

Under sections 53 and 54 of the *Independent Commission Against Corruption Act 1988* ("the ICAC Act"), the Commission may refer matters involving suspected corrupt conduct to an agency (usually the agency that is the subject of the allegations) and require the agency to investigate and report back to the Commission. There were 36 such referrals in 2010–11, which is on par with the 39 referrals in 2009–10.

In 2010–11, the Manager of the Assessments Section completed a review of the way referred investigations were being conducted by agencies. This led to a protocol being developed to clarify the types of matters where the

Commission ought to consider a section 53 or section 54 referral, and to set out the factors required in analysing an agency's investigation and report. Another outcome of the review was the need to provide training for staff on what constitutes effective investigation oversight. Finally, the Section has developed improved communication channels between the Commission and the agencies conducting referred investigations. In order to more actively monitor their progress, the Commission now requests, as a matter of course, investigation plans and progress reports on investigations.

### Agency liaison

Liaison meetings provide a useful opportunity to discuss specific challenges for agencies, as well as challenges facing the sector in which they operate. They also allow the Section to elicit feedback about the Commission's processes, as well as provide guidance on issues, such as reporting obligations under the ICAC Act.

In 2010–11, the Manager of the Assessments Section and the Corruption Prevention Division's Principal Officer, Agency Development, met with local government general managers and their executive staff at over 20 metropolitan Sydney councils. This initiative was undertaken in addition to the Assessments Section's regular liaison meetings with various state agencies.

### Assistance to other areas

As in previous years, Assessments Section staff provided assistance to the Investigation Division for the conducting of telephone intercepts and the execution of search warrants. Staff also assisted the Corruption Prevention Division in its biannual rural and regional outreach program and with other project work.

## How we compare to agencies with similar functions

### Number of matters received and assessed

Given the differing functions, it is difficult to accurately compare the work of the Commission with that of other oversight or watchdog agencies. Both the Crime and Misconduct Commission (CMC) in Queensland and the Corruption and Crime Commission (CCC) in Western Australia have a specific focus on organised crime, and also receive misconduct allegations concerning police. The complaint assessment function is not identical to that of the ICAC.

In 2009–10, the CMC received 4,665 complaints, with 1,866 of these relating to the general (non-police) public sector. Of a total of 331 staff, the CMC had 14 complaints officers at the end of 2009–10.

In the same year, the CCC received a total of 2,851 misconduct matters. Of the 3,237 allegations made, 2,016 related to the general (non-police) public sector. The CCC had a total of 148 staff members at the end of 2009–10.

In 2010–11, of the ICAC's total 117 staff, the Assessments Section had 10 full-time equivalent assessment officers responsible for handling the 2,867 matters received.

## Profile of matters received

In 2010–11, the Commission received 2,867 matters, the majority of which came from three sources:

- members of the public lodging complaints under section 10 of the ICAC Act (section 10 complaints), representing 32% of all matters
- principal officers of NSW public sector agencies and ministers who have a duty to report suspected corrupt conduct under section 11 of the ICAC Act (section 11 reports), representing 22% of all matters

- public sector employees lodging complaints under the *Public Interest Disclosures Act 1994* ("the PID Act"),<sup>2</sup> comprising 10% of all matters received.

As well as section 10 complaints, section 11 reports and protected disclosures, the Commission receives information about other matters from other sources. This includes dissemination of information from federal and state law enforcement bodies and "own initiative" investigations by the Commission. Table 9 shows all matters received by category for 2010–11, compared with the previous two years.

In 2010–11, the Commission received 923 section 10 complaints, compared with 980 received in the previous year, representing a 6% decrease.

In 2010–11, the Commission received 638 section 11 reports, compared with 586 received in the previous year, representing a 9% increase.

The Commission receives information in a number of ways. Members of the public and public sector employees can report their matters to the Commission in writing, by telephone or email, in person or online via a complaints form on the Commission's website at [www.icac.nsw.gov.au](http://www.icac.nsw.gov.au).

**Table 9: Matters received by category in 2010–11, compared to the previous two years**

Category	2010–11		2009–10		2008–09	
Complaints from the public (section 10 complaints)	923	32%	980	36.2%	860	31.7%
Reports from public sector agencies (section 11 reports)*	638	22%	586	21.6%	674	24.8%
Outside jurisdiction	329	11%	282	10.4%	255	9.4%
Enquiry	303	11%	217	8.0%	239	8.8%
Information	300	10%	322	11.9%	400	14.7%
Protected disclosure	289	10%	253	9.3%	262	9.7%
Feedback	63	2%	23	0.8%	n/a	–
Dissemination	18	1%	21	0.8%	23	0.8%
Own initiative	3	0%	24	0.9%	0	0.0%
Intelligence report	1	0%	2	0.1%	1	0.0%
Referrals from Parliament	0	0%	0	0.0%	0	0.0%
<b>Total</b>	<b>2,867</b>		<b>2,710</b>		<b>2,714</b>	

\* The figure represents the number of section 11 reports received. As some agencies report by schedule, their reports may contain more than one matter. In 2010–11, the Commission received 48 schedules containing reports on 445 matters.

<sup>2</sup> Formerly the *Protected Disclosures Act 1994*. The change in the name of the Act took effect in March 2011.

Table 10 shows that in 2010–11 the most frequent mode of contacting the Commission was by telephone (35%), followed by letter (31%).

**Table 10: Mode of initial contact for all matters received in 2010–11**

Mode	Number of matters	% of matters
Phone	1,011	35%
Letter	882	31%
Email	557	19%
ICAC website	299	10%
Schedule	74	3%
Visit	34	1%
n/a	10*	0%

\*This category represents reports made to the Commission via referrals and disseminations from other agencies or bodies.

Where matters are not within jurisdiction, Assessments Section staff try to provide useful alternative avenues of complaint by referring complainants to the relevant complaint-handling, regulatory, advisory and oversight body, covering both the public and private sectors.

## Anonymous complaints

The Commission sometimes receives anonymous written or telephone complaints. The Commission accepts that in some instances people are fearful of reprisal action if they

put their names to allegations. Assessments Section staff provide advice to telephone callers about the various protections available to them under the ICAC Act and, if they are a current public official, under the PID Act.

In 2010–11, 19% of complaints from members of the public (174 matters) were made anonymously, compared with 17% in 2009–10. Similarly, 33% of complaints by public officials under the PID Act (94 matters) were made anonymously in 2010–11, compared with 34% in 2009–10.

The challenge of accepting anonymous information is that Commission staff cannot clarify information, nor can staff notify the complainant directly of the outcome, including the result of any enquiries undertaken. Further, if a matter is a protected disclosure, there is the risk that any action taken by the Commission may inadvertently reveal the identity of the maker of that protected disclosure. Where a matter is an anonymous protected disclosure, any action, such as the making of assessment enquiries or conducting a preliminary investigation, will occur only with the approval of the Deputy Commissioner. This is because the risks of exposing the discloser's identity are carefully considered and must be weighed against the public interest in taking action.

Case study 1 is an example of an anonymously received matter that resulted in assessment enquiries, but one in which the anonymous complainant could not be advised of the outcome of those enquiries. It is illustrative of the difficulties that can arise in country towns with a small labour pool, and of the importance of transparency in decision-making in order to avoid speculation in the community that improper behaviour has occurred.

## CASE STUDY 1: ON HER OWN TERMS

The Commission received an anonymous letter claiming that the wife of the general manager of the local council in a country town had received favourable treatment over many years because of her husband's position. The allegation was that she had risen through the ranks of the council-run agency where she worked for reasons other than merit. Given that the general manager was implicated in the allegations, Assessments Section staff conducted enquiries with the mayor regarding the recruitment practices undertaken each time the general manager's wife had received a promotion. The enquiries also focused on what role the general manager played in the administration of the agency where his wife worked. The information provided indicated that proper and arm's-length processes had been adhered to. In relation to one promotion, the position had been externally advertised and the general manager's wife's application was the only one submitted. Whilst the general manager did have some involvement in the management of the agency where his wife worked, as he was a committee member, whenever there was an issue relating to his wife he properly declared an interest and did not participate in either discussion or voting. There was no information to support the allegation that the promotions were made other than on the basis of merit.

# Complaints from the public

Under section 10 of the ICAC Act, any person can 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 public sector employees that do not meet the criteria within the PID Act are also classified as section 10 complaints.

Often matters referred to the Commission as involving potential corrupt conduct are not investigated by the Commission on the basis that there is no real likelihood corrupt conduct has occurred. The Commission, however, refers some of these allegations to the agency concerned for its information, where there is a perception of unfairness or wrongdoing. In case study 2, for example, there was no likely corrupt conduct, in the Commission's view, but a member of the community believed the behaviour was dubious.

Table 11 shows the different government sectors about which allegations of corrupt conduct were made under section 10 in 2010–11

**Table 11: Complaints from the public in 2010–11, showing allegations in the top five government sectors**

Sector	Section 10 complaints	% of section 10 complaints
Local government	372	40%
Law and justice	68	7%
Government and financial services	60	7%
Community and human services	57	6%
Health	57	6%

As in previous years, the sector most frequently complained about in 2010–11 was local government, with section 10 complaints relating to this sector accounting for 40% of the total received (similar to the 2009–10 and 2008–09 reporting periods).

In the Commission's experience, over-representation of local government in the complaints statistics is due to the high level of people's interaction with local government, and the personal interest many take in its decisions.

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 12 and 13 respectively.

**Table 12: Complaints from the public in 2010–11, showing the five most frequent types of workplace functions mentioned**

Workplace function	Section 10 complaints	% of section 10 complaints
Reporting, investigation, sentencing and enforcement	277	30%
Development applications and land rezoning	203	22%
Human resources and staff administration	159	17%
Procurement, disposal and partnerships	144	16%
Allocation of funds, materials and services	104	11%

## CASE STUDY 2: STICKY SITUATION

The Commission received an allegation that a vehicle owned by a state agency, and carrying that agency's branding, had prominently affixed on its rear a sticker promoting a fundraising event; a trek in a remote, mountainous part of the world. The cause being promoted was to raise funds for a local children's hospital. The bumper sticker noted that the charitable event was being sponsored by a private organisation. The complainant believed that by endorsing the event, the public authority was also promoting the private organisation's work and that this represented a potential conflict of interest.

The Commission did not consider that the mere placement of the sticker could be said to have been done for an improper purpose, as there was no accompanying information to suggest that the private entity concerned had, in fact, received favourable treatment from the public authority. However, as there was a perception of unfair advantage being conferred on the private entity, the Commission referred the matter to the public authority for its information.

**Table 13: Complaints from the public in 2010–11, showing the five most frequent types of corrupt conduct alleged**

Type of corrupt conduct	Section 10 complaints	% of section 10 complaints
Partiality	354	38%
Improper use of records or information	227	25%
Failure to perform required actions	206	22%
Personal interests	170	18%
Corrupt conduct related to investigations or proceedings	139	15%

Appendix 1 provides a full breakdown of the workplace functions and types of conduct about which the Commission received complaints, protected disclosures, and reports.

## Protected disclosures

If their complaint meets certain criteria, NSW public sector employees who raise corruption allegations about a NSW agency or official may be entitled to receive protection under the PID Act. The Act makes it an offence to take retaliatory action against someone because that person has made a protected disclosure.

In 2010–11, the Commission received 289 protected disclosures from public sector employees, a 13% increase from the 253 received in the previous year. Table 14 shows the number of allegations in the top five categories by government sector for protected disclosures received during the year. As with section 10 complaints, the largest number of allegations in this category concerned local government (33% in the 2010–11 year, up from 23% the previous year).

**Table 14: Protected disclosure allegations by government sector in 2010–11**

Sector	Protected disclosures	% of protected disclosures
Local government	95	33%
Transport, ports and waterways	30	10%
Health	29	10%
Custodial services	20	7%
Natural resources and environment	18	6%

Prior to making any enquiries about protected disclosure allegations, the Assessments Section seeks written authority from the complainant for his or her identity to be disclosed during any such enquiries. When consent is not given, the Commission may, under section 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.

The five most frequent workplace functions reported by way of protected disclosures, as well as the five most frequent types of corrupt conduct alleged, are shown in Tables 15 and 16 respectively.

**Table 15: Protected disclosure allegations in 2010–11, showing the five most frequent types of workplace functions mentioned**

Workplace function	Protected disclosures	% of protected disclosures
Human resources and staff administration	144	50%
Reporting, investigation, sentencing and enforcement	72	25%
Procurement, disposal and partnerships	53	18%
Allocation of funds, materials and services	39	13%
Development applications and land rezoning	21	7%

**Table 16: Protected disclosure allegations in 2010–11, showing the five most frequent types of corrupt conduct alleged**

Type of corrupt conduct	Protected disclosures	% of protected disclosures
Partiality	138	48%
Personal interests	81	28%
Failure to perform required actions	70	24%
Improper use of records or information	66	23%
Improper use or acquisition of funds or resources	59	20%



Appendix I provides a full list of the workplace functions and types of conduct about which the Commission received protected disclosures and reports.

Protected disclosures are received by the Commission from all levels of the public sector. Both the agency and the officer making the complaint are responsible for ensuring that confidentiality is maintained, according to the provisions of the PID Act.

Allegations can include unfairness in a particular recruitment process, systematic manipulation of procurement practices by an employee's superior or the head of an agency misusing the agency's resources for private gain.

### **Review of the Commission's handling of protected disclosure matters**

In the reporting period, the Manager of the Assessments Section led an internal review into how the Commission manages protected disclosure matters. The project team reviewed academic literature and the 2009 report by the ICAC's parliamentary committee (as well as submissions made to the committee), surveyed and interviewed Commission staff, and consulted with staff in oversight and regulatory bodies. The team came up with a number of recommendations, one of which was the establishment of an internal Public Interest Disclosures Committee at the ICAC, to come into existence on 1 July 2011. That Committee's role will be to offer guidance and support to whistleblowers, to assist staff who handle protected disclosure matters, and to provide advice to the Commissioner in his role as a member of the Steering Committee on the PID Act.

## **Reports from public sector agencies and ministers**

Section 11 of the ICAC Act requires principal officers of NSW public sector agencies to report suspected corrupt conduct to the Commission. Principal officers include directors-general 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 agency responsible to the minister.

Most matters reported by principal officers and ministers involve suspected conduct within organisations for which they are responsible, although sometimes principal officers and ministers also advise the Commission of corrupt conduct they suspect in other public sector agencies.

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 even lost. Case study 3 is an example of a timely section 11 report, which eventually led to Operation Danby and a public inquiry by the Commission.

### **CASE STUDY 3: EYE SPY**

The general manager of Strathfield Municipal Council telephoned the Assessments Section on a Monday in September 2010. He advised that the previous Friday a meeting had taken place between members of a contracting firm and Council officers to discuss the installation of cameras in public places that would detect people engaging in parking infringements. Present at that meeting was the council's manager of community services. Shortly before he rang the Commission, the general manager had been told by the contractor's business manager that the manager of community services had, at the Friday meeting, sought a payment of \$10,000 from him. The matter was reported promptly to the Assessment Panel and became the subject of an investigation, Operation Danby. The Commission issued section 22 notices (notices to produce documents), interviewed witnesses and conducted compulsory examinations. A public inquiry was held in February 2011 and the report was made public in May 2011. The Commission found that the manager of community services had corruptly represented to the business manager that he had authority he did not have and had solicited the \$10,000 payment for personal use. The report recommended that consideration be given to dismissing, dispensing with the services of or otherwise terminating the business manager's services on the basis that he engaged in misconduct.

Table 17 shows the number of times allegations were linked to a particular sector. Local government was the subject of most section 11 reports, comprising 31% of allegations received, slightly higher than the previous year (29%).

**Table 17: Section 11 reports received in 2010–11, showing the five most frequently complained about government sectors**

Sector	Section 11 reports	% of section 11 reports
Local government	196	31%
Health	60	9%
Custodial services	51	8%
Natural resources and environment	45	7%
Transport, ports and waterways	43	7%

It must be noted that there are currently over 150 local councils in NSW. Since 1 July 2009, the number of state agencies whose principal officers had a duty to report suspected corrupt conduct was reduced markedly with the introduction of the 13 clusters or “super agencies”.

The five most frequent types of workplace functions about which the Commission received section 11 reports, as well as the five most frequent types of corrupt conduct alleged, are shown in Tables 18 and 19 respectively.

**Table 18: Allegations from principal officers and ministers (section 11 reports) in 2010–11, showing the five most frequent workplace functions mentioned**

Workplace function	Section 11 reports	% of section 11 reports
Human resources and staff administration	212	33%
Procurement, disposal and partnerships	113	18%
Reporting, investigation, sentencing and enforcement	112	18%
Allocation of funds, materials and services	78	12%
Processing of electronic and cash payments	46	7%

**Table 19: Allegations from principal officers and ministers (section 11 reports) in 2010–11, showing the five most frequent types of corrupt conduct alleged**

Type of corrupt conduct	Section 11 reports	% of Section 11 reports
Improper use of records or information	207	32%
Improper use or acquisition of funds or resources	198	31%
Personal interests	115	18%
Partiality	112	18%
Failure to perform required actions not already listed	111	17%

## The assessment process

The Commission is required under section 12A of the ICAC Act to focus attention and resources on serious and systemic corrupt conduct, as far as practicable.

Commission officers analyse the information received to determine whether there are trends across a particular sector, such as health or emergency services, in a particular agency or even in a particular unit of that agency. Information is analysed to determine whether corruption is occurring or if there are appropriate systems in place for the agencies involved to minimise opportunities for corruption. Complaints and reports that highlight corruption risk areas and trends help the Commission to target its corruption prevention work (see Chapter 4).

The Commission receives a lot of information that, while it may have some substance, is not suitable for investigation by the Commission as it is relatively minor. In addition, the Commission receives some material that lacks substance and does not warrant being investigated or otherwise pursued. These matters are generally declined or, if relevant to another agency, referred to that agency. In 2010–11, 368 matters were referred to other agencies, a similar number to the previous year (365).

Every matter received by the Commission is registered on a database and individually assessed by officers of the Assessments Section, taking into account:

- whether the matter is serious and/or systemic
- whether or not corrupt conduct is involved
- whether there is a reasonable line of enquiry to pursue
- what information has been provided or could be obtained

- whether existing information supports the allegations
- any prior or current related matters.

All matters (except those outside the Commission's jurisdiction, such as complaints involving the NSW Police, a federal authority or private enterprise) are reported to the Assessment Panel.

The Assessment Panel comprises the Manager of the Assessments Section (who acts as the Panel Convenor), the Commissioner, the Deputy Commissioner, and the Executive Directors of the Investigation Division, the Corruption Prevention Division, and the Legal 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 initial assessment of the matter, and recommendations for future action.

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

### **1. Refer to another agency or take no action**

A significant number of the matters the Commission receives can be appropriately referred on to other oversight agencies, such as the NSW Ombudsman and the Division of Local Government. Some disciplinary or administrative matters can appropriately be referred to the agency concerned, while others may have already been adequately dealt with by the reporting agency.

Many matters do not meet the definition of corrupt conduct in the ICAC Act, and therefore do not warrant any Commission action.

After considering the results of any initial enquiries, the Assessment Panel decides whether a matter should be referred or does not warrant any further action. In 2010–11, there were 2,169 such decisions made by the Assessment Panel, representing 84% of all decisions.

### **2. Request an investigation and report be conducted by another agency**

If an allegation of corrupt conduct is made about an agency, the Commission has the power under sections 53 and 54 of the ICAC Act to require either that agency or an appropriate oversight body to conduct an investigation and report its

findings to the Commission. This power is usually used for relatively serious matters and allows the Commission to oversee the investigation by the agency.

The Commission refers matters under sections 53 and 54 only if it considers that the agency will be able to investigate the matter, and will consult with the agency before making a referral. The Commission will not make a referral if it considers the agency 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 agencies that it considers unsatisfactory.

In 2010–11, the Commission made 36 referrals under sections 53 and 54 of the ICAC Act, compared to 39 in the previous year.

Case study 4 is an example of suspicions about improper procurement practices, which were dealt with under sections 53 and 54, and that resulted in an overhaul of a university's procurement systems.

## **3. Conduct assessment enquiries**

If the Assessment Panel decides that a matter should be considered further – but may not yet warrant investigation – assessment enquiries may be undertaken. In 2010–11, there were 200 matters where such enquiries were undertaken. This is a slight increase on the previous year, where 191 were undertaken (compared to 137 in 2009–10).

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.

Depending on the outcome of these assessment enquiries, the Commission may decide to pursue the matter no further or to refer it to another agency. In some cases, assessment enquiries may lead to an investigation.

## **4. Provide corruption prevention analysis and/or advice**

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

In 2010–11, seven matters were referred by the Assessment Panel to corruption prevention staff for analysis and/or advice. This compares to 18 matters referred in 2009–10.

## **5. 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 evidence, executing a search warrant or conducting covert

## CASE STUDY 4: HIRE POWER

An anonymous university employee reported that a colleague was invoicing the institute where they both worked through the colleague's private company, which specialised in hiring out equipment. It was alleged that this conflict of interest was well known to the employee's supervisor and institute head.

The university conducted an investigation under section 53, which substantiated some of the allegations. While there had been no declaration of secondary employment, the university's code of conduct required no such declaration. The investigation found no evidence of "invoice splitting" as had been alleged; this improper practice is utilised to bring a contract price below a certain threshold, so that more onerous procurement processes can be avoided. The employee in question appeared to be motivated by a desire to deliver outcomes in a timely fashion and achieve value for money for the university, although clearly there was a financial benefit being derived.

The investigation disclosed that the applicable procurement processes were haphazard and not well understood, even at senior levels. Beyond counselling of the staff involved, the investigation's findings did not warrant serious disciplinary action. The university undertook to implement a number of substantial changes to tighten up procurement processes in the institute, to bring them in line with general university processes, and to keep the Commission informed of the progress of these reforms.

operations, the Commission will invariably investigate the matter itself (see Chapter 3). These matters are usually referred to the Investigation Division or, in some cases, the Legal Division for preliminary investigation or full investigation.

Only a small number of matters with the potential to expose significant or 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 Strategic Investigation Group (SIG), which also gives

direction on each investigation. The SIG also oversees matters referred to agencies under sections 53 and 54 of the ICAC Act.

In 2010–11, 62 matters were referred to the Investigation Division for preliminary investigation. In addition, three matters remained in the Assessments Section<sup>3</sup> for preliminary investigation through the issuing of notices to produce under section 22 of the ICAC Act. A further two investigations were referred to the Legal Division.

Table 20 summarises all Assessment Panel decisions in 2010–11.

**Table 20: Decisions made by the Assessment Panel in 2010–11, compared to the previous two years**

Decisions to act upon a matter	2010–11		2009–10		2008–09	
Referred to Assessments Section for further enquiries (includes section 53/54 referrals)	342	13%	312	12.0%	302	11.2%
Referred to the Corruption Prevention Division for further action	7	0%	18	0.7%	44	1.6%
Referred for investigation	67*	3%	139	5.4%	58	2.1%
Total number of decisions to act upon a matter	416	16%	469	18.1%	402	14.9%
Decisions to decline a matter	2010–11		2009–10		2008–09	
Immediate referral to another agency or no action taken by the Commission, following initial enquiries or research when needed	2,169**	84%	2,127	81.9%	2,300	85.1%
<b>Total number of decisions made</b>	<b>2,585</b>		<b>2,596</b>		<b>2,702</b>	

\* One matter was referred twice for investigation.

\*\* A total of 1,803 were neither acted upon nor referred to another agency.

<sup>3</sup> Of the three, one proceeded to the Investigation Division for further investigation.

## Outcomes of matters

The Commission records outcomes of all matters once they have been closed, including its own actions and those of the agencies that are the subject of the allegations, where known. As the Commission has wide discretion about what matters to pursue and must focus on serious and systemic corruption, it does not know the outcome of all matters received.

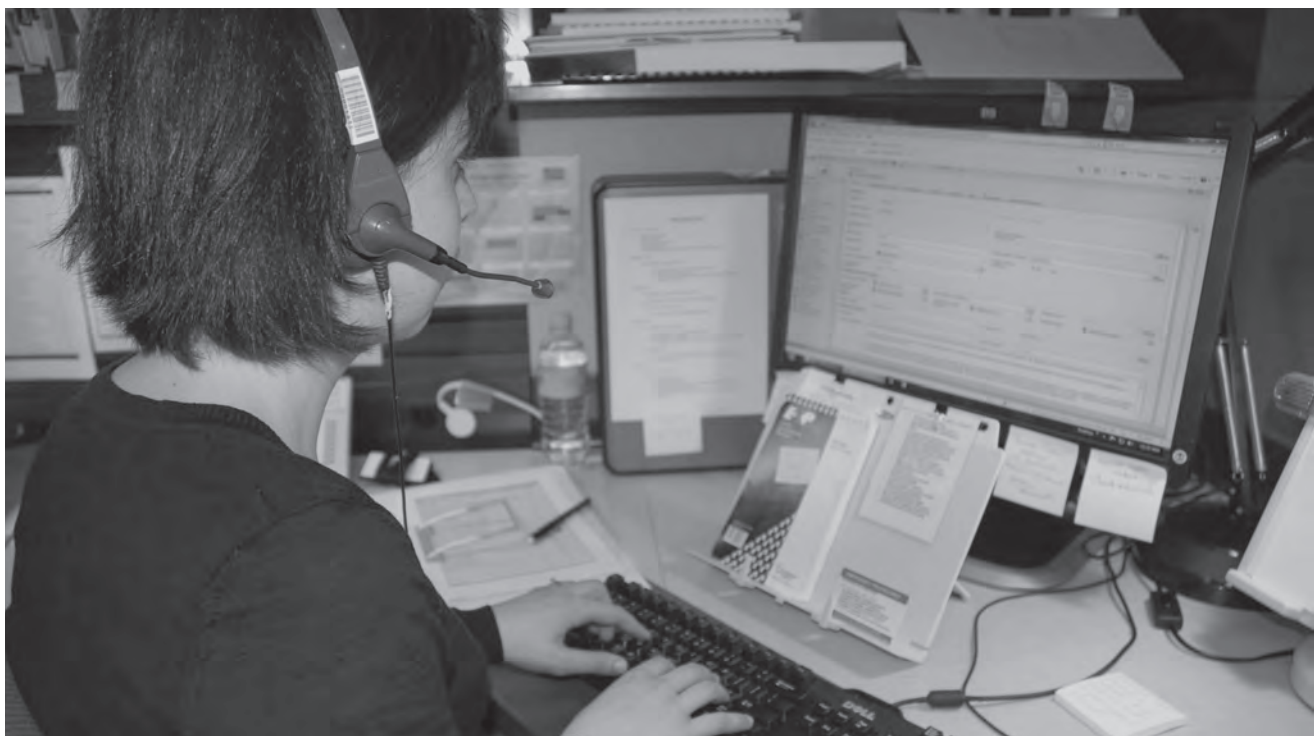
In 2010–11, the Assessments Section began to request, as a matter of course, that agencies advise the Commission

of any disciplinary outcomes for agency employees. This will enable the Commission to better track any previous adverse findings against a public official on its case management database.

Table 21 shows the known and recorded outcomes for all section 10, section 11 and protected disclosure matters that occurred during 2010–11. Table 22 shows other known and recorded outcomes from section 10, protected disclosures, section 11 and other matters that the Commission closed during 2010–11.

**Table 21: Key outcomes recorded in 2010–11**

Key outcomes	Section 10	Protected disclosures	Section 11	Other types of matters	Total
Number of persons subject to recommendations that advice of Director of Public Prosecutions be sought for prosecution	2	4	8	2	16
ICAC compulsory examination	17	1	85	27	130
ICAC public inquiry	1	0	6	2	9
ICAC investigation	11	18	29	8	66
Corruption prevention recommendations made	13	40	26	31	110



Assessments Officer, Stephanie Coorey.



**Table 22: Other outcomes for matters closed during 2010–11**

Other outcomes	Section 10	Protected disclosures	Section 11	Other types of matters	Total
<b>ICAC outcomes</b>					
Intelligence or technical product passed to another agency	0	0	1	1	2
Matter referred to another law enforcement agency	3	0	5	0	8
Referral to another agency for information	35	10	8	8	61
Referral to the subject agency for information	123	54	12	12	201
Systemic issues identified by the Commission	7	7	14	2	30
No further action by the Commission	707	117	441	925	2,190
<b>Agency outcomes</b>					
Systemic issues identified by the agency	8	8	36	1	53
Systemic issues addressed by the agency	10	11	32	0	53
Disciplinary action taken by the agency – Counselling	1	4	31	0	36
Disciplinary action taken by the agency – Dismissal	0	0	27	0	27
Disciplinary action taken by the agency – Resignation	3	2	35	0	40
Disciplinary action taken by the agency – Other	0	0	46	0	46
Disciplinary action proposed by the agency	4	2	27	1	34
No action warranted by the agency	86	25	36	25	172

## The year ahead

In 2011–12 we will:

- undertake training in cognitive interviewing techniques to enhance the skills of Assessments Section staff
- formulate tools to assist principal officers of agencies to report suspected corrupt conduct to the Commission.
- continue to survey complainants and whistleblowers in order to assess how well we are handling their matters



Staff of the Commission's Investigation Division.

## CHAPTER 3

# Investigating corruption



“ This year we established a **new preliminary investigation** team to focus on identifying serious matters for public inquiries. We also **improved our preparation times for briefs of evidence** to the Director of Public Prosecutions; so much so, that there were no briefs awaiting completion at the end of this reporting period. ”

**Stephen Osborne**

Acting Executive Director, Investigation Division

# Highlights 2010–11

- We finalised 116 preliminary investigations out of the 133 on hand (which included 74 matters carried over from the previous year).
- We commenced 15 full investigations (operations).
- We provided expert investigative support to 130 compulsory examinations and nine public inquiries held over 65 days.
- The Commission's public inquiries resulted in corrupt conduct findings against 26 people.

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# Investigations: Key objectives

Detect and investigate corrupt conduct.

Identify corruption prevention issues through investigations.

Ensure a best practice approach for all investigations.

Maintain strategic alliances to optimise investigative and preventative outcomes.

## About the Investigation Division

A primary function of the Commission is to investigate and publicly expose serious and systemic corruption to enable corrective action to be taken and to minimise corruption in the NSW public sector.

The Investigation Division uses overt and covert investigation techniques to uncover corruption, including using the coercive powers available to the Commission under the *Independent Commission Against Corruption Act 1988* ("the ICAC Act"). The Division is split into two areas: the investigation section, and the surveillance and technical unit.

Most matters commence as preliminary investigations. These investigations are conducted with a view to determining whether there is evidence that serious or systemic corrupt conduct may have occurred. If appropriate, matters are escalated to full investigation (operation) status, and are then referred to one of the Division's investigation teams. Investigations can draw upon the full range of the powers available to the Commission. During the investigation process, and subject to it being in the public interest to do so, appropriate matters are selected for public inquiry. At the conclusion of a public inquiry, findings are made about whether any person has been involved in corrupt conduct and a brief of admissible evidence may be referred to the Director of Public Prosecutions (DPP) for consideration of criminal proceedings.

The Executive Director of the Investigation Division until March 2011 was Michael Symons. Stephen Osborne acted in the position between March and June 2011. In 2010–11, the average number of full-time equivalent staff for the Investigation Division was 44 and its budget in this period was \$6 million.

## The year in review

This year has been marked by a number of innovations in the Investigation Division designed to improve business practices. A new preliminary investigation team was introduced in order to enhance the Commission's response capability as well as to provide a dedicated resource to deal with the high number of matters referred to the Investigation Division in 2009–10.

Improvements have been made to the way criminal briefs of evidence for the DPP are prepared to the extent that, at the end of this reporting period, the Division had no outstanding briefs of evidence for the DPP.

Investigations in 2010–11 were characterised by a significant amount of computer forensic work. It was not uncommon for the Commission to have to review multiple terabytes of data in the course of investigations undertaken. A review of the computer forensic area was conducted and approval given for a substantial upgrade to the Commission's forensic hardware and software resources.

Improvements were also made to the format of reports submitted to the Strategic Investigation Group (SIG) that oversees the direction and progress of investigations conducted by the Division. These reports allow a better appreciation of the nature as well as the elements of the corrupt conduct being investigated, along with progress on the gathering and assessment of relevant evidence.

## Challenges we faced in 2010–11

The 2010–11 year was challenging for a number of reasons. In addition to dealing with 62 preliminary investigations referred to the Division during the year, there were also 74 preliminary investigations carried over from 2009–10, following a 133% increase that year.

Due to a non-recurrent funding increase, two new temporary positions were added to the Division. Application has been made by the Commission for a recurrent funding increase to its budget, part of which would be used to further increase the number of staff of the Division in order to improve the time taken to investigate matters.

In August 2010, a dedicated Preliminary Investigation Team was introduced to the Division. This team is headed by a Chief Investigator (Operations Adviser) and has two investigators attached to it whose sole responsibilities are to conduct the bulk of the preliminary investigations referred to the Division. During the reporting period, this dedicated team allowed for a more strategic focus on preliminary investigation matters, which resulted in 116 matters being finalised in the year.

Matters referred for investigation vary in complexity and are continually assessed and reprioritised depending on key factors, such as the availability of evidence, the ability to engage in covert methods of investigation, and the serious nature of the allegations.

A significant number of matters investigated require an examination of financial transactions or other financial enquiries in order to determine whether corrupt payments may have occurred. These enquiries can be time consuming due to the need to obtain relevant information from financial institutions. The responses from financial institutions can often have a significant impact on the future direction and timeliness of an investigation. It is necessary for this aspect of the Division's work to be closely monitored.

A considerable number of matters investigated in 2010–11 have required detailed computer forensic analysis. The analysis of large servers, desktop and laptop computers, together with a number of different portable communication devices and storage media, requires an ongoing process of acquisition, interrogation, analysis and reporting. Computer forensic evidence has featured at

various public inquiries and the amount of such evidence to be analysed has tested the Commission's resources.

It is expected that forensic evidence will continue to play a major role in future Commission investigations. To this end, a detailed review of the computer forensic procedures, hardware, software and storage was undertaken during the reporting period. A business case was provided to the Commission's Executive and a significant upgrade in the area was approved. This upgrade will be undertaken in 2011–12.

As in previous years, corruption in the procurement process has been a feature of a number of matters referred for investigation. Matters involving procurement processes can also be time- and resource-intensive. This means that matters have to be constantly assessed and prioritised in order to meet established timeframes, not only for the conduct of investigations, but also for the preparation of and support to compulsory examinations, public inquiries and brief preparation.

The Commission has recently instituted a new reporting tool designed to identify the breakdown of activities undertaken within the Division and the amount of time spent on each of those activities. This tool will assist to ensure staff are working in accordance with strategic priorities and will also help to identify when matters may be ready for public inquiry.

## How we performed in 2010–11

Sixty-two new preliminary investigations were referred to the Investigation Division in 2010–11. In addition to the matters referred in the course of 2010–11, the Division continued investigations into 74 matters carried over from the previous year. Further, the Commission undertook 15 full investigations (operations) in 2010–11 and continued investigations into nine investigations<sup>4</sup> (operations) carried over from the 2009–10 period.

In 2010–11, the matters investigated involved a variety of sectors, including local government (34%), natural resources and environment (16%), and transport, ports and waterways (14%).

In 2010–11, the Investigation Division finalised 15 investigations (operations), completing 93% within 12 months, which is greater than the target of 90% set for the reporting period. In the same period, 116 preliminary investigations were finalised. Of those matters, 41% were completed within the target of 120 days. This result is a direct reflection of the large number of matters referred for preliminary investigation over the past two reporting periods.

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<sup>4</sup> This is a revised figure from that reported in the *Annual Report 2009–2010*.



## How we compare to agencies with similar functions

The Commission is a unique organisation in that it is the only one in Australia that stands as an independent agency solely responsible for investigating allegations of public sector corrupt conduct within an administrative framework. Other agencies, such as the Corruption and Crime Commission (CCC) in Western Australia and the Crime and Misconduct Commission (CMC) in Queensland, have an expanded role relating to crime and police misconduct. The NSW Police Integrity Commission and Victoria's Office of Police Integrity investigate allegations involving police officers.

Despite these differences, it is important to benchmark the Commission against some of these broadly similar agencies to provide an indication of its efficiency and effectiveness. Given the timing of the release of annual reports, it is not possible to compare the Commission's performance with like agencies for the same year. Accordingly, comparisons below are based on the results reported by agencies in their 2009–10 annual reports.

### Corruption and Crime Commission (Western Australia)

The CCC does, in part, focus on misconduct allegations within the public sector, which (unlike the ICAC) includes police personnel. According to its 2009–10 annual report, the CCC monitored the progress of 1,640 misconduct investigations that it had referred to public authorities, and reviewed 1,827 reports of completed investigations undertaken by these public authorities. Through these processes, the CCC dealt with 926 matters related to public sector misconduct allegations.

In the same period, the CCC received a total of 3,237 allegations of misconduct, of which 1,221 related to the police service. This resulted in 2,016 matters relating to the general public sector. In 2010–11, the ICAC received 2,867 matters relating to the general public sector.

The CCC referred 29 investigations to its Investigations Unit in 2009–10. These investigations are a combination of what the ICAC refers to as its preliminary investigations and full investigations. The ICAC's Investigation Division received 62 preliminary investigations (15 preliminary investigations were escalated to full investigations) in 2010–11. A comparison of activities is presented in Table 23.

**Table 23: Comparison between CCC and ICAC investigations**

Description	CCC 2009–10	ICAC 2010–11
Reports tabled in Parliament	8	12
Notices to produce (section 22)	499	645
Matters referred to Investigations Unit	29	62
Search warrant applications	14	20
Surveillance warrant applications	8	1
Telephone intercept warrants	40	12
Power to enter (section 23)	7	0
Notices to attend hearings (section 35)	49	344
Public inquiries (PIs) Misconduct	1 PI/ 3 days	9 PIs/ 65 days
Compulsory examinations Misconduct	9	130

### Crime and Misconduct Commission (Queensland)

One of the CMC's functions is to "promote high standards of integrity and reduce misconduct in the public sector". As such, the agency does investigate, where applicable, allegations of misconduct within the public sector, including the police. It should be noted that the CMC has a greater oversight role, with a majority of matters reported being referred back to the reporting agencies for the agency to investigate and the outcome then reported back to the CMC. The CMC then reviews these investigations reports and their results to ensure probity and appropriate outcomes from the investigations.

According to its 2009–10 annual report, the CMC reviewed seven investigations into the public sector (excluding the police). The ICAC adopts a similar approach, utilising sections 53 and 54 of the ICAC Act to refer matters to agencies for investigation and report. In 2010–11, the ICAC referred 36 matters to public sector agencies for investigation and report pursuant to these provisions.

The CMC received 4,665 misconduct complaints in 2009–10, 60% of which related to the police. The CMC finalised 63 misconduct investigations in 2009–10, 33 (52%) of which related to the Queensland Police Service. Eight of the investigations (13%) related to local government, a further 19 (30%) related to the public sector, and three (5%) related to other sectors. These investigations are a combination of what the ICAC refers to as its preliminary investigations and full investigations.

A total of 90% of the CMC's 63 misconduct investigations were completed within 12 months. The ICAC's Investigation Division finalised 131 combined preliminary and full investigations in 2010–11; 89% of which were completed within 12 months.

In the course of the 63 investigations finalised in 2009–10, the CMC recommended a total of 13 charges: three were criminal charges and 10 were disciplinary charges. Two (3%) of these investigations concerned the Queensland Police Service.

In 2010–11, the ICAC recommended the advice of the DPP be sought in relation to the prosecution of 16 people. These charges stemmed from the outcomes of publicly reported investigations, which is the standard procedure for the ICAC to recommend charges. While the ICAC may recommend disciplinary charges in appropriate cases, many public sector employees are either dismissed or resign, obviating the need for such recommendations.

The CMC has access to similar coercive powers to the ICAC's. Table 24 compares the use of coercive powers by the two agencies.

**Table 24: Comparison between CMC and ICAC investigations**

Description	CMC 2009–10	ICAC 2010–11
Power to enter (section 23)	7	0
Notices to produce (section 22)	141	645
Notices to attend hearings (section 35)	141	344
Search warrant applications	14	20
Surveillance warrant applications	3	1

## How we investigate

The referral of a matter to the Commission does not necessarily mean that corruption exists. It is the role of the Commission to examine the allegation to determine, on the evidence available, whether the alleged conduct could fall within the ambit of corrupt conduct, as defined by the ICAC Act.

As noted in Chapter 2, all material is initially reviewed by the Assessment Panel in order to determine whether a matter should be referred to the Investigation Division for a preliminary investigation.

Investigations can vary from simple to complex, involving both historic and current activities. The methodology utilised varies from overt to covert methods, depending on the nature of the allegations. Each investigation is assessed to determine the most appropriate investigation method and, where appropriate, coercive methods (such as compulsory examinations) are used to assist the investigation.

Investigation teams generally comprise specialists from the Investigation Division, including investigators, financial investigators and analysts, a lawyer from the Legal Division, and a corruption prevention officer from the Corruption Prevention Division. The teams hold regular meetings to discuss progress, tactics and emerging issues with regard to investigations.

Investigations may require the use of statutory powers, such as search warrants, surveillance devices and the interception of telecommunications. All applications are reviewed by the team lawyer before final approval by the Executive Director of the Legal Division. This is to ensure that all applications comply with regulatory and evidentiary requirements before being submitted to the appropriate authorities.

If the Commission determines it is in the public interest to do so, it may take evidence from witnesses in compulsory examinations, which are held in private, or it may proceed to a public inquiry, where the evidence is generally heard before (and made available to) the public. At a public inquiry, the presiding Commissioner may suppress or restrict publication of evidence if he or she believes it is in the public interest to do so.

The Commission can compel witnesses to answer questions and produce documents or other things when they are summoned to a compulsory examination or to a public inquiry. The witness must comply with this direction regardless of whether the

answers or production of the documents or other things might incriminate them. A witness, however, may object to answering the question or to producing the item. The witness must still comply with the direction but, if they object, neither the answer nor the item produced is admissible as evidence against the witness in any subsequent criminal, civil or disciplinary proceedings, other than for an offence under the ICAC Act.

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

There are a number of ways to measure the effectiveness of a Commission investigation. These include:

- the level and extent of corruption identified in the course of the investigation
- the number of findings of corrupt conduct as defined in the ICAC Act
- the number of recommendations for consideration of disciplinary action against any public officials identified in the course of the investigation and public inquiry
- the number of recommendations and advice to improve systems, procedures and practices to minimise opportunities for corrupt conduct to occur again
- referrals of appropriate information to other agencies, such as the NSW Crime Commission, the NSW Police Force and the Australian Taxation Office.

Tables 21 and 22 in Chapter 2 include outcomes for 2010–11 in these categories.

## Continuous improvement of investigation practices and administration

The investigation of alleged corrupt conduct within the NSW public sector is one of the principal functions of the Commission. Processes are regularly reviewed to ensure that the Investigation Division maintains best practice in its investigation processes. In 2010–11, the Division maintained its commitment to best practice by utilising state-of-the-art technology and addressing the effective management of investigations.

Strategies for improvement during the reporting period included:

- introduction of a preliminary investigation team to provide a dedicated resource for dealing with matters
- revision of practices for dealing with the preparation of briefs of evidence for referral to the DPP for consideration of criminal proceedings (a new memorandum of understanding was also entered into between the Commission and the DPP)
- improvements to the Commission's Management of Cases, Complaints and Assessments (MOCCA) case management system to enable greater oversight and management of investigations
- ongoing review and assessment of specialist equipment for surveillance, forensic examination and other electronic investigation tools, and the purchase of new equipment (including a detailed review of the computer forensic area leading to approval for a significant technology upgrade)
- revision of templates for reporting the progress of investigations to the SIG
- review and update of procedures in the Operations Manual to take into account legislative and operational changes.

## Strategic alliances to optimise investigative outcomes

There is a constant need to monitor the ever-changing environment of investigation techniques and processes. Part of this process is to maintain an ongoing liaison with other agencies and to participate in various seminars and interagency committees.

In addition to these committees (examples of which are listed below), there is ongoing liaison with the NSW Crime Commission, which includes dissemination of investigation reports regarding potential matters for asset restraint and forfeiture.

In the 2010–11 reporting period, a referral was made to the NSW Crime Commission in relation to a potential proceeds of crime action. This concerned the investigation into an allegation that Hedley Peter Higgs, Manager of City Services at Canada Bay City Council, accepted payments from contractors engaged to conduct work for the Council in return for showing favour to those contractors in the course of his work with Council. In its report on this investigation, which was made public on 15 December 2010, the Commission made findings of corrupt conduct against Mr Higgs and contractor Thomas David Turner. On 2 November 2010, the Commission disseminated material to the NSW Crime Commission arising from the investigation.

**Interagency Technical Committee:** involvement in this committee provides an opportunity for intercepting agencies to seek common ground in delivery standards and for monitoring telecommunications interception.

**Interception Consultative Committee:** this committee's function is to give legal advice to agencies concerning telecommunications interception. The committee keeps abreast of emerging technologies from overseas that impact on lawful interception within Australia. It also interacts with telecommunications providers to ensure that they supply the interception capability required by agencies.

**National Oversight Covert Group:** this group is concerned with the improvement and sharing of knowledge between the smaller oversight and anti-corruption agencies that have a covert physical and technical capability.

**SEDNode User Forum:** SEDNode is a secure information system used by law enforcement and anti-corruption agencies to receive telecommunications data from providers. The Commission subscribes to the SEDNode system (as do the other agencies and telecommunications providers). The SEDNode User Forum has been established to keep members updated with the system in terms of enhancements, functionality and new members.

**Special Networks Committee:** this is a forum for intercepting agencies to discuss the capability of telecommunications interception and any related contractual issues.

Information on other significant committees in which the Commission participates is available in Appendix 6.

To further strengthen its strategic alliances with various agencies, the Commission may enter into a memorandum of understanding (MOU) with another agency to facilitate the sharing of information and resources. The Commission currently has MOUs with the Australian Transaction Reports and Analysis Centre, the Director of Public Prosecutions, the Australian Taxation Office, the Police Integrity Commission and the NSW Police Force.

During the year, the Investigation Division disseminated lawfully obtained telephone intercept product to the Police Integrity Commission and the NSW Police Force. Financial information was also disseminated to the Australian Taxation Office and the NSW Crime Commission.



In Operation Challenger, a Canada Bay City Council employee accepted from a contractor the gift of a boat and trailer worth more than \$30,000.



## Investigations in 2010–11

Investigations can be instigated through reports from principal officers of public sector agencies, complaints from the public, protected disclosures, under the Commission's own initiative, and through a resolution of both Houses of Parliament to refer a matter to the Commission for investigation.

A total of 74 preliminary investigations and nine full investigations were carried over from 2009–10. In 2010–11, the Investigation Division commenced 62 new preliminary investigations and 15 new full investigations. A total of 116 preliminary investigations and 15 full investigations were completed during the year.

Twenty preliminary investigations and nine full investigations will be carried over by the Investigation Division to the 2011–12 reporting period.

**Table 25: Source of ICAC investigations\* commenced in 2010–11 by sector**

Sector	
Local government	22
Natural resources and environment	10
Transport, ports and waterways	9
Custodial services	6
Universities	5
Land, property and planning	4
Government and financial services	4
Parliament	3
Law and justice	2
Consumer and trade	1
Emergency services	1
Aboriginal affairs and services	1
Community and human services	1
Education (except universities)	1
<b>Total</b>	<b>70**</b>

\* A total of 66 matters were referred for investigation. Of these, four were referred to divisions other than the Investigation Division (two to the Assessments Section and two to the Legal Division).

\*\* An investigation may involve more than one sector.

## Use of statutory powers

The ICAC Act provides a wide range of coercive powers to assist in the investigation of alleged corruption within the public sector. These powers include the ability to require a person or organisation to produce documents or other items relevant to an investigation, and to require a public authority or public official to provide a statement of information.

With written authority, Commission officers can enter and inspect any premises occupied or used by a public authority or public official in that capacity to inspect and copy documents relevant to an investigation. The use of these statutory powers is an important aid in obtaining evidence to determine whether or not corrupt conduct has occurred.

**Table 26: Statutory powers used by the Commission in 2010–11, compared to the two previous years**

Power	2010–11	2009–10	2008–09
Summons (section 35)	344	329	114
Arrest warrant (section 36)	0	0	0
Order for prisoner (section 39)	0	13	5
Search warrant (section 40)	20	22	33
Notice to produce a statement (section 21)*	60	101	13
Notice to produce a document or thing (section 22)*	645	651	329
Notice authorising entry to public premises (section 23)	0	1	1
Surveillance device warrants	1	11	14
Telephone interception warrants	12	14	32
Controlled operations	0	2	6
Assumed identities	3	0	2

\*There were 88 combined section 21 and section 22 notices, which were counted as both section 21 and section 22 notices.



# Public inquiries and compulsory examinations

The Commission may take evidence through compulsory examinations (private hearings) or public inquiries.

In 2010–11, the Commission conducted 130 compulsory examinations and nine public inquiries (the latter took place over 65 days).

A total of 110 corruption prevention recommendations were contained in the public reports issued by the Commission during the year. It should be noted that there is not an exact correlation between the number of recommendations made during the year and the matters listed above. This is due to the fact that, as reports are issued after the completion of public inquiries, they may not necessarily be issued in the same year as the public inquiry was held.

The time interval between the completion of each public inquiry conducted during the year and the furnishing of the relevant report is shown in Appendix 2.

**Table 27: Public inquiries conducted in 2010–11**

Operation name	Summary
Carina	Investigation into alleged unauthorised copying of property information from the Land and Property Information computer database
Challenger	Investigation into the acceptance of corrupt benefits by a City of Canada Bay Council employee
Charity	Investigation into corrupt conduct involving alleged fraud on two Sydney hospitals
Churchill	Investigation into the corrupt conduct of a Willoughby City Council officer
Danby	Investigation into the solicitation of a corrupt payment by a Strathfield Municipal Council officer
Halifax	Investigation into corruption risks involved in lobbying
Napier	Investigation into matters arising from the acquisition by the Crown of property situated at Currawong
Siren	Investigation into corrupt conduct of Sydney Water employees and others
Syracuse	Investigation into the submission of false claims for sitting day relief entitlement by Angela D'Amore MP and some members of her staff

## CASE STUDY 5: MONEY ON TAP

Public sector agencies in NSW frequently engage contractors to perform necessary works. Procurement of contractor services is an area that poses a number of corruption risks.

In 2010, Sydney Water notified the Commission of suspected corrupt conduct involving unauthorised payments to a private entity. This notification followed earlier complaints of bribes being solicited by Sydney Water staff and paid by companies contracted to provide services to the agency. The Commission examined the activities of inspectors within the Civil Delivery Section, the Plumbing Inspection and Assurance Service area and a property asset manager, together with their dealings with various private contractors and a Sydney businessman.

As a result of the investigation and public inquiry, findings of corrupt conduct were made against nine people. The Commission formed the view that the DPP should be asked to consider prosecution action with respect to bribery offences against three Sydney Water employees, two offences of obtaining money by deception against the businessman, and an offence of giving false evidence to the Commission against an authorised constructor.

The Commission also found that there were a number of prevailing flaws in the rules, relationships, systems and processes at Sydney Water. In particular, they found a laissez-faire attitude to staff supervision, weak financial controls and problems with internal audit. Eighteen corruption prevention recommendations were made to Sydney Water, including that it ensures staff in identified risk areas of operational and/or fraud risk are subject to intrusive supervision, and that it reviews its organisational structure to identify and remedy situations where supervisory arrangements are split or unclear.

## Investigation outcomes

The Commission is a fact-finding and investigative body that can make findings of corrupt conduct against public officials or other persons who engage in corrupt conduct that involves or affects the NSW public sector.

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. There are three areas, however, that highlight the outcomes arising from Commission investigations. These are:

- findings of corrupt conduct
- prosecution/disciplinary action taken by either the DPP or the respective public sector agency
- corruption prevention recommendations and advice.

## Findings of corrupt conduct and recommendations for prosecution/disciplinary action

In 2010–11, the Commission made findings of corrupt conduct against 26 persons.

The Commission does not have a direct role in prosecutions. It does, however, refer briefs of evidence to the DPP for consideration of prosecution action. The DPP then advises the Commission whether prosecution proceedings are warranted.

In 2010–11, the Commission recommended that the advice of the DPP be obtained in relation to the prosecution of 16 people for various criminal offences. Recommendations were also made to relevant public sector agencies that disciplinary action be taken against 11 people.

Appendix 3 provides further details on the progress of prosecutions resulting from Commission investigations.

### CASE STUDY 6: SOMEONE TO WATCH OVER HIM

Amongst other things, local councils play an important role in regulating the nature and location of business premises and in ensuring that building and construction work complies with applicable health and building codes. Considerable discretion is vested in council staff to ensure compliance with relevant standards and legislation but discretion without adequate supervision can enable corrupt conduct to go undetected.

Under delegated authority, a building surveyor with Willoughby City Council was responsible for assessing and determining applications for development consent and construction certificates, carrying out building inspections, and issuing building certificates and occupation certificates.

The council officer formed personal relationships with a number of business owners and operators. In the course of his duties, among other examples of corrupt activity, he failed to report an illegal brothel because he was receiving free sexual services, allowed a restaurant to trade without an occupation certificate, provided a developer with a confidential draft assessment report, and invited people to submit false construction cost estimates in order to reduce fees payable to the council.

The Commission investigation and resultant public inquiry showed that there were several factors that allowed the corrupt conduct to occur, including the high level of trust placed in the corrupt officer. Other factors included the lack of information provided to Council staff to enable them to accurately estimate the cost of construction work and the practice at the Council of staff accepting gifts, benefits and hospitality. Seven corruption prevention recommendations were made, including that the Council improve the supervision and monitoring of staff and establish systems that reduce end-to-end control of regulatory approvals by a single Council officer.

## Corruption prevention recommendations and advice

The Commission recognises the high value of lessons learnt in the course of an investigation into corrupt practices. The investigations provide insight into how or why the corrupt practices occurred. In turn, this insight provides the groundwork for improving systems, policies and procedures within the NSW public sector.

Corruption prevention officers are attached to all investigation teams. In the course of an investigation, they conduct a comprehensive review of the systems, policies, procedures and work practices relevant to the matter under investigation. The review identifies weaknesses and gaps in order to reduce future opportunities for corrupt conduct. Even when an investigation does not progress to a public

inquiry, the Commission may still provide corruption prevention advice to the agency concerned.

If the matter does proceed to a public inquiry that results in an investigation report, the Commission may make corruption prevention recommendations in a public report to deal with gaps and deficiencies, and to help prevent the recurrence of corrupt conduct. An implementation plan for the recommendations is requested by the Commission from the agency, and the recommendations are then monitored to ensure that they are either implemented or strongly considered by the agency under investigation.

Further information on corruption prevention work linked to investigations, including the monitoring of the implementation of recommendations arising from investigations, is outlined in Chapter 4.

## The year ahead

In 2011–12 we will:

- enhance investigation procedures through ongoing review and implementation of investigation standards to ensure continued good practice
- enhance our electronic forensic capacity and develop better methods of capturing and analysing large amounts of digital data
- improve the timeliness of our investigations and continue to regularly expose corrupt conduct through public inquiries.



Staff of the Commission's Corruption Prevention Division.

## CHAPTER 4

# Preventing corruption



“ We delivered 89 corruption prevention training sessions as well as 50 speaking engagements this year, reaching an audience of over 3,700 people. ”

**Dr Robert Waldersee**

Executive Director, Corruption Prevention Division

# Highlights 2010–11

- We held the first major corruption prevention-based public inquiry focusing on lobbying practices in NSW, and made 17 recommendations to government with the aim of achieving greater transparency in the NSW regulatory system.
- We examined the corruption risks attached to the former Part 3A of the *Environmental Planning and Assessment Act 1979*, and made 20 recommendations for change.
- We prepared two procurement papers for release early in the new financial year, one outlining recommendations to government and the other reporting on the results of government suppliers.
- We introduced fee-free training, and delivered 89 training sessions reaching over 1,400 people.

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# Preventing corruption: Key objectives

Proactively focus our resources, through the use of task groups, on high-risk organisations and activities.

Provide advice, education and training on corruption prevention to the NSW public sector.

Encourage public reporting of corruption.

## About the Corruption Prevention Division

The Commission's corruption prevention functions under the *Independent Commission Against Corruption Act 1988* ("the ICAC Act") are carried out by providing advice, education and guidance to public sector agencies, and by educating public officials and the wider community about corruption and how to report it. This work is undertaken by the Corruption Prevention Division.

The Executive Director of the Corruption Prevention Division is Dr Robert Waldersee. In the reporting period, the Division had an average of 20.8 full-time equivalent staff and a total budget of \$2.6 million.

## The year in review

### Challenges we faced in 2010–11

One of the key challenges faced by the Division over the past two years has been managing an increased workload. The number of large reports, investigations, training sessions and speaking sessions has increased significantly, requiring staff to multi-skill and work across a number of different areas within the Division.

By the end of 2010, it had become apparent that the management structure was unable to cope with the volume of work and movement of staff across tasks. To address this issue, in 2010–11, the Commission examined

how the Division was structured and made a number of changes to improve its efficiency.

Four project clusters were established, each to manage work related to servicing distinct requirements of the ICAC Act, as follows.

- Policy research and analysis – to make recommendations to government in NSW in relation to issues of substantial sector-wide corruption risk and public concern.
- Investigations – to examine the contributing organisational factors that create vulnerability to corruption and make recommendations to affected agencies and/or government in NSW.
- Agency development – to examine NSW public sector agency practices or procedures considered high risk and to provide assistance with regard to corruption risk management.
- Community awareness and reporting – to encourage reporting of corruption and encourage changes in inappropriate behaviour by groups/communities that are involved in high-risk exchanges with the NSW public sector.

A principal officer of the Division is assigned to each project cluster. This officer is responsible for supervising the projects and activities within the cluster and ensuring that work is carried out to the required timeframes. The Division's staff members work across each of the four clusters within project teams. The workloads of staff across the four project clusters are coordinated during regular principal officer meetings.

As part of the restructure process, the title of the Division was simplified from the "Corruption Prevention, Education and Research Division" to the "Corruption Prevention Division".

## How we performed in 2010–11

This year:

- seven publications were produced, which is on par with the eight publications released in 2009–10. Three of these publications made recommendations to government on areas of significant corruption risk
- reports received from agencies show that 100% of our corruption prevention recommendations were fully or partially implemented or implemented in an alternative way at the time of the final report, which compares favourably to the figure of 98% for 2009–10
- 89 training workshops were delivered, an increase of 17% over the 76 workshops delivered in 2009–10
- two newly-developed workshops on managing corruption risks in procurement were the most frequently requested training workshops, and comprised 45% of the total workshops delivered
- a total of 99% of participants in the four core workshops conducted by the Commission rated the workshops "very useful" or "somewhat useful", and 89% of participants "agreed" or "strongly agreed" that the workshops met their training needs
- a total of 97 telephone/email advice requests were received, compared to 155 in the previous year, which may be due to the release of the Commission's online corruption prevention toolkit on best practice.

## How we compare to agencies with similar functions

When benchmarking the ICAC's corruption prevention performance against similar bodies, it is important to note that the two major comparable bodies, the Crime and Misconduct Commission (CMC) in Queensland and the Corruption and Crime Commission (CCC) in Western Australia also undertake investigations of police misconduct and major crime matters and therefore have significantly more staff and larger budgets. The NSW Police Integrity Commission (PIC) is comparable in size but deals only with police misconduct.

Final reports received in 2010–11 on implementation of the ICAC's corruption prevention recommendations indicate that 96% of the recommendations were fully implemented or implemented in an alternative way by the agencies to which they were made, which is similar to the average for the CCC. The CCC's annual report for 2009–10 reported that, since its inception, the CCC has made 160 recommendations in 24 reports, 94% of which had been accepted.

In 2010–11, the Commission delivered 89 training courses and 50 speaking engagements, which is comparable to the 101 education presentations delivered by the CCC during 2009–10. The PIC delivered 22 presentations during 2009–10.

The CMC does not report comparable corruption prevention information.



Principal Officer Alexandra Mills addresses participants at the Corruption and Anti-Corruption Executive Program, Australian National University, October 2010.

## Policy research and analysis

The Division identifies and analyses corruption risks of statewide significance and public concern with a view to making recommendations to government. Projects undertaken in this project cluster are selected on the basis of the degree of public concern, the extent of the corruption risks, and the resource requirements needed to complete the project.

This year, the Division undertook three major projects in this area examining corruption risks of statewide significance.

### Lobbying

In August 2010, the Commission ran an 11-day public inquiry as part of its investigation into the regulation of lobbying in NSW. The investigation had commenced the previous year, prompted by concern in NSW (and around the world) about the potential for corrupt conduct in the ways that governments can be lobbied.

The Commission found that lobbying attracts a widespread community perception of corruption, and involves a number of corruption risks. There was, however, also substantial evidence that, in general, professional lobbyists act ethically, and that lobbying, when done well, can enhance rather than detract from good decision-making by public officials.

The Commission found that a lack of transparency in the current lobbying regulatory system in NSW is a major corruption risk and contributes significantly to public distrust. In response to its findings, the Commission:

- proposed reforms to the regulatory system governing lobbying, with the aim of achieving greater transparency without imposing a significant administrative burden
- recommended a ban on success fees for lobbying
- recommended the introduction of a cooling-off period for ministers, parliamentary secretaries, their staff and senior government officers to be involved in lobbying activities.

In all, the Commission made 17 recommendations about the reform of lobbying in NSW in its report, which was published in November 2010.

This was the first major investigation by the Commission for many years that focused on corruption prevention rather than examining whether any particular individual had engaged in corrupt conduct. Specifically, the investigation examined whether the relationship between lobbyists and public officials may allow, encourage or cause the occurrence of corrupt conduct or conduct connected with corrupt conduct, and aimed to identify any necessary

changes to laws, methods of work, practices and procedures to deal with the corruption risks identified.

A major achievement of the investigation was the breadth of evidence and opinion that the Commission was able to gather. The investigation team began by reviewing relevant Australian and international literature and regulatory systems and preparing an issues paper for comment. The paper identified 26 principal issues and prompted more than 60 submissions, representing a wide range of views. Almost 100 people were interviewed in the course of the investigation and 48 witnesses gave evidence during the public inquiry.

In March 2011, the NSW Government introduced the *Lobbying of Government Officials Act 2011*, which gives effect to two key reforms canvassed in the investigation. The Act criminalises the receipt and payment of success fees for lobbying a government official and imposes a cooling-off period for ex-Ministers and Parliamentary Secretaries before they can lobby a government official.

### Part 3A of the EP&A Act

In 2010, the Commission and the NSW Department of Planning established a joint task force to examine whether there were corruption risks attached to Part 3A of the *Environmental Planning and Assessment Act 1979* ("the EP&A Act") and to develop measures to address any of the identified risks. Part 3A, which commenced in 2005, consolidated the different assessment and approval regimes for major projects determined by the Minister for Planning in NSW.

The Part 3A system was characterised by considerable discretion and a lack of published, objective criteria. Notwithstanding safeguards in the process, the existence of a wide discretion to approve projects that were contrary to local plans, and did not necessarily conform to state strategic plans, created a corruption risk and a community perception that there was a lack of appropriate boundaries.

In December 2010, the Commission announced 20 recommendations to manage more effectively and mitigate potential corruption risks underlying the assessment and determination of major projects. A crucial recommendation was that the application of Part 3A be limited to projects that are permissible under existing planning instruments. As the Planning Minister was not bound by the provisions of local environmental plans in determining major projects, Part 3A had a tendency to attract highly speculative developments that proposed unreasonable, prohibited uses.

The Commission's recommendation addressed this concern. In June 2011, the NSW Government introduced a Bill into Parliament to repeal Part 3A and replace it with an alternative system for the assessment of projects of state significance. The Planning and Assessment



Commission (PAC) must now consider amendments to local environmental plans for state significant development that is wholly prohibited. The related development can then be determined only by the PAC.

The Commission also recommended an enhanced role for the PAC and a review of its governance arrangements. The operation of the PAC was seen as a crucial safeguard in the determination of state significant development because of its independence. The NSW government has recently announced changes to the PAC that will strengthen its role in line with this key recommendation.

## Procurement, outsourcing and contracting

Procurement is one of the most ubiquitous public sector activities and one of the most costly, with combined state and local government expenditure on procurement in NSW amounting to approximately \$30 billion annually. Government procurement is an area that is highly exposed to the risk of corruption.

The Division examined the corruption risks in government procurement in NSW because the incidence of corrupt and improper conduct in the course of procurement appeared to be over-represented in the Commission's investigation and advisory work. In 2009–10, 15% of allegations of corruption made to the Commission involved procurement transactions and, between 1989 and 2010, the Commission held 26 public inquiries that found corrupt conduct had occurred in procurement processes.

After interviewing procurement practitioners and examining the institutional structure and current

procurement practices in NSW and interstate, the Commission released a consultation paper in July 2010 that outlined 12 key risk areas. This paper prompted more than 153 responses, which were used to inform the project's conclusions. The Commission proposed changes aimed at establishing stronger leadership of the system, a clearer structure and a simplified regulatory environment. Seven recommendations for reform were made to the NSW Government in June 2011.

To complement the public sector view of corruption risks in procurement, a web-based survey of suppliers to government was conducted in August 2010. This research found that 41% of 1,500 suppliers to government in NSW think corruption is a moderate or major problem when doing business with government, while 32% said they did not bid on a contract because of corruption concerns.

The project revealed a fragmented system that is difficult for both procurement staff and suppliers to penetrate and found that these features may have contributed to suppliers' perceptions. A report on the results of the survey of suppliers will be distributed in July 2011.

The Commission's new training workshop on identifying corruption risks in procurement was the Commission's most popular training offering during the reporting period. Requests for this workshop and public speaking invitations relating to procurement have increased in the past year, which is an indication of the depth of concern in the public sector about corruption in procurement.

In 2011–12, advisory and guideline resources for agencies will be developed in both print and online formats, using the information and knowledge gained through this project.



Senior Project Officer Adam Shapiro represents the ICAC at the Corruption Prevention Network Conference, September 2010.

## Investigations

Corruption prevention officers are assigned to the investigation teams of all Commission investigations and seek to identify processes, structures, human factors, external influences and, in some cases, legislative issues that have contributed to or fostered the corrupt conduct at the centre of the investigation. Corruption prevention officers focus on the systemic causes of corruption rather than the individual who has been involved in the alleged corrupt conduct.

During the course of an investigation, corruption prevention officers develop and execute plans that operate in tandem with the work of the Investigation Division. They also carry out interviews and obtain statements from witnesses with a view to understanding the systemic weaknesses that have allowed corrupt conduct to occur. Recommendations are then developed to remedy absent or weak policies, practices, structures and processes within NSW public sector agencies. Some recommendations are directed at the government and suggest amendments to legislation. In accordance with the principles of procedural fairness, where possible, during the course of a public inquiry or during the submissions phase, the Division puts proposed recommendations to a suitable witness from the subject agency.

In 2010–11, corruption prevention officers were involved in all of the Commission's investigations. A total of 110 corruption prevention recommendations were made in 10 of the Commission's 12 investigation reports (figure includes the investigation into corruption risks involved in lobbying). Some examples of the types of corruption prevention recommendations made to agencies are listed in the case studies outlined in this annual report.

After an investigation report is made public, the Division monitors the implementation of corruption prevention recommendations. Corruption prevention officers negotiate timeframes with agencies for the completion and submission of implementation plans, progress reports and final reports to the Commission. Commission recommendations and reports received from agencies concerning implementation are made available to the public on the Commission's website.

Final reports received by the Commission in 2010–11 indicated that 96% of corruption prevention recommendations were fully implemented or implemented in an alternative way by the agencies to which they were made, and 100% were fully implemented, partially implemented, or implemented in an alternative way. Appendix 4 contains details of all progress and final reports received in 2010–11.

### CASE STUDY 7: UNCHECKED POWER

The Commission received a number of allegations that the general manager of Burwood City Council was using council staff to work on his private residence and an investment property. It also heard concerns relating to the expenditure of council money and the employment of a business partner.

The absence of a required internal audit function was a significant factor that allowed the general manager to undertake inappropriate expenditure and to hide it from council, and represented an obvious governance weakness. Without this independent source of information, councillors were hostage to the general manager's willingness to provide information.

The NSW Division of Local Government advocates that all councils should have an internal audit function for the following reasons:

- it supports good internal governance
- to ensure consistency with other levels of management
- to improve the effectiveness of risk management, control and governance processes
- to help instil public confidence in an organisation's ability to operate effectively.

The Commission concurred with this view and consequently recommended that internal audit becomes a statutory function for local councils. In the case of small councils, the possibility of councils sharing an internal audit function should also be provided as an option.



## CASE STUDY 8: CONCENTRATION OF AUTHORITY

The Commission's investigation into the acceptance of corrupt benefits by a City of Canada Bay Council employee demonstrated situations where a long-term employee had been able to manipulate contracting processes for corrupt benefit.

For the 13 years since the employee had joined the council, he had accrued discretionary power, information access, and positional and expert power. In his role, he was responsible for coordinating and managing tenders and contractors for council work. He was able to both direct work to favoured contractors, and in cases where he did not have the discretion or information he needed to act alone, he was able to use his positional power and expertise within the organisation to obtain the necessary additional approvals.

One of the Commission's recommendations was that the City of Canada Bay Audit and Risk Committee identifies high risk positions and, where practicable, rotates managers or places acting managers from outside the area into these positions on a regular basis. Rotation of managers can significantly increase both the fear and the reality that corrupt relationships will be discovered.

## Agency development

The agency development project cluster within the Division assists public sector agencies to identify and manage corruption risks, and brings the advice and training functions of the Division together under one manager.

### Advice

The Division provides advice on ways in which corrupt conduct can be prevented, detected or reduced in its frequency and effects. The advice service is free, and is available to the NSW public sector and all areas of the community.

In 2010–11, a total of 97 telephone/email advice requests were received by the Division, compared with 155 received in the previous year. The decrease in advice requests may be due to the release of the Commission's corruption prevention toolkit on best practice. The online toolkit gives practical guidance for building corruption resistance within agencies.

The most common areas on which the Division provided advice in 2010–11 were procurement and disposal of goods and property, regulatory functions, and governance matters. These issues represent key agency problems in NSW that are the focus of much of the Division's corruption prevention work.

Managing corruption risks in procurement and disposal of goods and property accounted for 14% of advice by the Division in 2010–11. Advice was primarily given on ways to minimise corruption risks through transparent practices, oversight and staff education.

In 2010–11, 37% of advice provided to agencies by the Division concerned governance and employment issues. Advice was given about ways to increase and improve corruption prevention planning, strengthen codes of conduct and manage internal systems for employment screening, conflicts of interest management, and gifts and benefits declarations.

Advice provided on regulatory matters in 2010–11 related to corruption risk management issues in urban planning matters, review of compliance policy, and the regulatory system for lobbying in NSW.

### Training

The Division develops and delivers workshops for NSW public sector managers. Workshop participants are also encouraged to seek advice and ongoing assistance from the Commission. The Division delivered 89 workshops in 2010–11; an increase of 17% over the 76 workshops delivered in 2009–10.

Commission workshops are generally delivered in-house to agencies on request or as an outcome of an investigation. Multiple open workshops are held on two occasions during the year in metropolitan Sydney for public officials in state agencies and local government

councils to attend. The Division also delivers presentations to agencies and professional associations through visits, forums and conferences, and customises workshops, when possible.

**Table 28: Number of workshops and training sessions delivered from 2008–09 to 2010–11**

Workshop/session	2010–11	2009–10	2008–09
Corruption prevention for managers (full-day or half-day workshop)	33	28	48
Better management of protected disclosures (half-day workshop delivered in conjunction with the NSW Ombudsman)*	5	11	13
Fact finder (full-day workshop)	5	7	10
Custom workshops (in 2010–11, this included executive workshops for NSW Maritime, and the Building Corruption Resistance Master Classes)	4	7	4
Corruption prevention in procurement	40	6	9
Minimising corruption risks in land dealings (for Local Aboriginal Land Councils)	2	13	n/a
Superseded workshops (in 2010–11 this includes the HSC Legal Studies workshops)**	n/a	4	2
<b>Total</b>	<b>89</b>	<b>76</b>	<b>86</b>

\* This workshop will no longer be delivered by the Commission. As from 1 July 2011, the NSW Ombudsman has responsibility under the *Public Interest Disclosures Act 1994* for oversight of protected disclosures in NSW and now undertakes public sector training on the management of disclosures.

\*\* These workshops were not delivered in 2010–11. They have been included here to ensure the total figures for previous financial years are accurate.

In 2010–11, it was decided that training provided by the Commission would be free of charge to public sector agencies. This was done to ensure that smaller agencies with limited budgets and those in remote locations could have the same development opportunities as public sector organisations in metropolitan areas. Of the total number of workshops delivered in 2010–11, 35% were conducted outside of Sydney, including in Cobar, Tumbarumba and Moree.

The new procurement workshops have become the most frequently requested training provided by the Commission and comprised 45% of training conducted in 2010–11. On occasion, the Division will customise workshops. Two such workshops in corruption prevention management were conducted for executive members of NSW Maritime as an outcome of a Commission investigation that was conducted in 2010.

### ANU Executive Program on Corruption and Anti-Corruption

In exchange for providing teaching services during the course, the Commission is provided with 10 student placements on the Corruption and Anti-Corruption course run by the Policy and Governance Program of the Crawford School of Economics and Government at the Australian National University (ANU). The placements are used to sponsor the attendance of NSW local government and state agency public sector managers. A competitive selection process is employed to select sponsorship recipients. Four places each year are reserved for regional applicants.

### IPAA Executive workshop

On 12 and 26 May 2011, the Commission and the Institute of Public Administration Australia (IPAA) conducted a two-day anti-corruption masterclass. Senior public officials worked through behavioural models of corruption, identifying organisational risk areas and prevention approaches such as deterrence, group management and inequity resolution.

## Community awareness and reporting

The objective of the community awareness and reporting project cluster is to intervene where the behaviour of a group or community, rather than that of an individual, creates an environment conducive to corruption. As such, activities undertaken by the Division target various community groups within NSW, and are aimed at raising community awareness of unacceptable behavior, increasing reports of corruption, and supporting broader anti-corruption initiatives.

Further, when investigations or public inquiries expose circumstances where a community plays a role in corrupt behaviour, projects are initiated to raise community awareness of unacceptable behavior and increase the perceived threat of detection.

## Speaking engagements

In 2010–11, the Commission delivered 50 speaking engagements to an audience of 2,380. The level of delivery is consistent with the total of 54 speaking engagements delivered in 2009–10. Presentations delivered by Commission staff in 2010–11 included sessions at conferences and presentations to public sector agencies. The topics discussed with audiences included the outcomes of investigations and corruption risks in key areas, such as procurement and financial management. These speaking engagements were attended by both public sector audiences and the broader community.

## CALD communities

Between 2009 and 2010, the Commission held three public inquiries involving the offer of money to a public official for the purpose of influencing decisions. Of particular concern to the Commission was the fact that all of the individuals offering these gifts or payments were of a non-English speaking background and/or migrants who had recently arrived in Australia. These public inquiries all involved local councils who were doing business with people whose English literacy skills were limited, but where the councils were not presenting information about council business ethics in the applicant's own language.

In August 2010, the Commission released *Communicating anti-corruption messages in community languages – Guidelines for NSW local councils*, which aimed to assist local councils in NSW to communicate these messages with their culturally and linguistically diverse (CALD) communities.

Following contact from the Commission, the Department of Immigration and Citizenship (DIAC) and the NSW Department of Industry and Investment have included anti-corruption messages on their websites and advisory material. In addition, the Commission provided a response to DIAC's consultation paper, *Review of the Business Skills Visa program*, and recommended that state-sponsored visa criteria match independent visa criteria in terms of English-language proficiency.

For those already settled in NSW, the Commission produced a flier in six languages for Police Multicultural Liaison Officers to use in community consultations about bribery in their local area commands. Two articles were also published in the *Epoch Times*, the independent daily Chinese-language newspaper, explaining what the Commission does, how it works and how people can report corrupt conduct in NSW.

On 13 May 2011, the Commission also attended a meeting of the Community Relations Commissioners to discuss bribery and anti-corruption. The issue will be addressed in collaboration with the Community Relations Commissioners in 2011–12.

## Suppliers

The Division's project examining procurement, outsourcing and contracting in NSW identified that relationships between public officials and suppliers are at the core of much of the corruption that occurs in NSW public sector procurement. Further, a survey undertaken as part of the project, found that 38% of suppliers saw gift giving as commonplace in doing business with government.

In June 2011, in advance of its procurement reports being released, the Commission delivered a presentation on corruption risks in NSW procurement to 150 public sector suppliers. The presentation was arranged by the Department of Finance and Services and was designed to alert suppliers to the imminent changes to procurement (arising from both the Department of Finance and Services' reforms and the release of the Commission's reports).

## Regional visits

As part of its Rural and Regional Outreach Program, the Commission undertakes two regional visits each year. The visits showcase current Commission cases and priorities and involve breakfast addresses to community leaders, training for public officials from locally-based agencies, and local agency liaison visits.

In 2010–11, the Commission visited the New England and Southern Tablelands regions. A total of 437 people participated in events associated with the two visits and nine agency visits were also conducted.

## National Investigations Symposium

In 2010, the Commission again collaborated with the office of the NSW Ombudsman and the NSW Division of the Institute of Public Administration Australia (IPAA) to conduct the eighth National Investigations Symposium (NIS). The NIS is a biennial conference

held to foster and develop investigative ability and knowledge in the NSW public sector.

This popular conference was again over-subscribed in 2010, and showcased developments in technology, strategy, techniques and skills relevant to public sector investigations. Keynote speakers were Richard Macrory, Professor of Environmental Law, University College London, and Nick Kaldas, Deputy Commissioner, NSW Police Force. Evaluations indicated that the program was very well received, with 82% of respondents indicating that the symposium actively assisted them in the performance of their duties.



ICAC Commissioner the Hon David Ipp AO QC addresses the National Investigations Symposium, November 2010.

# The year ahead

In 2011–12, we will:

- release advisory and guideline resources for agencies, in both print and online formats, about the management of procurement
- develop, as a result of the findings of Commission investigations, relevant and practical recommendations about corruption prevention strategies for agencies to implement
- continue to educate the NSW public sector and the community more broadly about corruption prevention
- work with the Corruption and Crime Commission (WA) and the Crime and Misconduct Commission (Queensland) to plan and deliver the third Australian Public Sector Anti-Corruption Conference in Fremantle in November 2011.





Staff of the Commission's Legal Division.

## CHAPTER 5

# Compliance and accountability



“ Our main challenge in 2010–11 was to maintain our high standards of legislative and procedural compliance in the face of a substantial workload without additional resources. ”

**Roy Waldon**

Executive Director, Legal Division  
and Solicitor to the Commission

# Highlights 2010–11

- We completed 12 investigation reports, compared to nine in 2009–10.
- We conducted 130 compulsory examinations, compared to 124 compulsory examinations in 2009–10.
- We used our lawyers as counsel in 126 compulsory examinations, compared to 118 in 2009–10.
- We conducted nine public inquiries over 65 days, compared to 12 public inquiries over 70 days in 2009–10.
- We ensured that all requests for the exercise of statutory powers were reviewed by our lawyers to ensure they met all relevant legislative and internal requirements.
- We responded promptly and accurately to 34 questions on notice from our Parliamentary Committee on the ICAC, provided five responses to the Inspector of the ICAC and cooperated fully with two audits conducted by the Inspector of the ICAC and two inspections of records by the NSW Ombudsman.

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# Accountability: Key objectives

Provide timely, accurate and relevant reporting to the Inspector of the ICAC and the Parliamentary Committee on the ICAC.

Ensure all business activity complies with all regulatory and standards requirements.

Report publicly about the work of the Commission.

## About our compliance framework

The Commission has extensive statutory powers. The statutes set out not only the type of powers that can be exercised but also the grounds on which the powers may be exercised and restrictions on the exercise of those powers. In addition to the powers set out in the *Independent Commission Against Corruption Act 1988* ("the ICAC Act"), Commission officers can:

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

The Commission has both internal and external compliance and accountability systems to ensure it complies with relevant legislative responsibilities and does not abuse its powers.

Internal accountability mechanisms include:

- strict procedural requirements for the exercise of all statutory powers
- review of all applications for exercise of statutory powers by Commission lawyers
- an executive-level internal committee, the Strategic Investigation Group, to oversee investigations
- an executive-level internal committee, the Prevention Management Group, to oversee Commission corruption prevention activities
- the Executive Management Group to oversee corporate governance and budgeting, and to provide overall strategic direction.

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

- inspection by the NSW Ombudsman of records of telecommunications interceptions, controlled operations and the use of surveillance devices
- reporting to the NSW Attorney General and the judge who issued the warrant for each surveillance device warrant
- accounting to the NSW Treasury and Audit Office for the proper expenditure of funds
- 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.

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

Other ways in which the Commission demonstrates accountability to the community include conducting public inquiries, posting public inquiry transcripts on the Commission's website, and publishing and distributing investigation reports and other material by the Commission.

## The year in review

### Challenges we faced in 2010–11

As with the previous reporting period, the main challenge faced by the Legal Division in 2010–11 was to maintain its high standards of legislative and procedural compliance and meet its accountability requirements in the face of a substantial workload, without having any additional resources.

This challenge was met by identifying matters requiring priority, maintaining flexibility in the assignment and reallocation of lawyers to matters, and allocating the Principal Lawyer (Prosecutions) to operational work, instead of prosecution brief preparation.

### How we compare to agencies with similar functions

It is difficult to accurately compare the work of the Legal Division with that of other agencies, such as the Corruption and Crime Commission (CCC) in Western Australia or the Crime and Misconduct Commission (CMC) in Queensland. These agencies also investigate police misconduct and some criminal conduct and have substantially more staff and funding than the ICAC.

Comparing accountability performance indicators of the publication of investigation reports and public inquiries provides some degree of comparison. Information obtained from the CCC website indicates that in 2010–11 the CCC conducted four public inquiries over 23 days and published three investigation reports. Information obtained from the CMC website indicates that in 2010–11 the CMC conducted one public inquiry over four days and published two investigation reports.

In 2010–11, the ICAC conducted nine public inquiries over 65 days and published 12 investigation reports.

## How we performed in 2010–11: internal governance

The lawyers of the Commission's Legal Division play a key day-to-day role in ensuring that the Commission's statutory powers are exercised in accordance with relevant legal requirements and the policy and procedural requirements set out in the Commission's Operations Manual.

At the strategic level, the Commission has an internal committee system to oversee corporate governance, investigations, prosecution brief preparation and corruption prevention projects. The key committees are the Executive Management Group, the Strategic Investigation Group, and the Prevention Management Group.

The Commission also has a range of other internal committees for issues such as equal employment opportunity and occupational health and safety. These committees are discussed in Chapter 6.

### The Legal Division and the Operations Manual

The role of the Legal Division is to assist the Commission to perform its principal functions and to exercise its statutory powers in a lawful, effective, ethical and accountable manner through the provision of high quality, accurate and timely legal services.

To achieve this role, a lawyer is assigned to each preliminary investigation team and each investigation. All applications for the exercise of statutory powers, whether under the ICAC Act or other legislation, are reviewed by the responsible team lawyer to ensure the application meets relevant regulatory and Operations Manual 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 the ICAC Commissioner or Assistant Commissioner for final approval. Applications for surveillance device warrants are considered by judges of the NSW Supreme Court. Applications for telecommunications interception warrants are usually made to members of the Administrative Appeals Tribunal (Commonwealth).



Lawyers assist in the planning and conduct of all investigations and provide advice as required to other sections of the Commission. They usually act as counsel in compulsory examinations. While the Commission's lawyers usually prepare for and instruct counsel in public inquiries, they also occasionally act as counsel at such inquiries. In the reporting period, one of the Commission's lawyers acted as counsel in a public inquiry in June 2011. Commission lawyers also assist with the preparation of investigation reports and oversee the preparation of prosecution briefs of evidence for submission to the Director of Public Prosecutions (DPP).

The Executive Director, Legal also conducts the audit of Commission assumed identity records required under the *Law Enforcement and National Security (Assumed Identities) Act 1998* and the *Law Enforcement and National Security (Assumed Identities) Act 2010* (the latter commenced operation in September 2010). In 2010–11, the Commission authorised three new assumed identities and revoked 10 assumed identity authorities. No assumed identity authorities were varied. Assumed identities were granted and used by Commission officers in surveillance operations on people of interest in Commission investigations and to maintain covert arrangements.

The audit was conducted in December 2010. It identified that records of financial transactions and use of the assumed identity in relation to one authorisation had not been completed for a two-month period and that records of financial transactions and use of the assumed identity in relation to one authorisation had not been completed for a one-month period. The relevant returns were subsequently completed. The audit found that the Commission had, otherwise, complied with all aspects of the legislation during the reporting period. No fraudulent or other criminal activity was identified.

The Operations Manual sets out procedures for the exercise of relevant powers and provides that the reason for the exercise of a power as well as its actual exercise must be soundly based and recorded. These procedures must be followed by Commission officers both in applying for the use of a particular power and in exercising that power. These procedures also ensure that any legislative requirements are identified and addressed.

The Operations Manual is regularly updated to reflect any relevant changes to legislation and is, in any event, reviewed every two years. Any changes to the Operations Manual must be approved by the Executive Management Group.

## Executive Management Group (EMG)

The EMG comprises the Commissioner, Deputy Commissioner and all Executive Directors. It usually meets fortnightly and is responsible for:

- advancing the Commission's corporate and strategic directions
- reviewing, developing and endorsing Commission policies and procedures
- overseeing corporate planning and budgeting
- supporting the Commission's commitment to business improvement initiatives and key result areas
- providing strategic oversight and promoting organisation-wide ownership of corporate projects
- ensuring the efficient deployment of Commission resources.

## Strategic Investigation Group (SIG)

The SIG comprises the Commissioner, Deputy Commissioner and all Executive Directors, except the Executive Director, Corporate Services. It oversees Commission investigations, preparation of investigation reports, preparation of briefs of evidence for submission to the DPP and the progress of criminal prosecutions arising from Commission investigations. The SIG usually meets monthly.

## Prevention Management Group (PMG)

Members of the PMG are the same as for the EMG. It oversees the Commission's corruption prevention activities and meets monthly.



Members of the Commission's Prevention Management Group.



# How we performed in 2010–11: external governance

## Parliamentary Committee on the ICAC

The Parliamentary Committee on the ICAC 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-appointed on 22 June 2011.

The functions of the Committee are set out in section 64 of the ICAC Act. They are:

- to monitor and to review the exercise by the Commission and the Inspector of the ICAC of the Commission's and Inspector's functions
- to report to both Houses of Parliament, with such comments as it thinks fit, on any matter appertaining to the Commission or the Inspector of the ICAC or connected with the exercise of its functions to which, in the opinion of the Committee, the attention of Parliament should be directed
- to examine each annual and other report of the Commission and of the Inspector of the ICAC and report to both Houses of Parliament on any matter appearing in, or arising out of, any such report
- to 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 of the ICAC
- to 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 conduct, reconsider a decision by the Commission to investigate, not 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 on the ICAC consists of members of Parliament, selected from both the Legislative Assembly and Legislative Council. As of 30 June 2011, the members of the Parliamentary Committee on the ICAC were:



The Parliamentary Committee visits the Commission, July 2010.

- Mark Speakman SC MLA (Chair)
- Andrew Gee MLA (Deputy Chair)
- the Hon Richard Amery MLA
- the Hon Niall Blair MLC
- Mark Coure MLA
- the Hon Thomas George MLA
- Tania Mihailuk MLA
- Reverend the Hon Fred Nile MLC
- Tim Owen MLA
- the Hon Nathan Rees MLA
- the Hon Lynda Voltz MLC.

In August 2010, six Commission officers gave evidence at a public hearing held by the Committee for the purpose of its review of the Commission's *Annual Report 2008–2009*.

The Committee also conducted an enquiry into whether the ICAC Act should be amended to remove the restriction in section 37, prohibiting the use in disciplinary and civil proceedings of compulsorily obtained evidence provided under objection to the Commission. The Committee also examined whether the ICAC Act should be further amended to make the Commission's current function of assembling evidence for criminal proceedings a primary function. The Committee published its final report on these matters on 21 September 2010.

## Inspector of the ICAC

His Honour Harvey Cooper AM is the current Inspector of the ICAC.

The Inspector of the ICAC:

- audits the operations of the Commission for the purpose of monitoring compliance with the law of NSW

- deals 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
- deals 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
- assesses the effectiveness and appropriateness of the procedures of the Commission relating to the legality or propriety of its activities.

The Inspector of the ICAC 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.

In 2010–11, the Inspector of the ICAC conducted two audits.

In August 2010, the Inspector of the ICAC commenced an audit of applications for and execution of search warrants by the Commission. The audit covered the period from 1 July 2009 to 31 March 2010. The Inspector reported the results of the audit in December 2010.

The Inspector found that in all cases it was appropriate to apply for and execute the search warrant in light of the information available to the Commission and that there was no evidence of abuse of power, impropriety or other forms of misconduct on the part of the Commission or Commission officers. The Inspector of the ICAC noted that the Commission had instituted a system of controls for applications for and execution of search warrants that rendered it “virtually impossible for an individual officer to apply for and execute a search warrant that is not in furtherance of the purposes of the ICAC Act”.

In December 2010, the Inspector of the ICAC commenced an audit of applications for and execution of surveillance device warrants and retrieval warrants issued under the *Surveillance Devices Act 2007*. The audit covered

the period from 1 January 2010 to 30 June 2010. The Inspector reported the results of the audit in April 2011.

The Inspector of the ICAC found that in all cases it was appropriate to apply for and execute the surveillance device warrant in light of the information available to the Commission and that there was no evidence of abuse of power, impropriety or other forms of misconduct on the part of the Commission or Commission officers.

All requests from the Inspector of the ICAC for access to records were dealt with expeditiously.

## The NSW Ombudsman

The NSW Ombudsman inspects the Commission's records of telecommunications interceptions, surveillance device warrants, and controlled operations to measure compliance with statutory obligations.

The Ombudsman inspected the Commission's telecommunications interception records in November 2010 and June 2011. In both inspections, it was found that all records kept by the Commission associated with warrants were kept in accordance with the relevant legislative requirements.

The Ombudsman inspected the Commission's surveillance device records in February 2011. It was found that the records associated with the warrants and those records required to be kept by the Commission were kept in accordance with the *Surveillance Devices Act 2007*.

The Commission did not authorise or conduct any controlled operations during the reporting period. It was therefore not necessary for the Ombudsman to inspect the Commission's controlled operations records.

## Legal changes

On 7 January 2011, the ICAC Act was amended to require a public authority, within three months of receiving a copy of a Commission corruption prevention recommendation, to inform the Commission whether it proposes to implement any plan of action in response to the recommendation and, if so, of the plan of action. A public authority that informs the Commission of a plan of action must also inform the Commission of any progress that it makes in implementing the plan.

At the same time, the ICAC Act was also amended to increase the maximum term of office of an Assistant Commissioner from five years to seven years.

In April 2011, the Commissioner wrote to the NSW Premier, the Hon Barry O'Farrell, asking that consideration be given to certain amendments to the ICAC Act. The Commission proposed amendments to

make it clear that the Industrial Relations Commission does not have jurisdiction to entertain unfair dismissal claims involving former Commission officers, restricting the ability to refuse to produce documents or a statement of information on the basis of legal professional privilege, and providing for offences under section 87 of the ICAC Act to be dealt with by higher courts.

A Bill is currently before the NSW Parliament addressing these and other changes.

## Litigation

The Commission was involved in only one litigation matter in the reporting period.

This matter arose from the findings of corrupt conduct made against Angela D'Amore MP in the Commission's report on its investigation into the submission of false claims for sitting day relief entitlement by Ms D'Amore and members of her staff, which was published in December 2010.

On 29 April 2011, Ms D'Amore's solicitors filed a summons in the NSW Supreme Court seeking a declaration that the Commission had exceeded its powers under the ICAC Act in making the report, as the findings that Ms D'Amore had engaged in corrupt conduct required evidence that she knew that the prescriptive conditions of the sitting day relief entitlement had been contravened, and that there was no such evidence before the Commission.

The Commission has instructed the Crown Solicitor to act on its behalf and is defending the proceedings.

## Complaints against Commission officers

Complaints concerning the misconduct of Commission officers may be made directly to the Inspector of the ICAC or to the Commission. In September 2005, the Commission entered into a memorandum of understanding with the Inspector of the ICAC. It provides that the Commission will notify the Inspector of the ICAC of complaints against Commission officers that come within the Inspector's functions. The Inspector of the ICAC may decide to investigate complaints directly or ask the Commission to undertake an investigation and report its findings.

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

In 2010–11, the Commission dealt with five sets of allegations about ICAC officers, including two matters that were received in the 2009–10 period but were finalised in the current reporting period.

The first allegation, which was received in June 2010, was that a Commission officer had improperly used a Commission identification badge. The allegation was investigated by the Executive Director, Investigation and the Executive Director, Legal. The investigation found that the officer had used a Commission identification badge to obtain free train travel on a number of occasions, despite knowing that he was not entitled to use the Commission identification badge for that purpose (Commission officers have no entitlement to free travel on public transport). As the officer's contract of employment with the Commission expired on 30 June 2010 and had not been renewed, there was no disciplinary penalty that could be applied. The finding, however, was noted on the officer's personnel file so that it can be divulged in response to any future enquiries by prospective employers.

The Inspector of the ICAC was kept informed of the matter and advised the Commission that he was satisfied the allegation was properly investigated and that the decision taken by the Commission was appropriate.

The second allegation, which was also received in June 2010, was that a Commission officer of the Assessments Section had drawn false inferences from information that had been provided by a person who had made a complaint of corrupt conduct. The allegation contained insufficient information on which to make a proper assessment. The person who made the allegation was asked to provide further information. No further information was provided and the matter was therefore closed.

The third allegation was received in July 2010. It was that two Commission officers acted in a threatening and menacing manner towards a person who wished to provide further information in support of a complaint of corrupt conduct. The allegation was investigated by the Executive Director, Legal who found there was no evidence that Commission officers had acted in the manner alleged.

The fourth allegation was received in December 2010. It was that a Commission officer had unsuccessfully attempted to access a restricted Commission area after normal business hours. A preliminary fact finding investigation was conducted by the Executive Director, Legal and the Manager, Human Resources and Administration. This involved speaking with the concerned Commission officer who provided a satisfactory explanation for the attempted access. No further action was taken.

The fifth allegation was received in March 2011. It was that a Commission officer had engaged in misconduct by breaching Commission policies by initiating and engaging in procurement actions that involved pecuniary conflicts

of interest and failing to properly disclose those conflicts. An investigation was conducted by the Executive Director, Legal and Executive Director, Corporate Services.

The investigation was complex and gave rise to a number of factual disputes, the resolution of which was necessary to establish the degree and significance of any misconduct and the appropriateness of any penalty. In these circumstances, the Commissioner terminated the disciplinary process but exercised his right under the officer's contract of employment to terminate the contract.

The Inspector of the ICAC was kept informed of the matter.

## 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.

Public sector agencies are required to comply with the information protection principles established by the PPIP Act. These information protection principles apply to the Commission only in connection with the exercise by the Commission of its administrative and educative functions.

The PPIP Act also requires public sector agencies to prepare and implement a privacy management plan. The Commission's privacy management plan sets out how it 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 on the Commission's website at [www.icac.nsw.gov.au](http://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.

Part 5 of the PPIP Act sets out mechanisms for a person who has been aggrieved by certain conduct of a public sector agency to seek review of that conduct. The relevant conduct is:

- the contravention by a public sector agency of an information protection principle that applies to the agency
- the contravention by a public sector agency of a privacy code of practice that applies to the agency
- the disclosure by a public sector agency of personal information kept in a public register.

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") commenced operation on 1 July 2010. Its purpose is to facilitate public access to information held by government agencies, including the Commission. It replaced the *Freedom of Information Act 1989*.

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 on its website at [www.icac.nsw.gov.au](http://www.icac.nsw.gov.au).

The GIPA Act provides for the making of access applications to access information held by an agency. The GIPA Act provides, however, that an 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 prepare an annual report on the agency's obligations under the GIPA Act. Under section 6 of the *Annual Reports (Departments) Act 1985* that report may be included in an agency's annual report. The Commission's report is set out at Appendix 5.

## Training on use of statutory powers

The Commission's Legal Division has previously developed training presentations for Commission staff on the use of various statutory powers. These are designed to complement the comprehensive procedures for the exercise of statutory powers set out in the Commission's Operations Manual. Each presentation takes about an hour and requires the attendance of the presenter and a sufficient number of Commission officers to make it worthwhile. Operational commitments in the reporting period meant that there was insufficient time available to conduct or attend these presentations. To overcome this problem, the Commission's Legal Division has developed webcast training sessions in relation to:

- the ICAC Act
- protected disclosures
- obtaining and executing search warrants
- preparing a brief for the DPP



- obtaining and executing warrants under the *Telecommunications (Interception and Access) Act 1979*
- obtaining and executing warrants and record keeping under the *Surveillance Devices Act 2007*.

A webcast is a web-based seminar or presentation that is transmitted over the intranet. The advantage of a webcast is that an individual can access it for training purposes when the individual needs training or updating on a topic rather than having to wait for a formal training session. The Commission also requires new staff to view relevant webcasts as part of their induction process.

In 2010–11, the ICAC Act webcast was accessed 41 times, the protected disclosures webcast was accessed six times, the search warrant webcast was accessed five times, and the brief preparation webcast was accessed two times. The telecommunications interception webcast and the surveillance device webcast were not accessed.

## Report 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 the ICAC 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](http://www.icac.nsw.gov.au).

## Investigation reports

The Commission is required under the ICAC Act 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 who arranges for the reports to be tabled in Parliament. Each Presiding Officer has the discretion to make Commission reports public immediately on presentation.

In 2010–11, the Commission furnished 12 investigation reports to the Presiding Officers. All were immediately made public. The reports were:

- *Investigation into the submission of false claims for sitting day relief payments by a NSW MP and members of her electorate staff* (13 July 2010)
- *Investigation into the smuggling of contraband into the John Morony Correctional Centre* (27 July 2010)
- *Investigation into attempted corrupt payment and submission of false resumes to public authorities* (12 August 2010)
- *Investigation into the misuse of resources by a NSW Maritime legal services officer* (1 September 2010)
- *Investigation into undisclosed conflicts of interest of a University of Sydney employee* (8 September 2010)
- *Investigation into corruption risks involved in lobbying* (10 November 2010)
- *Investigation into the submission of false claims for sitting*



day relief entitlement by Angela D'Amore MP and some of her staff (7 December 2010)

- *Investigation into the acceptance of corrupt benefits by a City of Canada Bay Council employee* (15 December 2010)
- *Investigation into corrupt conduct of Sydney Water employees and others* (22 March 2011)
- *Investigation into alleged corrupt conduct involving Burwood Council's general manager and others* (20 April 2011)
- *Investigation into the solicitation of a corrupt payment by a Strathfield Municipal Council officer* (12 May 2011)
- *Investigation into the corrupt conduct of a Willoughby City Council officer* (22 June 2011)

## Other publications

The following publications were also produced during the reporting period:

- *Thinking about blowing the whistle? How to make a protected disclosure. State agencies* (9 August 2010)
- *Thinking about blowing the whistle? How to make a protected disclosure. Local councils* (9 August 2010)

- *Fact sheet – Protected disclosures* (9 August 2010)
- *Recruitment – The background check risk – Tip sheet for NSW public officials* (12 August 2010)
- *Community anti-corruption messages in community languages – Guidelines for NSW local councils* (15 September 2010)
- *ICAC publication guide* (21 September 2010)
- *Annual Report 2009–2010* (26 October 2010)
- *The exercise of discretion under Part 3A of the Environmental Planning and Assessment Act 1979 and the State Environmental Planning Policy (Major Development) 2005* (9 December 2010)
- *ICAC strategic plan 2011–2015* (31 May 2011)
- *Information for witnesses* (28 June 2011)
- *ICAC public inquiry directions* (28 June 2011).

The Commission also met its target of producing two editions of the *Corruption Matters* newsletter. This publication is designed to raise awareness in the public sector and the wider community about corruption-related matters and the Commission's activities.



ICAC Commissioner the Hon David Ipp AO QC presiding at the opening day on 27 June 2011 of the public inquiry into alleged corrupt conduct concerning matters arising from the purchase of property at Currawong (Operation Napier).

# The year ahead

In 2011–12, we will:

- ensure our lawyers review all applications for the exercise of statutory powers to check compliance with relevant legislative and internal requirements
- provide efficient and effective legal support to public inquiries, compulsory examinations, the writing of investigation reports, and the preparation of briefs of evidence for the DPP
- respond to requests from the Parliamentary Committee on the ICAC and the Inspector of the ICAC by providing accurate and relevant information in a timely manner.



Staff of the Commission's Corporate Services Division.

## CHAPTER 6

# Our organisation



“ The introduction of the Timekeeper module has allowed the Commission to better plan and control the utilisation of its resources for investigations. ”

**Andrew Koureas**

Executive Director, Corporate Services Division

# Highlights 2010–11

- We completed the development and implementation of **enhancements to the MOCCA** (Management of Cases, Complaints and Assessments) **system**.
- We completed the information, communications and technology **(ICT) infrastructure review** and prepared a business case to the NSW Treasury for funding to upgrade the ICT infrastructure.
- We upgraded our computers to **Windows 7**.
- We upgraded the **Aurion Payroll and Sun** financial systems.
- We implemented the **Aurion Timekeeper** module to record time spent on projects and investigations.
- We upgraded the **TRIM** (Tower Records and Information Management) **electronic document and records management system**.
- We commissioned a **new backup system** for information technology.
- We successfully completed the **compliance audit by the independent auditor for ISO27001 Standards for Information Security**.

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# Our organisation: Key objectives

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.

## About the Corporate Services Division

The Corporate Services Division is a business partner with the operational divisions of the Commission, and is responsible for providing support services to enable the Commission to undertake its statutory functions. It provides administrative, security, financial, and information management and technology services. The Division also manages all human resource functions, including payroll, risk management and procurement.

In addition to its services for the ICAC, the Division provides significant corporate support services to the Health Care Complaints Commission through a shared services agreement.

The Executive Director of the Corporate Services Division is Andrew Koureas. In 2010–11, the Division had an average of 20.6 full-time equivalent staff, and an expenses budget of \$2.6 million.

## The year in review

### Challenges we faced in 2010–11

A major challenge for the Division was to complete the information, communications and technology (ICT) infrastructure review and develop a strategy for delivering new infrastructure, which was completed in September 2010. A business case was also prepared and submitted to the NSW Treasury for funding of an upgrade to the Commission's ageing ICT equipment and software.

In view of an offer by the lessor to relocate to lower level floors, a major challenge also involved the development of a business case for relocation.

Other challenges included commissioning a new backup system to create more frequent incremental backups of data, thereby significantly reducing the potential for information loss.

The new Timekeeper module (part of the Aurion Human Resources Information Systems) was implemented in November 2010. This system provides detailed data on resources deployed against investigations to allow improved tracking and allocation of resources.



## How we performed in 2010–11

In the reporting period, the NSW Treasury supplemented the Commission's budget by \$1.2 million to meet the increased workload as a result of the number of investigations and public inquiries being undertaken. This allowed the Commission to meet its increased legal expenses and fund four full-time equivalent (FTE) positions.

The ICAC Award was varied during the year to reflect the adoption of government policies relating to leave for matters of domestic violence. A total of 18 policies relating to human resources issues were also reviewed and updated in 2010–11.

As part of the Commission's commitment to the development of its staff, there were 345 staff attendances at training sessions, which equates to three sessions per staff member.

## A learning organisation

### About the Commission's staffing profile

In 2010–11, the Commission employed an average of 117 FTE staff across its six functional areas, the same as the previous year. At the end of the reporting period, of the 134 staff working at the Commission, 112 were employed on a permanent basis, 15 on a temporary basis, one on a casual basis and six (including the Commissioner) were employed in the equivalent of Senior Executive Service (SES) contract positions (see Appendix 9 for further information).

The Commission is divided into an executive unit and five divisions. A review of the Corruption Prevention Education and Research Division was undertaken in late 2010 and early 2011. The Division is now called the Corruption

Prevention Division and a full report on the changes is available in Chapter 4.

Michael Symons left the Commission's employ as Executive Director, Investigation on 8 April 2011 and was replaced on a temporary acting basis by Stephen Osborne (Chief Investigator). In April 2011, an executive recruitment campaign was commenced and Sharon Loder was the successful candidate for the position of Executive Director, Investigation. Ms Loder accepted the offer and will commence with the Commission in July 2011.

### Assistant Commissioners

The ICAC Act authorises the Governor of NSW, with the concurrence of the Commissioner, to appoint Assistant Commissioners, when required.

The appointment of the Deputy Commissioner of the ICAC has previously been restricted to a five-year term, with no provision to extend that period. The ICAC Act has now been amended to allow an extension of a Deputy Commissioner's term by a further two years, and the term of the current Deputy Commissioner has since been extended accordingly.

The Deputy Commissioner has been appointed as an Assistant Commissioner and can preside at public inquiries and compulsory examinations held by the Commission, when necessary. Another important function of the Deputy Commissioner is to oversee the strategic corporate operation and direction of the Commission through the Executive Directors, in addition to directly supervising the Manager, Communications and Media and the Manager, Assessments.

In August 2010, the Hon Jerrold Cripps QC was temporarily appointed Assistant Commissioner to assist the Commission with compulsory examinations for several operations. Apart from this appointment, all of the Commission's public inquiries and compulsory examinations were presided over by the Hon David Ipp AO QC, Commissioner, and Theresa Hamilton, Assistant Commissioner.

**Table 29: Average full-time equivalent (FTE) staff numbers by division/section**

Division/section	2010–11	2009–10	2008–09	2007–08
Executive	8.1	8	7.8	4.2
Corporate Services	20.6	20.8	20.3	19.5
Corruption Prevention	20.8	21.7	20.5	23.2
Legal	10.2	9.7	8.8	9.9
Investigation	44.4	44	41.2	45
Assessments	13	13.5	13.3	14.3

## Human resources issues

### Policies and procedures

The Commission systematically reviews and updates Commission-wide policies to ensure compliance with legislative requirements and also alignment with the conditions of employment contained in the ICAC Award.

All policy changes are reviewed by the Commission's Executive Management Group (EMG) prior to being endorsed by the Commission's Consultative Group (CCG) and approved by the Commissioner. The CCG comprises staff representatives, senior executives, Public Service Association (PSA) delegates and industrial officers.

In 2010–11, two new policies were developed to address NSW Government policies and initiatives: the Breastfeeding Policy and the Commonwealth Paid Parental Leave Scheme Policy. As an occupational health and safety (OHS) initiative, the Commission also developed a Managing Unreasonable Complainant Conduct Policy, which provides practical guidance to staff on how to deal with complainants effectively and safely.

The following policies were reviewed and updated in June 2011, and are to be endorsed by the CCG and approved by the Commissioner in 2011–12: Training and Development Policy, Leave Without Pay Policy, Military Leave Policy, Observance of Religious Duties and Cultural Obligations Policy, Study Time and Examination Leave Policy, Performing Higher Duties Policy, Employment of People With Disabilities Policy, Career Development Opportunities for ICAC Officers within the Commission Policy, and Managing Alcohol and Other Drugs Policy.

In addition to the above, and in line with NSW Government policy, the ICAC Award was varied to offer assistance to victims of domestic violence.

Staff are formally advised of the development of new policies and changes made to existing policies, with the policies made available to staff on the intranet.

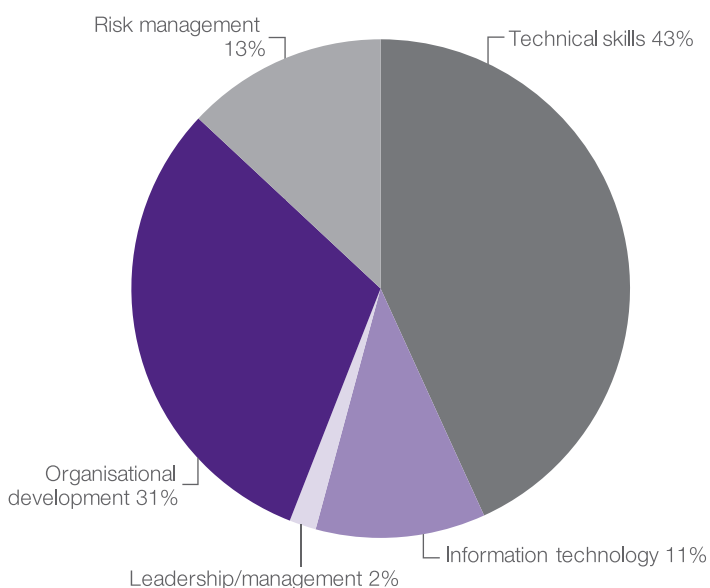
### Learning and development

The Commission's Performance Management System is a key tool to assist the Commission in identifying the training needs of staff in relation to individual competencies, position accountability and corporate requirements.

The Commission is committed to the ongoing development of staff to increase or maintain their skills, knowledge and experience.

The six core learning streams of information technology, risk management, project management, organisational development, leadership/management and technical skills are used as the focus for learning and development activities, as shown in Figure 2.

**Figure 2: Training attendances per core learning stream, 2010–11**



Note: the core learning stream for project management was 0%.

In 2010–11, some staff undertook training in both merit selection and diversity/equity issues. Staff also participated in a number of internal workshops to assist them to gain a working knowledge of the Commission's new Aurion Timekeeper module. All new staff undertook the Commission's OHS Portal test, which requires a 100% pass rate.

The Commission's six legal webcasts were incorporated into the Commission's Corporate Induction Program for new staff. They address the ICAC Act, search warrants, telecommunications interception, surveillance devices, preparing a brief for the Office of the Director of Public Prosecutions, and protected disclosures.

In 2010–11, there were 345 staff attendances at training sessions, which equated to an average of three training sessions for each staff member (see Appendix 15). The average number of training sessions per employee in 2009–10 was 4.9 with a total of 572 staff attendances at training sessions.

In 2010–11, staff were given the opportunity to participate in higher duties or temporary appointments both within divisions and across divisions to assist in their career development. In addition, the Commission supported the secondment of two staff members to other NSW public sector agencies.

The Commission continued to support applications for study leave. The Commission's Training and Development Policy was also reviewed to include new eligibility criteria to address long-term temporary employees' entitlement to study leave where the nature

of the study is deemed relevant to the operational requirements of the Commission.

## **Successful implementation of the Aurion Timekeeper module**

In 2010–11, the Human Resources unit upgraded the Aurion Human Resources Management Information System from version 9 to version 10. The implementation of the complete Aurion Timekeeper module was a first for a NSW public sector agency. Timekeeper has changed the way staff record their time, requiring hours to be allocated against work activity and project. After a trial period, management reports will be developed and applied from July 2011 in the management of investigations.

## **Provide a safe, equitable, productive and satisfying workplace**

### **Conditions of employment and movement in salaries and allowances**

The ICAC Award sets out the conditions of employment for Commission staff. In line with Award conditions, a 4% increase became effective at the beginning of the first full-pay period from 1 July 2010. The increase also applied to some of the Award's allowances, such as the Associate Allowance, the Community Language Allowance, and the First Aid Officer's Allowance. The Award expired on 30 June 2011. Historically, the ICAC Award's increases have followed the Crown Employees (Conditions of Service) Award. As at 30 June 2011, no log of claims had yet been received by the Commission from the PSA to commence negotiations for the new Award.

### **Industrial relations**

On 17 March 2011, the NSW Industrial Relations Commission (IRC) approved the application by the NSW Director of Public Employment to vary the Crown Employees (Public Service Conditions of Employment) Award 2009 to include leave for matters arising from domestic violence.

The PSA filed an application with the IRC to vary other NSW public sector awards, including the ICAC Award, in order to mirror changes to the Crown Employees Award 2009. The PSA added an additional clause (23A) to cover leave for domestic violence.

The application sought to provide appropriate support to persons who are victims of domestic violence in order to allow them to use leave entitlements to attend to matters such as medical attendance and police or court appearances. The matter (IRC 220 of 2011) was heard on 17 March 2011, and the ICAC Award's variation was accepted.

The Commission, its officers and the PSA have maintained a strong commitment to joint consultation. The CCG ensures that workplace issues, policies and procedures, and organisational changes are quickly and effectively discussed and resolved.

There were no industrial disputes involving the Commission or its Commissioner during the reporting period.

### **Risk management**

A new Bomb Threat Procedure was put in place during the reporting period to reinforce the Commission's responsiveness to emergency management. The procedure forms part of the organisation's safety program and is consistent with the Commission's overarching focus on risk management. It sets out responses to specific and non-specific telephone and written threats and the requirements to be observed if suspect items are found on Commission premises.

As a result of the Commission's continued commitment to risk management, in-house training was held for Commission staff on emergency preparedness. The training summary included evacuation procedures, fire awareness, coping in an emergency, and bomb threat procedures.

In addition to standard risk mitigation procedures, special risk mitigation measures were put in place for two of the nine public inquiry hearings held during the 2010–11 reporting period.

### **Hazard reports lodged and risks controlled**

The Commission's ongoing analysis of workplace hazards fits in with its focus on the integration of safety into the organisation as a whole. Three hazard reports were filed during the reporting period. These related to the office environment and involved a loose metal skirting on the floor, problems with the operation of a lift and a loose ceiling tile. All hazards reported were eliminated or controlled to an acceptable level.

**Table 30: Hazards reported and risks controlled**

Reporting period	2010–11	2009–10	2008–09	2007–08
Number of hazards reported	3	3	2	7
Risks controlled to an acceptable level?	Yes—all controlled	Yes—all controlled	Yes—all controlled	Yes—all controlled

## Personnel security

To protect the security of the Commission's information holdings, its reputation and its activities, the Commission follows a stringent personnel security clearance system. The system, implemented in accordance with Commission legislation and guidelines, applies to staff, consultants and contractors who are required to undergo security vetting prior to performing Commission work. This is to ensure that personnel who work for the Commission pose no risk to the organisation and that official information and resources are placed in the care of persons suitable to hold positions of trust.

In 2010–11, security vetting was conducted for 38 personnel. The Commission's vetting guidelines were also reviewed and updated.

The Commission follows the fundamental rule of personnel security that all access to information is based on a need-to-know. All staff are inducted on security/risk management upon commencement of employment and updates are provided when required. The Commission's personnel security processes meet recognised standards, allowing the Commission to receive and share confidential information with other government agencies.

The Commission's electronic surveillance system is monitored and rigorously maintained to ensure optimum efficiency. The security system user guide has been updated. The Commission continues to audit all after-hours access of premises.

## Information security

We are conscious of the risks of disclosure of confidential information, and the need to maintain high standards of security and integrity of information systems. To this end, the Commission has gained full accreditation to the AS7799.2:2000 Australian Standard for Information Security in 2003.

As part of our ongoing commitment to information security, the Commission obtained re-certification for accreditation to the latest ISO/IEC 27001:2005

International Standard for Information Security in 2009 for a further period of three years.

As part of compliance with the standards, a security standards audit was successfully completed in March 2011 by an independent auditor.

The Commission also regularly upgrades its systems and updates policies to comply with information security standards.

# Be a lead agency in our governance and corporate infrastructure

## Internal governance

The Commission continues to support 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 Strategic Investigation 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.

## Audit and Risk Committee

The objective of the Audit and Risk Committee is to provide independent assistance to the Commission by overseeing and monitoring the Commission's governance, risk and control frameworks, and its external accountability requirements.

A key role of the Committee is to monitor progress on agreed management action arising out of recommendations made by the Commission's independent internal auditors. In 2010–11, an internal audit of financial management and financial close processes was conducted to evaluate the design and operating effectiveness of relevant internal controls. The Commission has implemented the recommendations to improve the strength of internal controls. Also, an internal audit of the payroll functions was undertaken to identify risks associated with key payroll functions and assess the adequacy and effectiveness of the controls in place to mitigate those risks. The audit recommended that all reports be reviewed and signed off, even when a payroll officer is on leave.

Four Audit and Risk Committee meetings were held during the reporting period and attended by an internal management representative and the Independent Chair and Member.

## Insurance activities

The NSW Treasury Managed Fund provides insurance cover for all of the Commission's activities. It includes workers compensation, motor vehicle, public liability, property and miscellaneous claims. During the year, the workers compensation deposit premium increased by \$11,980 (11%), whilst the non worker compensation deposit premium increased by \$1,920 (8%).



### Internal Audit and Risk Management Statement for the 2010–2011 Financial Year for the Independent Commission Against Corruption

I, David Ipp, Commissioner of the Independent Commission Against Corruption (ICAC), am of the opinion that the ICAC has internal audit and risk management processes in place that are, in all material respects, compliant with the core requirements set out in Treasury Circular NSW TC 09/08 *Internal Audit and Risk Management Policy*.

I, David Ipp, am of the opinion that the Audit and Risk Committee for the ICAC is constituted and operates in accordance with the independence and governance requirements of Treasury Circular NSW TC 09-08.

The Chair and Members of the Audit and Risk Committee are:

- Independent Chair – Mr Jason Masters (appointed from 1 August 2009 to 31 July 2012)
- Independent Member – Mr Paul Raymond Apps (appointed from 21 June 2010 to 20 June 2014)
- Non Independent Member – Mr Roy Waldon, Executive Director Legal and Solicitor to the Commission.

These processes provide a level of assurance that enables the senior management of the ICAC to understand, manage and satisfactorily control risk exposures.

A handwritten signature in black ink, appearing to read 'D Ipp'.

The Hon David Ipp AO QC Commissioner  
Independent Commission Against Corruption  
24 August 2011

## Other internal committees

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 (CCG)

The CCG comprises members of the Executive, Commission staff representatives, and the PSA. The CCG was established to provide a formal mechanism for consultation and communication between staff and management on matters of policy and procedure.

The CCG is a consultative forum for developing and reviewing policies, procedures, and/or recommendations regarding policies or procedures for final endorsement by the Commissioner. The group also considers issues referred by staff and management that relate to employee policies or procedures with Commission-wide significance.

The Executive Director, Corporate Services provides the CCG with an overview of the outcomes of the quarterly meetings held by the Commission's other consultative committees, namely the Access and Equity Committee, and the Occupational Health and Safety Committee.

In accordance with the CCG Charter, meetings are held on a monthly basis, and the minutes are posted on the intranet for staff. Staff are encouraged to contribute to the CCG through a staff representative, and to raise any issues relating to the ICAC Award, policies and procedures (see Appendix 13 for further information).

### Access and Equity Committee

The Access and Equity Committee meets on a quarterly basis and is responsible for monitoring and implementing the Commission's Equal Employment Opportunity (EEO) Management Plan, the Disability Action Plan (see Appendix 11), and the Multicultural Policies and Services Program (see Appendix 12). The Committee also actively participates in the Commission's Aboriginal Employment Strategies and oversees the provision of EEO training for staff.

The Committee comprises male and female representatives from across the various work areas of the Commission. Minutes from Committee meetings are available to staff on the intranet.

Details on activities undertaken by the Committee in 2010–11 and other Commission access and equity activities are provided in Appendix 10.

### Occupational Health and Safety (OHS) Committee

The Commission's OHS Committee meets quarterly. It reviews OHS policies and practices, conducts regular workplace inspections and facilitates the resolution of safety issues. Further information is provided in Appendix 14.



## Information Management and Technology (IM&T) Steering Committee

The IM&T Steering Committee was established to provide a coordinated, whole-of-organisation approach to developing and managing information and IT-related technologies. The Committee's membership includes the Commissioner, the Deputy Commissioner, and the Executive Directors of all divisions. The Manager of the IM&T Section is responsible for providing secretariat support.

## Code of Conduct

The ICAC Code of Conduct sets out the principles the Commissioner expects staff to uphold, and prescribes specific conduct in areas considered central to the exercise of the Commission's functions. The Code of Conduct applies to all employees of the Commission, and other persons engaged to do work for the Commission. Code of Conduct awareness is incorporated into the Commission's Corporate Induction Program. No changes were made to the Commission's Code of Conduct in 2010–11.

## IM&T systems and infrastructure

In 2010–11, IM&T initiatives included the completion of an ICT infrastructure review, preparation and submission of a business case to the NSW Treasury for an ICT infrastructure upgrade, an upgrade of all desktops and notebooks to Windows 7, an upgrade of Aurion and TRIM (Tower Records and Information Management) document management systems, commissioning of a new backup system, and compliance to ISO27001 Standards for Information Security.

## Information, Communication and Technology (ICT) infrastructure review

In June 2010, external consultants commenced a review of the Commission's ICT infrastructure. The review, which was completed in August 2010, provided a detailed road map for a contemporary ICT infrastructure that will better support the Commission's current and long-term ICT needs.

## Surveillance and Technical Unit

In early 2011, the Commission's telephone interception capability was enhanced with the purchase of a server and switching systems. An upgrade of the computer forensics capability, including software, hardware and storage, was commenced in June 2011.

# Monitoring performance and effective resource management

## Staff performance management

The individual performance agreements of Commission employees are clearly aligned with corporate objectives and key result areas (as reflected in the Commission's strategic and business plans), and are linked to individual position accountabilities.

In order to achieve the desired performance targets and organisational goals, each employee's learning and development plan identifies the corporate, positional and individual learning and development activities that are required during the period to ensure competence and maximise skill levels.

The Commission is committed to ensuring that each employee has in place a performance agreement within six weeks of commencing employment with the Commission. This first agreement is then used as the basis for any probationary review. An annual performance agreement is then developed at the beginning of each financial year, with an annual review undertaken in July. To ensure that there are no barriers to optimal performance, however, the Commission is committed to providing informal feedback to staff and addressing any issues as they arise. It is also committed to providing staff with the necessary development and training opportunities to achieve corporate and operational goals.

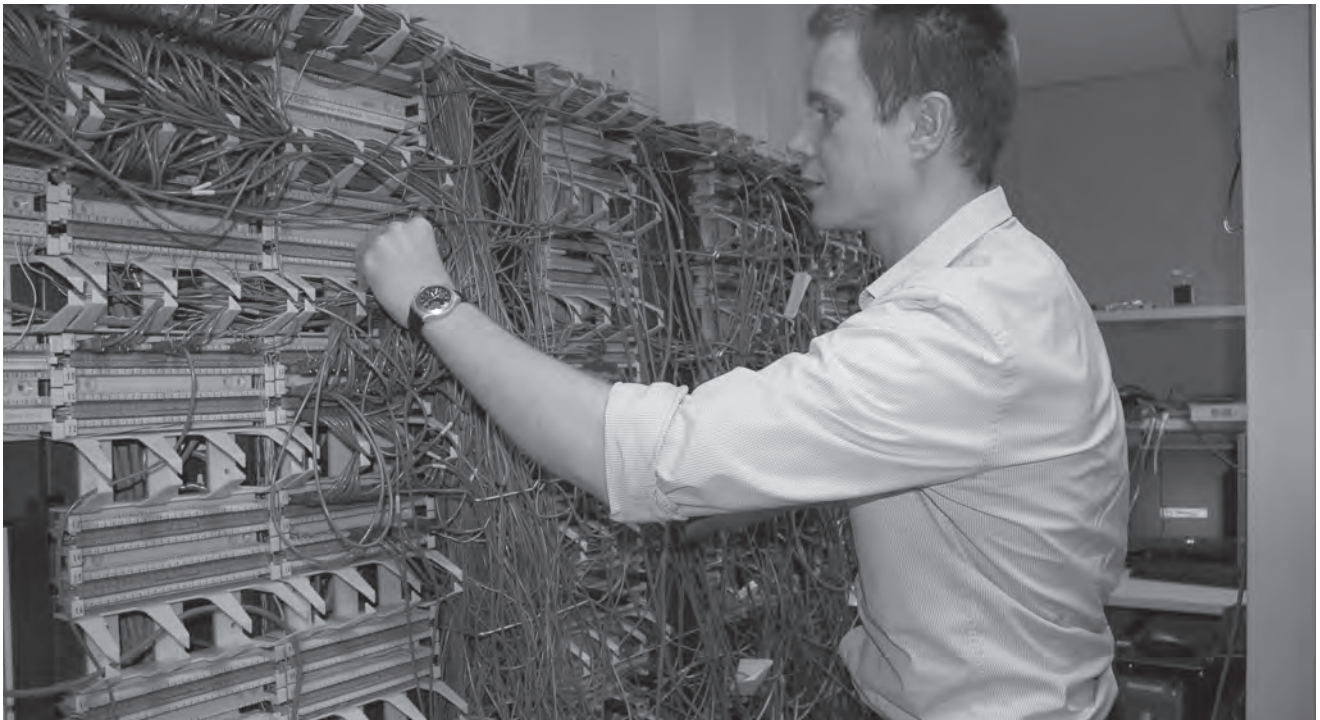
## Shared corporate services

In 2004–05, the Commission entered into a shared corporate services arrangement with the Health Care Complaints Commission (HCCC). As such, the Commission oversees the management of the HCCC's Corporate Services unit on a fee-for-service basis and provides:

- corporate planning and risk management
- financial planning and financial management
- human resources management, advice, planning, training and policy development
- information management, planning on policy development, and technology planning and advice
- payroll administration
- financial accounting, reporting and payments.

The shared services agreement was renewed for 2011–12.

Additional information related to the work of the Corporate Services Division is available in Appendices 9–22.



Senior Client Support Officer Anthony Leeson carries out maintenance on the Commission's network servers.

## The year ahead

In 2011–12, we will:

- commence the **ICT Infrastructure Upgrade Project**; a large and complex initiative that will be completed in various stages over a two-year period
- upgrade internet/intranet speed to **100mbps** (from 20mbps) and connect all users with gigabit speed to considerably enhance communication capabilities
- continue enhancement of the **MOCCA** (Management of Cases, Complaints and Assessments) system
- develop **webcasts** for MOCCA and TRIM (Tower Records and Information Management)
- continue to provide staff with suitable **training and development opportunities**
- develop a **payroll manual**.



# Financial report

Independent Commission Against Corruption

Statement of comprehensive income for the year ended 30 June 2011

	Notes	Actual 2011 \$'000
<b>Expenses excluding losses</b>		
Operating expenses		
Employee related		
Other operating expenses	2(a)	15,255
Depreciation and amortisation	2(b)	4,958
<b>Total expenses excluding losses</b>	2(c)	739
<b>Revenue</b>		
Sale of goods and services	3(a)	20,952
Investment revenue	3(b)	401
		66

## In this section

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**Statement by Commissioner**

In accordance with section 45F of the *Public Finance and Audit Act 1983* ("the Act"), I state that:

- (a) the accompanying financial statements in respect of the year ended 30 June 2011 have been prepared in accordance with applicable Australian Accounting Standards (which include Australian Accounting Interpretations), the requirements of the Act, and Regulation 2010, and the Financial Reporting Directions published in the Financial Reporting Code for Budget Dependent General Government Sector Agencies or issued by the Treasurer under section 9(2) of the Act
- (b) the financial statements exhibit a true and fair view of the financial position and financial performance of the Independent Commission Against Corruption
- (c) there are no circumstances that would render any particulars included in the financial statements to be misleading or inaccurate.

A handwritten signature in black ink, appearing to read 'David Ipp', is positioned above the printed name of the Commissioner.

The Hon David Ipp AO QC  
Commissioner

13 October 2011





GPO BOX 12  
Sydney NSW 2001

## INDEPENDENT AUDITOR'S REPORT

### Independent Commission Against Corruption

To Members of the New South Wales Parliament

I have audited the accompanying financial statements of the Independent Commission Against Corruption (the Commission), which comprise the statement of financial position as at 30 June 2011, the statement of comprehensive income, statement of changes in equity, statement of cash flows and a summary of compliance with financial directives for the year then ended, notes comprising a summary of significant accounting policies and other explanatory information.

### Opinion

In my opinion, the financial statements:

- give a true and fair view of the financial position of the Commission as at 30 June 2011, and its financial performance for the year then ended in accordance with Australian Accounting Standards
- are in accordance with section 45E of the *Public Finance and Audit Act 1983* (the PF&A Act) and the Public Finance and Audit Regulation 2010.

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

### Commissioner's Responsibility for the Financial Statements

The Commissioner is responsible for the preparation and fair presentation of the financial statements that give a true and fair view in accordance with Australian Accounting Standards and the PF&A Act, and for such internal control as the Commissioner determines is necessary to enable the preparation of the financial statements that are free from material misstatement, whether due to fraud or error.

### Auditor's Responsibility

My responsibility is to express an opinion on the financial statements based on my audit. I conducted my audit in accordance with Australian Auditing Standards. Those standards require that I comply with relevant ethical requirements relating to audit engagements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the Commission's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Commission's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the Commissioner, as well as evaluating the overall presentation of the financial statements.

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

My opinion does *not* provide assurance:

- about the future viability of the Commission
- that it has carried out its activities effectively, efficiently and economically
- about the effectiveness of its internal control
- 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 they may be presented
- about any other information which may have been hyperlinked to/from the financial statements.

### Independence

In conducting my audit, I have complied with the independence requirements of the Australian Auditing Standards and other relevant ethical pronouncements. The PF&A Act further promotes independence 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 but precluding the provision of non-audit services, thus ensuring the Auditor-General and the Audit Office of New South Wales are not compromised in their role by the possibility of losing clients or income.



Peter Achterstraat  
Auditor-General

14 October 2011  
SYDNEY

# Statement of comprehensive income for the year ended 30 June 2011

	Notes	Actual 2011 \$'000	Budget 2011 \$'000	Actual 2010 \$'000
<b>Expenses excluding losses</b>				
Operating expenses				
Employee related	2(a)	15,282	14,785	14,621
Other operating expenses	2(b)	4,957	4,321	4,707
Depreciation and amortisation	2(c)	739	739	693
<b>Total expenses excluding losses</b>		<b>20,978</b>	<b>19,845</b>	<b>20,021</b>
Revenue				
Sale of goods and services	3(a)	401	430	460
Investment revenue	3(b)	66	88	82
Other revenue	3(c)	59	16	17
<b>Total Revenue</b>		<b>526</b>	<b>534</b>	<b>559</b>
<b>Gain/(Loss) on disposal</b>	4	(3)	–	1
<b>Net Cost of Services</b>	18	<b>20,455</b>	<b>19,311</b>	<b>19,461</b>
<b>Government contributions</b>				
Recurrent appropriation	5	19,186	17,986	17,650
Capital appropriation	5	236	240	478
Acceptance by the Crown Entity of employee benefits and other liabilities	6	671	490	739
<b>Total Government contributions</b>		<b>20,093</b>	<b>18,716</b>	<b>18,867</b>
<b>Surplus/(deficit) for the year</b>		<b>(362)</b>	<b>(595)</b>	<b>(594)</b>
<b>Other comprehensive income</b>				
Net increase/(decrease) in property, plant and equipment asset revaluation reserve		–	–	–
Other comprehensive income for the year		–	–	–
<b>Total comprehensive income for the year</b>		<b>(362)</b>	<b>(595)</b>	<b>(594)</b>

The accompanying notes form part of these statements.

## Statement of financial position as at 30 June 2011

	Notes	Actual 2011 \$'000	Budget 2011 \$'000	Actual 2010 \$'000
<b>Assets</b>				
Current Assets				
Cash and cash equivalents	8	1,848	1,784	1,855
Receivables	9	443	391	444
<b>Total Current Assets</b>		<b>2,291</b>	<b>2,175</b>	<b>2,299</b>
Non-Current Assets				
Property, plant and equipment	10			
– Leasehold improvements		197	199	286
– Plant and equipment		675	726	908
<b>Total property, plant and equipment</b>		<b>872</b>	<b>925</b>	<b>1,194</b>
Intangible assets	11	691	642	872
<b>Total Non-Current Assets</b>		<b>1,563</b>	<b>1,567</b>	<b>2,066</b>
<b>Total Assets</b>		<b>3,854</b>	<b>3,742</b>	<b>4,365</b>
<b>Liabilities</b>				
Current Liabilities				
Payables	12	390	590	563
Provisions	13	1,493	1,522	1,456
Other	14	4	17	17
<b>Total Current Liabilities</b>		<b>1,887</b>	<b>2,129</b>	<b>2,036</b>
Non-Current Liabilities				
Provisions	13	14	(107)	14
<b>Total Non-Current Liabilities</b>		<b>14</b>	<b>(107)</b>	<b>14</b>
<b>Total Liabilities</b>		<b>1,901</b>	<b>2,022</b>	<b>2,050</b>
<b>Net Assets</b>		<b>1,953</b>	<b>1,720</b>	<b>2,315</b>
<b>Equity</b>				
Reserves		409	409	409
Accumulated funds		1,544	1,311	1,906
<b>Total Equity</b>		<b>1,953</b>	<b>1,720</b>	<b>2,315</b>

The accompanying notes form part of these statements.

## Statement of changes in equity for the year ended 30 June 2011

	Notes	Accumulated Funds \$'000	Asset Revaluation Surplus \$'000	Total \$'000
<b>Balance at 1 July 2010</b>		<b>1,906</b>	<b>409</b>	<b>2,315</b>
Changes in accounting policy		–	–	–
Correction of errors		–	–	–
<b>Restated total equity at 1 July 2010</b>		<b>1,906</b>	<b>409</b>	<b>2,315</b>
<b>Surplus/(deficit) for the year</b>		<b>(362)</b>	<b>–</b>	<b>(362)</b>
<b>Other comprehensive income:</b>				
Net increase/(decrease) in property, plant and equipment		–	–	–
<b>Total other comprehensive income</b>		<b>–</b>	<b>–</b>	<b>–</b>
<b>Total comprehensive income for the year</b>		<b>(362)</b>	<b>–</b>	<b>(362)</b>
<b>Balance at 30 June 2011</b>		<b>1,544</b>	<b>409</b>	<b>1,953</b>
<b>Balance at 1 July 2009</b>		<b>2,500</b>	<b>409</b>	<b>2,909</b>
Changes in accounting policy		–	–	–
Correction of errors		–	–	–
<b>Restated total equity at 1 July 2009</b>		<b>2,500</b>	<b>409</b>	<b>2,909</b>
<b>Surplus/(deficit) for the year</b>		<b>(594)</b>	<b>–</b>	<b>(594)</b>
<b>Other comprehensive income:</b>				
Net increase/(decrease) in property, plant and equipment		–	–	–
<b>Total other comprehensive income</b>		<b>–</b>	<b>–</b>	<b>–</b>
<b>Total comprehensive income for the year</b>		<b>(594)</b>	<b>–</b>	<b>(594)</b>
<b>Balance at 30 June 2010</b>		<b>1,906</b>	<b>409</b>	<b>2,315</b>

The accompanying notes form part of these statements.



## Statement of cash flows for the year ended 30 June 2011

	Notes	Actual 2011 \$'000	Budget 2011 \$'000	Actual 2010 \$'000
<b>Cash flows from operating activities</b>				
<b>Payments</b>				
Employee related		(14,511)	(14,337)	(13,762)
Other		(5,817)	(4,717)	(4,741)
<b>Total Payments</b>		<b>(20,328)</b>	<b>(19,054)</b>	<b>(18,503)</b>
<b>Receipts</b>				
Sale of goods and services		401	430	460
Interest received		75	121	63
Retained taxes		599	446	463
Sundry debtors		1	–	15
Other		59	–	17
<b>Total Receipts</b>		<b>1,135</b>	<b>997</b>	<b>1,018</b>
<b>Cash Flows from Government</b>				
Recurrent appropriation	5	19,186	17,986	17,650
Capital appropriation	5	236	240	495
Cash transfers to the Consolidated Fund		–	–	(249)
<b>Net Cash Flows from Government</b>		<b>19,422</b>	<b>18,226</b>	<b>17,896</b>
<b>Net cash flows from operating activities</b>	18	229	169	410
<b>Cash flows from investing activities</b>				
Proceeds from sale of plant and equipment		–	–	1
Purchases of property, plant and equipment		(236)	(240)	(479)
Other		–	–	–
<b>Net cash flows from investing activities</b>		<b>(236)</b>	<b>(240)</b>	<b>(478)</b>
<b>Net increase/(decrease) in cash and cash equivalents</b>		<b>(7)</b>	<b>(71)</b>	<b>(68)</b>
Opening cash and cash equivalents		1,855	1,534	1,923
<b>Closing cash and cash equivalents</b>	<b>8</b>	<b>1,848</b>	<b>1,463</b>	<b>1,855</b>

The accompanying notes form part of these statements.

## Summary of compliance with financial directives

	2011				2010			
	Recurrent Appropriation \$'000	Expenditure/ Net claim on Consolidated Fund \$'000	Capital Appropriation \$'000	Expenditure/ Net claim on Consolidated Fund \$'000	Recurrent Appropriation \$'000	Expenditure/ Net claim on Consolidated Fund \$'000	Capital Appropriation \$'000	Expenditure/ Net claim on Consolidated Fund \$'000
<b>Original budget appropriation/ expenditure</b>								
– Appropriation Act	17,986	17,986	240	236	16,800	16,800	495	478
– Additional Appropriations	–	–	–	–	–	–	–	–
– S21A PF&AA – special appropriation	–	–	–	–	–	–	–	–
– S24 PF&AA – transfer of functions between departments	–	–	–	–	–	–	–	–
– S26 PF&AA – Commonwealth specific purpose payments	–	–	–	–	–	–	–	–
	17,986	17,986	240	236	16,800	16,800	495	478
<b>Other appropriations/ expenditure</b>								
– Treasurer's Advance	1,200	1,200	–	–	850	850	–	–
– Section 22 – expenditure for certain works and services	–	–	–	–	–	–	–	–
– Transfers to/from another agency	–	–	–	–	–	–	–	–
– (Section 28 of the Appropriation Act)	–	–	–	–	–	–	–	–
– Other	–	–	–	–	–	–	–	–
	1,200	1,200	–	–	850	850	–	–
<b>Total Appropriations</b>								
<b>Expenditure/Net Claim on Consolidated Fund (includes transfer payments)</b>	19,186	19,186	240	236	17,650	17,650	495	478
<b>Amount drawn down against Appropriation</b>	–	19,186	–	240	–	17,650	–	495
<b>Liability to Consolidated Fund*</b>	–	–	–	4	–	–	–	17

The Summary of Compliance is based on the assumption that Consolidated Fund moneys are spent first (except where otherwise identified or prescribed).

\*The "Liability to Consolidated Fund" represents the difference between the "Amount drawn down against Appropriation" and the "Total Expenditure/Net Claim on Consolidated Fund".

The accompanying notes form part of these statements.

# Notes to and forming part of the financial statements for the year ended 30 June 2011

## 1. Summary of Significant Accounting Policies

### a. Reporting entity

The Commission is constituted by the *Independent Commission Against Corruption Act 1988*. The main objective of the Commission is to minimise corrupt activities and enhance the integrity of the NSW public sector administration. These financial statements report on all the operating activities under the control of the Commission.

The Independent Commission Against Corruption is a NSW government department. 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.

The financial statements for the year ended 30 June 2011 have been authorised for issue by the Commissioner as at 13 October 2011.

### b. Basis of preparation

The Commission's financial statements are general purpose financial statements that have been prepared in accordance with:

- Applicable Australian Accounting Standards (that include Australian Accounting Interpretations)
- the requirements of the *Public Finance and Audit Act 1983* and Regulations
- the Financial Reporting Directions published in the Code for Budget Dependent General Government Sector Agencies or issued by the Treasurer.

The financial statements are prepared in accordance with the historical cost convention, except for leasehold improvements, which are recorded at fair value.

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

All amounts are rounded to the nearest one thousand dollars and expressed in Australian currency.

### c. Statement of compliance

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

### d. Insurance

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

### 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 is recognised as part of the cost of acquisition of an asset 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 financing activities, which is recoverable from, or payable to, the Australian Taxation Office are classified as operating cash flows.

### f. Income recognition

Income is measured at the fair value of the consideration or contribution received or receivable. Additional comments regarding the accounting policies for the recognition of income are discussed below.

#### i. Parliamentary appropriations and contributions

Except as specified below, parliamentary appropriations and contributions from other bodies (including grants and donations) are generally recognised as income when the Commission obtains control over the assets comprising the appropriations/contributions. Control over appropriations and contributions is normally obtained upon the receipt of cash.

Unspent appropriations are recognised as liabilities rather than income, as the authority to spend the money lapses and the unspent amount must be repaid to the Consolidated Fund.

The liability is disclosed in Note 14 as part of "Current liabilities – other".

## Notes to and forming part of the financial statements for the year ended 30 June 2011

### ii. Sale of goods

Revenue from the sale of goods is recognised as revenue when the Commission transfers the significant risks and rewards of ownership of the assets.

### iii. Rendering of services

Revenue is recognised when the service is provided or by reference to the stage of completion (based on labour hours incurred to date).

### iv. Investment revenue

Investment revenue is recognised using the effective interest method as set out in AASB 139 *Financial Instruments: Recognition and Measurement*.

## g. Assets

### i. Acquisitions of assets

The cost method of accounting is used for the initial recording of all acquisitions of assets controlled by the Commission. 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 amount for which an asset could be exchanged between knowledgeable, willing parties in an arm's length 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 at an asset-specific rate.

### ii. Capitalisation thresholds

Property, plant and equipment and intangible assets costing \$5,000 and above individually (or forming part of a network costing more than \$5,000) are capitalised.

### iii. 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 (TPP 07-1). This policy adopts fair value in accordance with AASB 116 *Property, Plant and Equipment*.

Property, plant and equipment are measured on an existing-use basis, where there are no feasible alternative uses in the existing natural, legal, financial and socio-political environment. However, in the limited circumstances where there are feasible alternative uses, assets are valued at their highest and best use.

Fair value of property, plant and equipment is determined based on the best available market evidence, including current market selling prices for the same or similar assets. Where there is no available market evidence, the asset's fair value is measured at its market buying price, the best indicator of which is depreciated replacement cost.

As the Commission does not own land, building or infrastructure assets, management does not believe that the revaluation of physical non-current assets every five years is warranted, unless it becomes aware of any material difference in the carrying amount of any class of assets. The last revaluation of leasehold improvement assets was completed on 30 June 2004 and was based on an independent assessment.

Non-specialised assets with short useful lives are measured at depreciated historical cost, as a surrogate for fair value.

Where an asset that has previously been revalued is disposed of, any balance remaining in the asset revaluation reserve in respect of that asset is transferred to accumulated funds.

### iv. Impairment of property, plant and equipment

As a not-for-profit entity with no cash generating units, the Commission is effectively exempted from AASB 136 *Impairment of Assets* and impairment testing. This is because AASB 136 modifies the recoverable amount test to the higher of fair value less costs to sell and depreciated replacement cost. This means that, for an asset already measured at fair value, impairment can only arise if selling costs are material. Selling costs are regarded as immaterial.

### v. 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 separately identifiable components of assets are depreciated over their shorter useful lives.

## Independent Commission Against Corruption

# Notes to and forming part of the financial statements for the year ended 30 June 2011

The useful life of the various categories of non-current assets is as follows:

Asset category	Depreciation life in years
Computer hardware	4
Intangibles – computer software	4
Plant and equipment	5
Leasehold improvements	8

## vi. Maintenance

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

## vii. Leased assets

A distinction is made between finance leases, which effectively transfer from the lessor to the lessee substantially all the risks and benefits incidental to ownership of the leased assets, and operating leases under which the lessor effectively retains all such risks and benefits.

The Commission has no finance lease arrangements.

Operating lease payments are charged to the statement of comprehensive income in the periods in which they are incurred.

## viii. Intangible assets

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.

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.

## ix. Receivables

Receivables are non-derivative financial assets with fixed or determinable payments that are not quoted in an active market. These financial assets 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, less an allowance for any impairment of receivables. Any changes are recognised in the surplus/(deficit) for the year when impaired, de-recognised or through the amortisation process.

Short-term receivables with no stated interest rate are measured at the original invoice amount where the effect of discounting is immaterial.

## x. Impairment of financial assets

All financial assets, except those measured at fair value through profit and loss, are subject to an annual review for impairment. An allowance for impairment is established when there is objective evidence that the entity will not be able to collect all amounts due.

The amount of the impairment loss is recognised in the surplus/(deficit) for the year.

Any reversals of impairment losses are reversed through the surplus/(deficit) for the year, where there is objective evidence, except reversals of impairment losses on an investment in an equity instrument classified as "available for sale" must be made through the reserve. Reversals of impairment losses of financial assets carried at amortised cost cannot result in a carrying amount that exceeds what the carrying amount would have been had there not been an impairment loss.

## xi. De-recognition of financial assets and financial liabilities

A financial asset is de-recognised when the contractual rights to the cash flows from the financial asset expire or if the Commission transfers the financial asset:

- where substantially all the risks and rewards have been transferred or
- where the Commission has not transferred substantially all the risks and rewards, if the entity has not retained control.

Where the Commission has neither transferred nor retained substantially all the risks and rewards or transferred control, the asset is recognised to the extent of the Commission's continuing involvement in the asset.

A financial liability is de-recognised when the obligation specified in the contract is discharged or cancelled or expires.



## Notes to and forming part of the financial statements for the year ended 30 June 2011

### h. Liabilities

#### i. Payables

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.

#### ii. Financial guarantees

A financial guarantee contract is a contract that requires the issuer to make specified payments to reimburse the holder for a loss it incurs because a specified debtor fails to make payment when due in accordance with the original or modified terms of a debt instrument.

Financial guarantee contracts are recognised as a liability at the time the guarantee is issued and initially measured at fair value, where material. After initial recognition, the liability is measured at the higher of the amount determined in accordance with AASB 137 *Provisions, Contingent Liabilities and Contingent Assets* and the amount initially recognised, less accumulated amortisation, where appropriate.

The Commission has reviewed its financial guarantees and determined that there is no material liability to be recognised for financial guarantee contracts at 30 June 2011 and at 30 June 2010.

#### iii. Employee benefits and other provisions

- (a) Salaries and wages, annual leave, sick leave and on-costs

Liabilities for salaries and wages (including non-monetary benefits), annual leave and paid sick leave that are due to be settled within 12 months after the end of the period in which the employees render the service are recognised and measured in respect of employees' services up to the reporting date at undiscounted amounts based on the amounts expected to be paid when the liabilities are settled.

Long-term annual leave that is not expected to be taken within 12 months is measured at present value in accordance with AASB 119 *Employee Benefits*. Market yields on government bonds of 4.30% are used to discount long-term annual leave.

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.

The outstanding amounts of payroll tax, workers compensation insurance premiums and fringe benefits tax, which are consequential to employment, are recognised as liabilities and expenses where the employee benefits to which they relate have been recognised.

- (b) Long service leave and superannuation

The Commission's liabilities for long service leave and defined benefit superannuation are assumed by the Crown Entity. The Commission accounts for the liability as having been extinguished, resulting in the amount assumed being shown as part of the non-monetary revenue items described as "Acceptance by the Crown Entity of employee benefits and other liabilities".

Long service leave is measured at present value in accordance with AASB 119 *Employee Benefits*. This is based on the application of certain factors (specified in NSWTC 09/04) to employees with five or more years of service, using current rates of pay. These factors were determined based on an actuarial review to approximate present value.

The superannuation expense for the financial year is determined by using the formulae specified in the Treasurer's Circular (TC 11/06). The expense for certain superannuation schemes (that is, Basic Benefit and First State 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.

### i. Equity and reserves

- (a) Asset revaluation reserve

The asset revaluation reserve is used to record increments and decrements on the revaluation of non-current assets. This accords with the agency's policy on the revaluation of property, plant and equipment, as discussed in Note 1(g)(iii).

- (b) Accumulated funds

The category accumulated funds includes all current and period retained funds.

- (c) Separate reserve accounts are recognised in the financial statements only if such accounts

## Notes to and forming part of the financial statements for the year ended 30 June 2011

are required by specific legislation or Australian Accounting Standards (for example, asset revaluation reserve).

### **j. Budgeted amounts**

The budgeted amounts are drawn from the budgets as formulated at the beginning of the financial year and with any adjustments for the effects of additional appropriations, section 21A, section 24 and/or section 26 of the *Public Finance and Audit Act 1983*.

The budgeted amounts in the statement of comprehensive income and the statement of cash flows are generally based on the amounts disclosed in the NSW Budget Papers (as adjusted above). However, in the statement of financial position, the amounts vary from the Budget Papers, as the opening balances of the budgeted amounts are based on the carried forward actual amounts, that is, per the audited financial statements (rather than carried forward estimates).

### **k. Comparative information**

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

### **l. New Australian Accounting Standards/Interpretations issued but not effective**

The Commission has not early adopted any new Australian Accounting Standards/Interpretations issued but not yet effective. The Commission believes the impact of the standards issued but not yet effective would be immaterial on its financial statements.

# Notes to and forming part of the financial statements for the year ended 30 June 2011

## 2. Expenses including losses

	2011 \$'000	2010 \$'000
<b>(a) Employee related expenses</b>		
Salaries and wages (including recreation leave)	12,668	12,127
Superannuation – defined benefit plans	435	307
Superannuation – defined contribution plans	845	779
Long service leave	220	432
Workers compensation insurance	97	105
Payroll tax and fringe benefits tax	869	737
Contractor & temporary assistance	147	134
	<b>15,282</b>	<b>14,621</b>
* Employee related expenses capitalised in Note 11 – Intangible assets		
Salaries and wages (including recreation leave)	15	15
Contractor & temporary assistance	–	–
	<b>15</b>	<b>15</b>
<b>(b) Other operating expenses include the following:</b>		
Auditor's remuneration		
– audit of the financial statements	33	32
Operating lease rental expense		
– minimum lease payments	2,137	2,060
Insurance	19	22
Cleaning	20	20
Electricity	98	68
Travelling, air fares and subsistence	115	78
Taxi and motor vehicle rentals	15	14
Consultancy fees	52	76
External legal fees	758	592
Transcript fees	121	115
Fees for services	163	82
Contract security services	203	195
Training	123	136
Advertising and publicity	35	51
Books and subscriptions	110	113
Postal and telephone	124	126
Printing	79	101
Stores and specialised supplies	96	94
Minor computer equipment/licences	57	84
Courier and freight	2	2
Maintenance*	253	286
Other	344	360
	<b>4,957</b>	<b>4,707</b>

## Notes to and forming part of the financial statements for the year ended 30 June 2011

	2011 \$'000	2010 \$'000
<i>* Reconciliation – Total maintenance</i>		
Maintenance expense – other (non-employee related), as above	253	221
Employee related maintenance expense included in Note 2(a)	–	–
Total maintenance expenses included in Note 2(a) + 2(b)	<b>253</b>	<b>221</b>
<b>(c) Depreciation and amortisation expense</b>		
Depreciation		
Leasehold improvements	90	144
Computer equipment	219	216
Plant and equipment	139	135
	<b>448</b>	<b>495</b>
Amortisation		
Intangibles – computer software	291	198
	<b>291</b>	<b>198</b>
Total depreciation and amortisation	<b>739</b>	<b>693</b>

### 3. Revenue

	2011 \$'000	2010 \$'000
<b>(a) Sale of goods and services</b>		
Corporate Services Support – Health Care Complaints Commission	333	339
Presentation and seminar fees	68	121
	<b>401</b>	<b>460</b>
<b>(b) Investment revenue</b>		
Interest	66	82
	<b>66</b>	<b>82</b>
<b>(c) Other revenue</b>		
Profit share – 8th National Investigations Symposium	20	–
Other	39	17
	<b>59</b>	<b>17</b>

### 4. Gain/(loss) on disposal

	2011 \$'000	2010 \$'000
Written-down value of assets disposed	3	1
Proceeds from sale	–	–
	<b>3</b>	<b>1</b>

# Notes to and forming part of the financial statements for the year ended 30 June 2011

## 5. Appropriations

	2011 \$'000	2010 \$'000
<b>Recurrent appropriations</b>		
Total recurrent draw-downs from NSW Treasury (per Summary of compliance)	19,186	17,650
Less: Liability to Consolidated Fund* (per Summary of compliance)	—	—
	<b>19,186</b>	<b>17,650</b>
Comprising:		
Recurrent appropriations (per Statement of comprehensive income)	19,186	17,650
<b>Capital appropriations</b>		
Total capital draw-downs from NSW Treasury (per Summary of compliance)	240	495
Less: Liability to Consolidated Fund* (per Summary of compliance)	(4)	(17)
	<b>236</b>	<b>478</b>
Comprising:		
Capital appropriations (per Statement of comprehensive income)	236	478

\* The Liability to Consolidated Fund is recognised in the Statement of Financial Position as a Current Liability – other

## 6. Acceptance by the Crown Entity of employee benefits and other liabilities

	2011 \$'000	2010 \$'000
The following liabilities and/or expenses have been assumed by the Crown Entity:		
Superannuation – defined benefit	435	307
Long service leave	219	414
Payroll tax (on employer superannuation contributions)	17	18
	<b>671</b>	<b>739</b>

## 7. Service Group of the Commission

### Corruption Investigation, Prevention, Research and Education

The Commission has one service group.

The Commission contributes to an improved culture of honesty, integrity and ethical behaviour within the NSW public sector by working towards the following results:

- potential offenders are deterred from committing corrupt conduct through the exposure of corruption activities and corruption risks
- the community and public sector employees have confidence that corruption matters reported are being properly investigated
- the community and public sector employees have an increased awareness and understanding of corrupt conduct and corruption risks across the public sector
- a comprehensive range of corruption prevention strategies operates across the public sector.

The Commission contributes to the achievement of the above results by the provision of assessment and investigation of corruption complaints, corruption prevention training programs, and education material to promote corruption awareness across public sector agencies.



## Notes to and forming part of the financial statements for the year ended 30 June 2011

	Actual 2011 \$'000	Budget 2011 \$'000	Actual 2010 \$'000
Total expenses excluding losses	20,952	19,845	20,021
Total Revenue	526	534	559
Gain/(loss) on disposal	(3)	–	1
<b>Net Cost of Services</b>	<b>20,428</b>	<b>19,311</b>	<b>19,461</b>
Total Government Contributions	20,093	19,551	18,867
<b>Surplus/(Deficit) for the year</b>	<b>(335)</b>	<b>240</b>	<b>(594)</b>

### 8. Current assets – cash and cash equivalents

	2011 \$'000	2010 \$'000
Cash at bank and on hand	1,848	1,855

For the purposes of the statement of cash flows, cash and cash equivalents include cash on hand, cash at bank and short term deposits.

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:

	2011 \$'000	2010 \$'000
Cash and cash equivalents (per statement of financial position)	1,848	1,855
<b>Closing cash and cash equivalents (per statement of cash flows)</b>	<b>1,848</b>	<b>1,855</b>

### 9. Current/Non-current assets – receivables

	2011 \$'000	2010 \$'000
Sale of goods and services	–	1
GST Receivable	141	190
Prepayments	251	192
Other receivables		
sundry debtors	–	–
interest income	39	48
other	12	13
	<b>443</b>	<b>444</b>

Management expects to receive all amounts due, therefore, no allowance for impairment of receivables has been raised.

Details regarding credit risk, liquidity risk and market risk, including financial assets that are either past due or impaired are disclosed in Note 20.

# Notes to and forming part of the financial statements for the year ended 30 June 2011

## 10. Non current assets – property, plant and equipment

	Leasehold improvements \$'000	Plant and equipment \$'000	Computer equipment \$'000	Work in progress \$'000	Total \$'000
<b>At 1 July 2010 – fair value</b>					
Gross carrying amount	937	1,379	1,737	–	4,053
Accumulated depreciation and impairment	(650)	(994)	(1,215)	–	(2,859)
<b>Net carrying amount</b>	<b>287</b>	<b>385</b>	<b>522</b>	<b>–</b>	<b>1,194</b>
<b>At 30 June 2011 – fair value</b>					
Gross carrying amount	937	1,355	1,747	–	4,039
Accumulated depreciation and impairment	(740)	(1,073)	(1,354)	–	(3,167)
<b>Net carrying amount</b>	<b>197</b>	<b>282</b>	<b>393</b>	<b>–</b>	<b>872</b>

### Reconciliation

A reconciliation of the carrying amount of each class of property, plant and equipment at the beginning and end of the current reporting period is set out below.

	Leasehold improvements \$'000	Plant and equipment \$'000	Computer equipment \$'000	Work in progress \$'000	Total \$'000
<b>Year ended 30 June 2011</b>					
Net carrying amount at start of year	287	385	522	–	1,194
Additions	–	36	92	–	128
Disposals	–	(60)	(83)	–	(143)
Transfer	–	–	–	–	–
Depreciation written back on disposal	–	60	81	–	141
Depreciation expense	(90)	(139)	(219)	–	(448)
<b>Net carrying amount at end of year</b>	<b>197</b>	<b>282</b>	<b>393</b>	<b>–</b>	<b>872</b>
<b>At 1 July 2009 – fair value</b>					
Gross carrying amount	937	1,277	1,630	177	4,021
Accumulated depreciation and impairment	(506)	(945)	(1,094)	–	(2,545)
<b>Net carrying amount</b>	<b>431</b>	<b>332</b>	<b>536</b>	<b>177</b>	<b>1,476</b>
<b>At 30 June 2010 – fair value</b>					
Gross carrying amount	937	1,379	1,737	–	4,053
Accumulated depreciation and impairment	(650)	(994)	(1,215)	–	(2,859)
<b>Net carrying amount</b>	<b>287</b>	<b>385</b>	<b>522</b>	<b>–</b>	<b>1,194</b>

### Reconciliation

A reconciliation of the carrying amount of each class of property, plant and equipment at the beginning and end of the current reporting period is set out opposite.

## Notes to and forming part of the financial statements for the year ended 30 June 2011

	Leasehold improvements \$'000	Plant and equipment \$'000	Computer equipment \$'000	Work in progress \$'000	Total \$'000
<b>Year ended 30 June 2010</b>					
Net carrying amount at start of year	431	332	536	177	1,476
Additions	–	11	202	–	213
Disposals	–	87	95	–	182
Transfer	–	177	–	(177)	–
Depreciation written back on disposal	–	(87)	(95)	–	(182)
Depreciation expense	(144)	(135)	(216)	–	(495)
<b>Net carrying amount at end of year</b>	<b>287</b>	<b>385</b>	<b>522</b>	<b>–</b>	<b>1,194</b>

### 11. Intangible assets

	Software \$'000	Work in progress \$'000	Total \$'000
<b>At 1 July 2010</b>			
Cost (gross carrying amount)	1,886	25	1,911
Accumulated amortisation and impairment	(1,040)	–	(1,040)
<b>Net carrying amount</b>	<b>846</b>	<b>25</b>	<b>871</b>
<b>At 30 June 2011</b>			
Cost (gross carrying amount)	1,930	–	1,930
Accumulated amortisation and impairment	(1,239)	–	(1,239)
<b>Net carrying amount</b>	<b>691</b>	<b>–</b>	<b>691</b>
<b>Year ended 30 June 2011</b>			
Net carrying amount at start of year	846	25	871
Additions	111	–	111
Disposals	(92)	–	(92)
Transfer	25	(25)	–
Amortisation written back on disposal/transfer	92	–	92
Amortisation expense	(291)	–	(291)
<b>Net carrying amount at end of year</b>	<b>691</b>	<b>–</b>	<b>691</b>
<b>At 1 July 2009</b>			
Cost (gross carrying amount)	997	650	1,647
Accumulated amortisation and impairment	(843)	–	(843)
<b>Net carrying amount</b>	<b>154</b>	<b>650</b>	<b>804</b>
<b>At 30 June 2010</b>			
Cost (gross carrying amount)	1,886	25	1,911
Accumulated amortisation and impairment	(1,040)	–	(1,040)
<b>Net carrying amount</b>	<b>846</b>	<b>25</b>	<b>871</b>
<b>Year ended 30 June 2010</b>			
Net carrying amount at start of year	154	650	804
Additions	245	–	245
Disposals	–	–	–
Transfer	645	(625)	20
Amortisation written back on disposal	–	–	–
Amortisation expense	(198)	–	(198)
<b>Net carrying amount at end of year</b>	<b>846</b>	<b>25</b>	<b>871</b>

# Notes to and forming part of the financial statements for the year ended 30 June 2011

## 12. Current liabilities – payables

	2011 \$'000	2010 \$'000
Accrued salaries, wages and on-costs	245	184
Accrued expenses	145	379
	390	563

Details regarding credit risk, liquidity risk and market risk, including a maturity analysis of the above payables, are disclosed in Note 19.

## 13. Current/non-current liabilities – provisions

	2011 \$'000	2010 \$'000
<b>Current</b>		
Employee benefits and related on-costs		
Recreation leave (includes annual leave loading)	1,099	1,142
Payroll tax on-costs on long service leave (and fringe benefits tax payable)	60	60
Annual leave on-costs not assumed by the Crown	68	–
Long service leave on-costs not assumed by the Crown	266	254
	1,493	1,456
<b>Non-current</b>		
Employee benefits and related on-costs		
Long service leave on-costs not assumed by the Crown	7	7
Provision for payroll tax on long service leave	7	7
	14	14
<b>Aggregate employee benefits and related on-costs</b>		
Provision – current	1,493	1,456
Provision – non-current	14	14
Accrued salaries, wages and on-costs (Note 12)	245	184
	1,752	1,654

## 14. Current liabilities – other

	2011 \$'000	2010 \$'000
Liability to Consolidated Fund	4	17

# Notes to and forming part of the financial statements for the year ended 30 June 2011

## 15. Commitments for expenditure

	2011 \$'000	2010 \$'000
<b>(a) Capital commitments</b>		
Aggregate other expenditure for the acquisition of goods/services contracted for at balance date and not provided for:		
Not later than one year	–	3
Later than one year and not later than five years	–	–
Later than five years	–	–
<b>Total (including GST)</b>	<b>–</b>	<b>3</b>
<b>(b) Other expenditure commitments</b>		
Aggregate other expenditure for the acquisition of goods/services contracted for at balance date and not provided for:		
Not later than one year	125	102
Later than one year and not later than five years	–	–
Later than five years	–	–
<b>Total (including GST)</b>	<b>125</b>	<b>102</b>
<b>(c) Operating lease commitments</b>		
Future non-cancellable operating lease rental not provided for and payable:		
Not later than one year	2,186	2,097
Later than one year and not later than five years	5,028	7,199
Later than five years	–	–
<b>Total (including GST)</b>	<b>7,214</b>	<b>9,296</b>

The total “operating lease commitments” above includes potential input tax credits of \$655,789 (2010: \$845,094) that are expected to be recoverable from the ATO. The operating lease commitments represent the balance of the five-year lease option for the current accommodation at Piccadilly Centre and motor vehicle leases.

## 16. Contingent liabilities and contingent assets

The Commission has contingent liabilities estimated at \$53,000 representing potential legal expenses for which the Crown Solicitor is acting on behalf of the Commission as at 30 June 2011 (30 June 2010: \$nil).

The Commission will seek reimbursement of the \$53,000 from the Treasury Managed Fund in due course.

## 17. Budget review

### Net Cost of Services

There was an unfavourable variance of \$1,144,000 between budgeted and actual Net Cost of Services.

The Commission was issued with supplementary funding of \$1,200,000 to meet increased workload activities. The revised Net Cost of Services was \$56,000 favourable.

### Assets and liabilities

Current assets were \$116,000 higher than budget as the result of increased cash balances and receivables.

Non current assets were \$4,000 lower than budget.

Total liabilities were lower than budgeted (\$124,000) due to a combination of fewer outstanding invoices at financial year end and a reduction in employee related provisions (extended leave and annual leave).



# Notes to and forming part of the financial statements for the year ended 30 June 2011

## Cash flows

The Commission's cash flows from government were higher than budget by \$1,200,000 due to the Treasurer's advance of \$1,200,000, approved by NSW Treasury in December 2010.

## 18. Reconciliation of cash flows from operating activities to Net Cost of Services

	2011 \$'000	2010 \$'000
Net cash used on operating activities	229	410
Cash flows from government/appropriations	(19,422)	(17,896)
Acceptance by Crown Entity of employee benefits and other liabilities	(671)	(739)
Depreciation	(739)	(693)
(Increase)/decrease in provision for employee entitlements	(37)	(119)
Increase/(decrease) in prepayments and other assets	(1)	(174)
Decrease/(increase) in payables	186	(251)
Net gain on sale of assets	–	1
<b>Net Cost of Services</b>	<b>(20,455)</b>	<b>(19,461)</b>

## 19. Financial instruments

The Commission's principal financial instruments are outlined below. 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 below, 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 Executive Director Corporate Services 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 Commission's Audit and Risk Committee on a continuous basis.

### (a) Financial instrument categories

Financial Assets	Note	Category	Carrying Amount	Carrying Amount
			2011 \$'000	2010 \$'000
<b>Class:</b>				
Cash and cash equivalents	8	N/A	1,848	1,855
Receivables <sup>1</sup>	9	Loans and receivables (at amortised cost)	301	252
Financial Liabilities	Note	Category	Carrying Amount	Carrying Amount
			2011 \$'000	2010 \$'000
<b>Class:</b>				
Payables <sup>2</sup>	12	Financial liabilities measured at amortised cost	371	563

#### Notes

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).

## Notes to and forming part of the financial statements for the year ended 30 June 2011

### (b) 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. Interest is earned on daily bank balances at the monthly average NSW Treasury Corporation (Tcorp) 11 am unofficial cash rate adjusted for a management fee to Treasury. The average interest rate during the period was 4.45%. The average rate for 2009–10 was 3.6%.

### 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. Debts that are known to be uncollectable are written off. An allowance for impairment is raised when there is objective evidence that the entity will not be able to collect all amounts due. This evidence includes past experience, and current and expected changes in economic conditions and debtor credit ratings.

No interest is earned on trade debtors. Sales are made on 30-day terms.

The Commission is not materially exposed to concentrations of credit risk to a single trade debtor or group of debtors. Based on past experience, debtors that are not past due (2011:\$nil ; 2010:\$nil) and not less than 12 months past due (2011:\$nil; 2009:\$660) are not considered impaired and together these represent 100% of the total trade debtors. All of the Commission's debtors are other government departments or government authorities. There are no debtors which are currently not past due or impaired whose terms have been renegotiated.

	\$'000		
	Total <sup>1,2</sup>	Past due but not impaired <sup>1,2</sup>	Considered impaired <sup>1,2</sup>
<b>2011</b>			
< 3 months overdue	–	–	–
3 months – 6 months overdue	–	–	–
> 6 months overdue	–	–	–
<b>2010</b>			
< 3 months overdue	1	1	–
3 months – 6 months overdue	–	–	–
> 6 months overdue	–	–	–

1. Each column in the table reports "gross receivables".

2. The ageing analysis excludes statutory receivables, as these are not within the scope of AASB 7 and excludes receivables that are not past due and not impaired. Therefore the "total" will not reconcile to the receivables total recognised in the statement of financial position.

## Notes to and forming part of the financial statements for the year ended 30 June 2011

### (c) Liquidity risk

Liquidity risk is the risk that the Commission will be unable to meet its payment obligations when they fall due. The Commission continuously manages risk through monitoring future cash flows to ensure adequate holding of liquid assets.

During the current and prior years no assets have been pledged as collateral. The Commission's exposure to liquidity risk is deemed insignificant based on prior periods' data and other 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 (that are unsecured) are settled in accordance with the policy set out in Treasurer's Direction 219.01. 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. Treasurer's Direction 219.01 allows the Minister to award interest for late payment. All of the Commission's payables are non-interest bearing and are payable within one year.

### (d) 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.

### Interest rate risk

Exposure to interest rate risk arises primarily through the Commission's interest-bearing liabilities. This risk is minimised by undertaking mainly fixed rate borrowings primarily with the NSW Tcorp. The Commission does not account for any fixed rate financial instruments at fair value through profit or loss or as available-for-sale. Therefore, for these financial instruments, a change in interest rates would not affect surplus or deficit.

A reasonably possible change of +/-1% is used, consistent with current trends in interest rates. The basis will be reviewed annually and amended where there is a structural change in the level of interest rate volatility. The Commission's exposure to interest rate risk is set out below.

\$'000					
		-1%		1%	
	Carrying Amount	Profit	Equity	Profit	Equity
<b>2011</b>					
<b>Financial assets</b>					
Cash and cash equivalents	1,848	(18)	(18)	18	18
Receivables	443	(4)	(4)	4	4
<b>Total financial assets</b>	<b>2,291</b>	<b>(22)</b>	<b>(22)</b>	<b>22</b>	<b>22</b>
<b>Financial liabilities</b>					
Payables	371	(4)	(4)	4	4
<b>Total financial liabilities</b>	<b>371</b>	<b>(4)</b>	<b>(4)</b>	<b>4</b>	<b>4</b>
<b>2010</b>					
<b>Financial assets</b>					
Cash and cash equivalents	1,855	(19)	(19)	19	19
Receivables	444	(4)	(4)	4	4
<b>Total financial assets</b>	<b>2,299</b>	<b>(23)</b>	<b>(23)</b>	<b>23</b>	<b>23</b>
<b>Financial liabilities</b>					
Payables	563	(6)	(6)	6	6
<b>Total financial liabilities</b>	<b>563</b>	<b>(6)</b>	<b>(6)</b>	<b>6</b>	<b>6</b>

## Notes to and forming part of the financial statements for the year ended 30 June 2011

### (e) Fair value compared to carrying amount

Financial instruments are generally recognised at cost, with the exception of the Tcorp Hour-Glass facilities, which are measured at fair value.

As discussed, the value of the Hour-Glass Investments is based on the Department's share of the value of the underlying assets of the facility, based on the market value. All of the Hour-Glass facilities are valued using "redemption" pricing.

The amortised cost of financial instruments recognised in the statement of financial position approximates the fair value, because of the short-term nature of the Commission's financial instruments. The Commission does not have any financial instruments where the fair value differs from the carrying amount.

### 20. After balance date events

The Commission's request for relocation funding with the current lessor was approved by NSW Treasury. However, due to changing market conditions, the Commission was not able to complete the lease.

**(END OF AUDITED FINANCIAL STATEMENTS)**





# Appendices



Justin Lange, Senior Records Officer, archives information.

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## Appendix 1 – Complaints profile

**Table 31: Government sectors that were the subject of matters received in 2010–11**

Government sector	Section 10 complaints (s10s)		Protected disclosures (PDs)		Section 11 reports (s11s)		Other types of matters (OMs)		Total for all matters	
	Number of s10s	% of s10s	Number of PDs	% of PDs	Number of s11s	% of s11s	Number of OMs	% of OMs	Number of matters	% of all matters
Local government	372	40%	95	33%	196	31%	190	19%	853	30%
Health	57	6%	29	10%	60	9%	27	3%	173	6%
Law and justice	68	7%	8	3%	13	2%	60	6%	149	5%
Community and human services	57	6%	12	4%	34	5%	30	3%	133	5%
Transport, ports and waterways	53	6%	30	10%	43	7%	31	3%	157	5%
Custodial services	48	5%	20	7%	51	8%	37	4%	156	5%
Policing	34	4%	2	1%	2	0%	107	11%	145	5%
Government and financial services	60	7%	6	2%	20	3%	34	3%	120	4%
Natural resources and environment	41	4%	18	6%	45	7%	14	1%	118	4%
Education (except universities)	50	5%	16	6%	12	2%	14	1%	92	3%
Universities	16	2%	4	1%	41	6%	13	1%	74	3%
Land, property and planning	29	3%	3	1%	10	2%	9	1%	51	2%
Emergency services	18	2%	16	6%	14	2%	11	1%	59	2%
Other – unspecified	8	1%	1	0%	1	0%	39	4%	49	2%
Consumer and trade	20	2%	2	1%	5	1%	11	1%	38	1%
Aboriginal affairs and services	12	1%	4	1%	4	1%	5	0%	25	1%
Energy	8	1%	6	2%	18	3%	4	0%	36	1%
Arts and heritage	5	1%	3	1%	3	0%	1	0%	12	0%
Tourism, sport, recreation and gaming	5	1%	1	0%	2	0%	4	0%	12	0%
Parliament	5	1%	0	0%	2	0%	1	0%	8	0%
Employment and industrial relations	4	0%	2	1%	1	0%	0	0%	7	0%

Note: percentages may not add to 100% because a matter may relate to more or less than one sector.

**Table 32: Workplace functions applicable to matters received in 2010–11**

Workplace function	Section 10 complaints (s10s)		Protected disclosures (PDs)		Section 11 reports (s11s)		Other types of matters (OMs)		Total for all matters	
	Number of s10s	% of s10s	Number of PDs	% of PDs	Number of s11s	% of s11s	Number of OMs	% of OMs	Number of matters	% of matters
Reporting, investigation, sentencing and enforcement	277	30%	72	25%	112	18%	85	8%	546	19%
Human resources and staff administration	159	17%	144	50%	212	33%	30	3%	545	19%
Development applications and land rezoning	203	22%	21	7%	44	7%	78	8%	346	12%
Procurement, disposal and partnerships	144	16%	53	18%	113	18%	28	3%	338	12%
Allocation of funds, materials and services	104	11%	39	13%	78	12%	40	4%	261	9%
Issue of licences or qualifications	25	3%	8	3%	39	6%	6	1%	78	3%
Processing of electronic and cash payments	16	2%	3	1%	46	7%	5	0%	70	2%
Electoral and political activities	32	3%	4	1%	5	1%	12	1%	53	2%
Policy development and information processing	11	1%	7	2%	4	1%	9	1%	31	1%
Miscellaneous functions	92	10%	13	4%	92	14%	54	5%	251	9%

Note: percentages may not add to 100% because a matter may relate to more or less than one workplace function.



**Table 33: Types of corrupt conduct alleged in matters received in 2010–11**

Corrupt conduct alleged	Section 10 complaints (s10s)		Protected disclosures (PDs)		Section 11 reports (s11s)		Other types of matters (OMs)		Total for all matters	
	Number of s10s	% of s10s	Number of PDs	% of PDs	Number of s11s	% of s11s	Number of OMs	% of OMs	Number of matters	% of matters
Partiality	354	38%	138	48%	112	18%	67	7%	671	23%
Improper use of records or information	227	25%	66	23%	207	32%	45	4%	545	19%
Failure to perform required actions	206	22%	70	24%	111	17%	54	5%	441	15%
Improper use or acquisition of funds or resources	116	13%	59	20%	198	31%	20	2%	393	14%
Personal interests	170	18%	81	28%	115	18%	19	2%	385	13%
Corrupt conduct related to investigations or proceedings	139	15%	44	15%	40	6%	32	3%	255	9%
Intimidating or violent conduct	114	12%	46	16%	59	9%	28	3%	247	9%
Bribery, secret commissions and gifts	78	8%	28	10%	88	14%	12	1%	206	7%
Other corrupt conduct	90	10%	11	4%	53	8%	30	3%	184	6%

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 – Statutory reporting

**Table 34: Reports under section 76(2)(ba) of the ICAC Act**

Section	Reporting requirements	Results
76(2)(ba)(i)	Time interval between the lodging of each complaint and the Commission deciding to investigate the complaint	See Table 35 for details
76(2)(ba)(ii)	Number of complaints where investigations were commenced but were not finalised in 2010–11	5
76(2)(ba)(iii)	Average time taken to deal with complaints	65 days
	Actual time taken to investigate any matter in which a report is made	See Table 36 for details
76(2)(ba)(iv)	Total number of compulsory examinations during 2010–11	130
	Total number of public inquiries conducted during 2010–11	9
76(2)(ba)(v)	Number of days spent during 2010–11 in conducting public inquiries	65
76(2)(ba)(vi)	Time interval between the completion of each public inquiry conducted during 2010–11 and the furnishing of a report on the matter	see Table 37 for details



## Report under section 76(2)(d) of the ICAC Act

In 2010–11, the Commission furnished information to the:

- NSW Crime Commission (financial and other material relevant to proceedings for the forfeiture of assets under the *Criminal Assets Recovery Act 1990* (NSW))
- NSW Police Force (various intelligence disseminations)
- Police Integrity Commission (various intelligence disseminations)
- Australian Taxation Office (various intelligence disseminations and related records).

**Table 35: Time interval between the lodging of each complaint and the Commission deciding to investigate the complaint – section 76(2)(ba)(i) of the ICAC Act**

Date matter received	Date decided to investigate	Time interval (days)	Date matter received	Date decided to investigate	Time interval (days)
15/02/2008	8/03/2011	1,117*	4/11/2010	9/11/2010	5
5/05/2010	31/08/2010	118	10/11/2010	14/12/2010	34
17/05/2010	29/07/2010	73	18/11/2010	23/11/2010	5
8/07/2010	27/07/2010	19	18/11/2010	30/11/2010	12
14/07/2010	16/07/2010	2	7/12/2010	8/12/2010	1
14/07/2010	27/07/2010	13	8/12/2010	16/12/2010	8
15/07/2010	27/07/2010	12	8/12/2010	15/03/2011	97
13/08/2010	3/11/2010	82	16/12/2010	8/02/2011	54
16/08/2010	2/09/2010	17	24/12/2010	18/01/2011	25
20/08/2010	2/09/2010	13	22/02/2011	28/03/2011	34
30/08/2010	9/09/2010	10	24/02/2011	1/03/2011	5
10/09/2010	14/09/2010	4	24/02/2011	7/04/2011	42
15/09/2010	21/09/2010	6	24/03/2011	29/03/2011	5
12/10/2010	14/12/2010	63			
18/10/2010	26/10/2010	8			
25/10/2010	28/10/2010	3			

\* This matter was initially referred to the agency that completed an investigation over a significant period of time. This investigation was deemed to be deficient in a number of areas and the Commission decided in 2011 to instigate a preliminary investigation.

Note: the Commission may seek further information or conduct preliminary enquiries before deciding to commence an investigation.

**Table 36: Actual time taken to investigate any matter in respect of which a report is made – section 76(2)(ba)(iii) of the ICAC Act**

Date referred for investigation	Date investigation completed	Time taken to investigate (days)	Date referred for investigation	Date investigation completed	Time taken to investigate (days)
11/06/2009	19/07/2010	403	19/08/2010	16/12/2010	119
30/07/2009	6/09/2010	403	24/08/2010	1/09/2010	8
23/10/2009	9/07/2010	259	9/09/2010	31/01/2011	144
30/11/2009	14/06/2011	561	30/09/2010	17/03/2011	168
24/12/2009	13/10/2010	293	19/10/2010	5/05/2011	198
19/01/2010	1/04/2011	437	19/10/2010	16/11/2010	28
19/01/2010	14/02/2011	391	9/11/2010	8/06/2011	211
21/01/2010	16/11/2010	299	11/11/2010	3/12/2010	22
2/02/2010	9/07/2010	157	11/11/2010	23/12/2010	42
3/02/2010	6/09/2010	215	16/11/2010	3/12/2010	17
9/02/2010	1/09/2010	204	25/11/2010	13/12/2010	18
18/02/2010	17/11/2010	272	18/01/2011	11/02/2011	24
9/03/2010	1/09/2010	176	25/01/2011	11/02/2011	17
11/03/2010	1/09/2010	174	10/02/2011	5/05/2011	84
25/03/2010	3/12/2010	253	8/03/2011	22/03/2011	14
8/04/2010	1/09/2010	146	8/03/2011	8/06/2011	92
13/04/2010	13/10/2010	183	10/03/2011	29/03/2011	19
15/04/2010	3/12/2010	232	28/03/2011	20/04/2011	23
15/04/2010	11/02/2011	302	20/04/2011	27/06/2011	68
20/04/2010	1/09/2010	134			
20/04/2010	1/09/2010	134			
22/04/2010	5/05/2011	378			
4/05/2010	16/11/2010	196			
18/05/2010	16/11/2010	182			
20/05/2010	18/10/2010	151			
27/05/2010	13/10/2010	139			
8/06/2010	5/05/2011	331			
8/06/2010	5/05/2011	331			
8/06/2010	16/11/2010	161			
8/06/2010	16/11/2010	161			
8/06/2010	7/06/2011	364			
17/06/2010	16/11/2010	152			
8/07/2010	3/12/2010	148			
19/07/2010	13/12/2010	147			
5/08/2010	19/10/2010	75			

Note: These figures relate only to matters reported under Section 11 of the ICAC Act.

**Table 37: Time interval between completion of each public inquiry and furnishing of the report – section 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 misuse of resources by a NSW Maritime legal services branch officer (Operation Vargas) (four days of public inquiry)	6/05/10	1/09/10	118
Investigation into the smuggling of contraband into the John Morony Correctional Centre (Operation Cicero) (three days of public inquiry)	17/05/10	27/07/10	71
Investigation into the submission of false claims for sitting day relief payments by a NSW MP and members of her electorate staff (Operation Corinth) (four days of public inquiry)	21/05/10	13/07/10	53
Investigation into attempted corrupt payment and submission of false resumes to public authorities (Operation Avoca) (three days of public inquiry)	11/06/10	12/08/10	62
Investigation into undisclosed conflicts of interest of a University of Sydney employee (Operation Kanda) (five days of public inquiry)	12/07/10	8/09/10	58
Investigation into corruption risks involved in lobbying (Operation Halifax) (11 days of public inquiry)	18/08/10	10/11/10	81
Investigation into the submission of false claims for sitting day relief entitlement by Angela D'Amore MP and some members of her staff (Operation Syracuse) (four days of public inquiry)	27/10/10	7/12/10	41
Investigation into corrupt conduct of Sydney Water employees and others (Operation Siren) (18 days of public inquiry)	1/11/10	22/03/11	141
Investigation into acceptance of corrupt benefits by a City of Canada Bay Council employee (Operation Challenger) (four days of public inquiry)	23/11/10	15/12/10	22
Investigation into the solicitation of a corrupt payment by a Strathfield Municipal Council officer (Operation Danby) (two days of public inquiry)	18/02/11	12/05/11	83
Investigation into the corrupt conduct of a Willoughby City Council officer (Operation Churchill) (four days of public inquiry)	1/04/11	22/06/11	82
Investigation into alleged corrupt conduct involving Burwood Council's General Manager and others (Operation Magnus) (25 days of public inquiry)	8/04/11	20/04/11	12

\* 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.

\*\* Corporate goal is two months (60 days) where duration of public inquiry was five or less days and three months (90 days) otherwise.

## Appendix 3 – Prosecutions and disciplinary action in 2010–11 arising from Commission investigations

**Table 38: Progress of prosecution matters in 2010–11**

The date the investigation report was published is in brackets.

“Crimes Act” refers to the *Crimes Act 1900* (NSW), while “ICAC Act” refers to the *Independent Commission Against Corruption Act 1988* (NSW).

### Investigation into certain transactions of Koompahtoo Local Aboriginal Land Council (KLALC) (Operation Unicorn) (April 2005)

Name	Bill Smith
Offences recommended for Director of Public Prosecutions (DPP) consideration	Section 249B Crimes Act (corrupt rewards) in relation to Villa World, and section 178BB Crimes Act (obtain money by false or misleading statement) in relation to land transfers to KLALC members.
DPP advice	On 13 June 2008, DPP advised sufficient admissible evidence to proceed with an offence under section 178BB Crimes Act in relation to land transfers to KLALC members. On 6 August 2009, DPP advised sufficient admissible evidence to proceed with an offence under section 249B Crimes Act.
Status	Sentenced on 12 February 2010 to nine months imprisonment, suspended in relation to the section 178BB matter. Section 249B charge dismissed 12 May 2011, with order DPP pay costs. On 7 June 2011, DPP appealed against costs order.

Name	Adam Perkins
Offences recommended for DPP consideration	Section 249F Crimes Act (aiding, abetting, etc, corrupt rewards) in relation to Villa World.
DPP advice	On 6 August 2009, DPP advised sufficient admissible evidence to proceed with an offence under section 249F Crimes Act.
Status	Charge dismissed 12 May 2011, with order DPP pay costs. On 7 June 2011, DPP appealed against costs order.

Name	Robert Scott
Offences recommended for DPP consideration	Section 249F Crimes Act (aiding, abetting, etc, corrupt rewards) in relation to Villa World.
DPP advice	On 6 August 2009, DPP advised sufficient admissible evidence to proceed with an offence under section 249F Crimes Act.
Status	Charge dismissed 12 May 2011 with order DPP pay costs. On 7 June 2011, DPP appealed against costs order.

Name	Kim Wilson
Offences recommended for DPP consideration	Section 249F Crimes Act (aiding, abetting, etc, corrupt rewards) in relation to Villa World.
DPP advice	On 6 August 2009, DPP advised sufficient admissible evidence to proceed with an offence under section 249F Crimes Act.
Status	Charge dismissed 12 May 2011, with order DPP pay costs. On 7 June 2011, DPP appealed against costs order.

Name	Dale Holt
Offences recommended for DPP consideration	Section 249F Crimes Act (aiding, abetting, etc, corrupt rewards) in relation to Villa World.
DPP advice	On 6 August 2009, DPP advised sufficient admissible evidence to proceed with an offence under section 249F Crimes Act.
Status	Stay of proceedings granted 13 September 2010.

### **Investigation into relationship between certain Strathfield Councillors and developers (Operation Cordoba) (June 2005)**

Name	John Abi-Saab
Offences recommended for DPP consideration	Section 100A Crimes Act (blackmail by threat to publish), section 87 ICAC Act (give false/misleading evidence), section 80(c) ICAC Act (wilfully make false statement), and section 89 ICAC Act (procure false testimony).
DPP advice	On 3 February 2006, DPP advised sufficient admissible evidence to proceed with an offence under section 89 ICAC Act. On 21 November 2006, DPP advised sufficient admissible evidence to proceed with five offences under section 80(c) ICAC Act, and six offences under section 87 ICAC Act.
Status	Plea of guilty entered to section 80(c) and section 87 offences. Sentenced on 20 August 2010 to eight months suspended imprisonment and directed to enter into an 18-month good behaviour bond. The section 89 charge was withdrawn.

### **Investigation into safety certification and the operations of the WorkCover NSW Licensing Unit (Operation Cassowary) (December 2005)**

Recommendations were made in this report that consideration be given to obtaining the advice of the DPP with respect to the prosecution of 18 named individuals for various criminal offences. Briefs of evidence in relation to all matters were provided to the DPP in December 2007. On 22 January 2011, the Commission received advice from the DPP that there was insufficient evidence to prosecute five persons. The Commission is awaiting advice from the DPP with respect to the remaining 13 persons.

### **Investigation into schemes to fraudulently obtain building licences (Operation Ambrosia) (December 2005)**

Name	Tarek Sabra
Offences recommended for DPP consideration	Section 178BA Crimes Act (obtain money by deception), section 300(2) Crimes Act (use false instrument), and section 307A Crimes Act (make false statement).
DPP advice	On 5 June 2009, DPP advised sufficient admissible evidence to proceed with one offence under section 178BA Crimes Act and one offence under section 300(2) Crimes Act.
Status	Plea of guilty entered. Sentenced 30 September 2010. Two-year good behaviour bond imposed with respect to section 178BA offence. Five-year good behaviour bond imposed with respect to section 300(2) offence.



Name	Mark Van Nguyen
Offences recommended for DPP consideration	Section 178BA Crimes Act (obtain money by deception), section 300(2) Crimes Act (use false instrument), and section 307A Crimes Act (make false statement).
DPP advice	On 5 June 2009, DPP advised sufficient admissible evidence to proceed with one offence under section 178BA Crimes Act, and one offence under section 300(2) Crimes Act.
Status	Plea of guilty entered. Sentenced 14 September 2010. Two-year good behaviour bond imposed with respect to section 178BA offence. Five-year good behaviour bond imposed with respect to section 300(2) offence.

Name	Antonios Boumelhem
Offences recommended for DPP consideration	Section 178BA Crimes Act (obtain money by deception), section 300(2) Crimes Act (use false instrument), and section 307A Crimes Act (make false statement).
DPP advice	On 5 June 2009, DPP advised sufficient admissible evidence to proceed with one offence under section 178BA Crimes Act and one offence under section 300(2) Crimes Act.
Status	Plea of guilty entered. Sentenced 30 September 2010. Two-year good behaviour bond imposed with respect to section 178BA offence. Five-year good behaviour bond imposed with respect to section 300(2) offence.

Name	Najib Nehme
Offences recommended for DPP consideration	Section 178BA Crimes Act (obtain money by deception), section 300(2) Crimes Act (use false instrument), and section 307A Crimes Act (make false statement).
DPP advice	On 5 June 2009, DPP advised sufficient admissible evidence to proceed with one offence under section 178BA Crimes Act, and one offence under section 300(2) Crimes Act.
Status	Plea of guilty entered. Sentenced 11 November 2010. Two-year good behaviour bond imposed with respect to section 178BA offence. Five-year good behaviour bond imposed with respect to section 300(2) offence.

Name	Sarkis Nakhoul
Offences recommended for DPP consideration	Section 178BA Crimes Act (obtain money by deception), section 300(2) Crimes Act (use false instrument), and section 307A Crimes Act (make false statement).
DPP advice	On 5 June 2009, DPP advised sufficient admissible evidence to proceed with one offence under section 178BA Crimes Act, and one offence under section 300(2) Crimes Act.
Status	DPP withdrew both matters on 11 November 2010.

Name	Robert Daoud
Offences recommended for DPP consideration	Section 178BA Crimes Act (obtain money by deception), section 300(2) Crimes Act (use false instrument), and section 307A Crimes Act (make false statement).
DPP advice	On 5 June 2009, DPP advised sufficient admissible evidence to proceed with one offence under section 178BA Crimes Act, and one offence under section 300(2) Crimes Act.
Status	Sentenced 27 January 2011. Two-year good behaviour bond imposed with respect to section 178BA offence. Five-year good behaviour bond imposed with respect to section 300(2) offence.

Name	John Mouwad
Offences recommended for DPP consideration	Section 178BA Crimes Act (obtain money by deception), section 300(2) Crimes Act (use false instrument), and section 307A Crimes Act (make false statement).
DPP advice	On 5 June 2009, DPP advised sufficient admissible evidence to proceed with one offence under section 178BA Crimes Act, and one offence under section 300(2) Crimes Act.
Status	Matters in court.

Name	Gehad Massoud
Offences recommended for DPP consideration	Section 178BA Crimes Act (obtain money by deception), section 300(2) Crimes Act (use false instrument), and section 307A Crimes Act (make false statement).
DPP advice	On 5 June 2009, DPP advised sufficient admissible evidence to proceed with one offence under section 178BA Crimes Act, one offence under section 300(2) Crimes Act, two offences of aid and abet an offence under section 300(1) Crimes Act, and offences under section 87 ICAC Act (give false evidence).
Status	Plea of guilty entered. Sentenced 28 March 2011. One-year suspended sentence imposed with respect to section 178BA offence and section 300(2) offence. Eighteen-month suspended sentence imposed for three section 87 offences.

Recommendations were originally made with respect to 36 persons. Apart from the eight persons listed above, six persons have been previously dealt with and reported in the *Annual Report 2009–2010*. As of 30 June 2011, the Commission had received advice from the DPP that there was sufficient admissible evidence to prosecute a further seven persons, but no Court Attendance Notices had been served by that date. The Commission is awaiting the advice of the DPP with respect to the remaining 15 persons.

#### **Investigation into defrauding the RTA and RailCorp in relation to the provision of traffic management services (Operation Quilla) (December 2006)**

Name	Terry Stepto
Offences recommended for DPP consideration	Section 178BB Crimes Act (obtain benefit by deception), section 249B Crimes Act (corrupt benefits), and section 87 ICAC Act (false evidence).
DPP advice	On 19 June 2009, DPP advised sufficient admissible evidence to proceed with 41 offences under section 178BA Crimes Act, four offences under section 249B Crimes Act, and one offence under section 87 ICAC Act.
Status	Pleaded guilty on 2 November 2010 to 18 offences under section 178BA Crimes Act (the remaining 23 charges under this section were withdrawn by the DPP), four offences under section 249B Crimes Act and an offence under section 87 ICAC Act. For sentence.

Name	Damon Job
Offences recommended for DPP consideration	Section 178BB Crimes Act (obtain benefit by deception) and section 249B Crimes Act (corrupt benefits).
DPP advice	On 19 June 2009, DPP advised sufficient admissible evidence to proceed with 41 offences under section 178BA Crimes Act and four offences under section 249B Crimes Act.
Status	Plea of guilty entered. Sentenced 3 September 2010 to 18 months imprisonment for two section 178BA offences, and three years imprisonment for four section 249B offences. Confiscation order for \$106,500 imposed. Appeal on severity of sentence lodged.

**Investigation into corrupt conduct associated with RailCorp air-conditioning contracts (Operation Persis) (June 2007)**

Name	Said Marcos
Offences recommended for DPP consideration	Section 249B Crimes Act (corrupt reward), section 178BB Crimes Act (obtain benefit by deception), and section 88 (3) ICAC Act (fabrication of a document).
DPP advice	On 5 March 2009, DPP advised sufficient admissible evidence to proceed with seven offences of misconduct in public office, three offences under section 178BB Crimes Act, two offences under section 178BA Crimes Act, two offences under section 249B Crimes Act, two offences under section 88(3) ICAC Act, and eight offences under section 87 ICAC Act (false evidence).
Status	Pleaded guilty on 17 December 2009 to offences under section 178BB Crimes Act, section 178BA Crimes Act, section 87 ICAC Act, section 88(3) ICAC Act, and a common law offence of misconduct in public office. Sentenced 1 July 2010 to two years imprisonment.

Name	Ben Marcos
Offences recommended for DPP consideration	Section 88(3) ICAC Act (fabrication of a document).
DPP advice	On 5 March 2009, DPP advised sufficient admissible evidence to proceed with two offences under section 88(3) ICAC Act, and two offences under section 87 ICAC Act (false evidence).
Status	Pleaded guilty on 17 December 2009. Five months home detention imposed on 20 December 2010.

**Investigation into allegations of bribery relating to Wollongong City Council (Operation Berna) (December 2007)**

Name	Lou Tasich
Offences recommended for DPP consideration	Common law offence of bribery, section 249B Crimes Act (corrupt reward), section 87 ICAC Act (false evidence), and section 86(1)(a) ICAC Act (failure to attend).
DPP advice	On 30 July 2009, DPP advised sufficient admissible evidence to proceed with an offence under section 249B Crimes Act, and three offences under section 87 ICAC Act.
Status	Matters in court.

**Investigation into corrupt conduct of an officer at the Department of Housing's Miller office and other persons (Operation Greenway) (January 2008)**

Name	Douglas Norris
Offences recommended for DPP consideration	Section 249B Crimes Act (corrupt reward), section 178BA Crimes Act (dishonestly obtain valuable thing), common law offence of misconduct in public office, and section 87 ICAC Act (give false evidence).
DPP advice	On 26 July 2010, DPP advised sufficient admissible evidence to proceed with offences under section 249B Crimes Act, misconduct in public office, and section 87 ICAC Act.
Status	Sentenced 24 February 2011 to five months suspended sentence for section 249B offence, six months suspended sentence for offence under section 249C Crimes Act (use false statement), and 12 months suspended sentence for section 87 offence.

Name	Chris Peters
Offences recommended for DPP consideration	Section 80(c) ICAC Act (make false statement).
DPP advice	On 7 May 2010, DPP advised sufficient admissible evidence to proceed with six offences under section 80(c) ICAC Act.
Status	Pleaded guilty to section 80(c) offence on 3 August 2010, and given two-year good behaviour bond.

Name	Ethel Nolan
Offences recommended for DPP consideration	Section 80(c) ICAC Act (make false statement).
DPP advice	On 2 June 2010, DPP advised sufficient admissible evidence to proceed with four offences under section 80(c) ICAC Act.
Status	Pleaded guilty to section 80(c) offence on 14 September 2010 and given five-year good behaviour bond.

Recommendations were made in this report that consideration be given to obtaining the advice of the DPP with respect to the prosecution of two other named individuals for various criminal offences. One of these persons died before any advice was received from the DPP. The DPP advised there was insufficient admissible evidence to prosecute the other person.

### **Investigation into bribery and fraud at RailCorp (Operation Monto) (August, September and November 2008)**

The Commission published seven investigation reports on this matter between August and November 2008, in which recommendations were made that consideration be given to obtaining the advice of the DPP with respect to the prosecution of 33 named individuals for various criminal offences. Briefs of evidence have been provided to the DPP. To date, advice has been received with respect to the 14 persons named below. The Commission is awaiting advice on the other 19 persons.

Name	Renea Hughes
Offences recommended for DPP consideration	Section 249C Crimes Act (provide misleading document), section 178BB Crimes Act (obtain benefit by deception), section 308C Crimes Act (unauthorised computer access), and the common law offence of misconduct in public office.
DPP advice	On 3 September 2010, DPP advised sufficient admissible evidence to proceed with five offences under section 178BA Crimes Act (obtain money by deception), eight offences under section 178BB Crimes Act, and an offence under section 308C Crimes Act.
Status	Matters in court.

Name	William Kuipers
Offences recommended for DPP consideration	In relation to dealings with Renea Hughes – aiding and abetting offences under section 249C Crimes Act (provide misleading document), section 178BB Crimes Act (obtain benefit by deception), section 308C Crimes Act (unauthorised computer access), and aiding and abetting the common law offence of misconduct in public office.  In relation to dealings with Allan Walker – section 249B Crimes Act (corrupt benefit), section 178BA Crimes Act (obtain money by deception), and section 87 ICAC Act (false evidence).

DPP advice	On 9 March 2011, DPP advised insufficient admissible evidence to prosecute for offences arising from dealings with Renea Hughes.  On 1 February 2011, DPP advised sufficient admissible evidence to prosecute for one offence under section 87 ICAC Act arising from evidence concerning his dealings with Allan Walker.
Status	Matters in court.
<b>Name</b>	<b>Kim Kuipers</b>
Offences recommended for DPP consideration	In relation to dealings with Renea Hughes – aiding and abetting offences under section 249C Crimes Act (provide misleading document), section 178BB Crimes Act (obtain benefit by deception), section 308C Crimes Act (unauthorised computer access), and aiding and abetting the common law offence of misconduct in public office.
DPP advice	On 9 March 2011, DPP advised insufficient admissible evidence to prosecute.
Status	Finalised.
<b>Name</b>	<b>Joseph Akkawi</b>
Offences recommended for DPP consideration	Common law offence of misconduct in public office.
DPP advice	On 13 September 2010, DPP advised insufficient admissible evidence to prosecute.
Status	Finalised.
<b>Name</b>	<b>Ernest Clarke</b>
Offences recommended for DPP consideration	Section 80(c) ICAC Act (misleading ICAC officer).
DPP advice	On 17 September 2010, DPP advised sufficient admissible evidence to prosecute for two offences under section 80(c) ICAC Act.
Status	Pleaded guilty 12 October 2010. Placed on two-year good behaviour bond.
<b>Name</b>	<b>Graham Chambers</b>
Offences recommended for DPP consideration	Section 87 ICAC Act (give false evidence).
DPP advice	On 4 November 2010, DPP advised sufficient admissible evidence to prosecute for one offence under section 87 ICAC Act.
Status	Pleaded guilty 30 November 2010. Placed on one-year good behaviour bond.
<b>Name</b>	<b>Shane Ward</b>
Offences recommended for DPP consideration	Section 249C Crimes Act (provide misleading document), and section 178BB Crimes Act (obtain benefit by deception).
DPP advice	On 11 January 2011, DPP advised sufficient admissible evidence to prosecute for three offences under section 178BB Crimes Act.
Status	Pleaded guilty 12 April 2011. On 28 April 2011, placed on two-year good behaviour bond, fined \$990, and ordered to pay \$748.26 to RailCorp.



<b>Name</b>	<b>Michael Blackstock</b>
Offences recommended for DPP consideration	Section 249B Crimes Act (corrupt reward), section 249C Crimes Act (provide misleading document), section 178BB Crimes Act (obtain benefit by deception), the common law offence of misconduct in public office, and section 87 ICAC Act (give false evidence).
DPP advice	On 12 January 2011, DPP advised sufficient admissible evidence to prosecute for six offences under section 178BB Crimes Act, three offences under section 87 ICAC Act, and the common law offence of misconduct in public office.
Status	Matters in court.
<b>Name</b>	<b>Youssef Madrajat</b>
Offences recommended for DPP consideration	Section 249B Crimes Act (corrupt reward), and section 178BB Crimes Act (obtain benefit by deception).
DPP advice	On 12 January 2011, DPP advised sufficient admissible evidence to prosecute for two offences under section 178BB Crimes Act.
Status	Matters in court.
<b>Name</b>	<b>Kevin Dulhunty</b>
Offences recommended for DPP consideration	Section 249B Crimes Act (corrupt reward), section 249C Crimes Act (provide misleading document), the common law offence of misconduct in public office, and section 87 ICAC Act (give false evidence).
DPP advice	On 2 February 2011, DPP advised sufficient admissible evidence to prosecute for one offence under section 249B Crimes Act, and one offence under section 87 ICAC Act.
Status	Matters in court.
<b>Name</b>	<b>Allan Walker</b>
Offences recommended for DPP consideration	Section 249B Crimes Act (corrupt benefit), section 249C Crimes Act (provide misleading document), section 178BA Crimes Act (obtain money by deception), and the common law offence of misconduct in public office.
DPP advice	On 1 February 2011, DPP advised insufficient admissible evidence to prosecute.
Status	Finalised.
<b>Name</b>	<b>Adam Azzopardi</b>
Offences recommended for DPP consideration	Section 249B Crimes Act (corrupt benefit), and section 178BA Crimes Act (obtain money by deception).
DPP advice	On 1 February 2011, DPP advised insufficient admissible evidence to prosecute.
Status	Finalised.
<b>Name</b>	<b>Michael Napier</b>
Offences recommended for DPP consideration	Section 249B Crimes Act (corrupt benefit), section 178BA Crimes Act (obtain money by deception), and section 87 ICAC Act (false evidence).
DPP advice	On 1 February 2011, DPP advised sufficient admissible evidence to prosecute for one offence under section 87 ICAC Act.
Status	Matter in court.

Name	Matthew Napier
Offences recommended for DPP consideration	Section 249B Crimes Act (corrupt benefit), and section 178BA Crimes Act (obtain money by deception).
DPP advice	On 1 February 2011, DPP advised insufficient admissible evidence to prosecute.
Status	Finalised.

### Investigation into corruption allegations affecting Wollongong City Council (Operation Atlas) (October 2008)

Name	Frank Gigliotti
Offences recommended for DPP consideration	Section 249B Crimes Act (corrupt reward), section 80(c) ICAC Act (make false statement), section 87 ICAC Act (false evidence), and section 11 <i>Statutory Declarations Act 1911</i> (false declaration).
DPP advice	On 14 September 2009, DPP advised sufficient admissible evidence to proceed with offences under section 80(c) ICAC Act, section 82(b) ICAC Act, section 87 ICAC Act, and section 11 <i>Statutory Declarations Act 1911</i> . Awaiting DPP advice with respect to section 249B offence.
Status	<p>On 2 July 2010, found not guilty of one section 87 ICAC Act offence. Costs were awarded in this matter. A section 82(b) offence was withdrawn, as was the offence under section 11 <i>Statutory Declarations Act 1911</i>.</p> <p>Found guilty of two section 87 ICAC Act offences on 5 July 2010. Sentenced on 29 November 2010 to nine months imprisonment in relation to each offence. The sentences were to be served concurrently with a non-parole period of four months.</p> <p>Appeal lodged against both sentences but withdrawn on 5 May 2011. The original sentences were confirmed.</p> <p>A further charge under section 80(c) ICAC Act was heard on 10 November 2010. Acquitted on 29 November 2010.</p>

Name	Glen Tabak
Offences recommended for DPP consideration	Section 249B Crimes Act (corrupt rewards), and section 80(c) ICAC Act (make false statement).
DPP advice	<p>On 11 May 2010, DPP advised sufficient admissible evidence to proceed with two offences under section 80(c) ICAC Act.</p> <p>On 25 March 2010 and 20 May 2010, DPP advised insufficient admissible evidence to prosecute Mr Tabak for any other offences.</p>
Status	Found guilty on 6 July 2010 of one section 80(c) ICAC Act offence (a further matter was taken into account). Two-year good behaviour bond and \$2,500 fine imposed. Appeal against conviction and sentence lodged but subsequently dismissed and the conviction and sentence upheld.

Name	Frank Vellar
Offences recommended for DPP consideration	Section 249B Crimes Act (corrupt reward), and section 80(c) ICAC Act (make false statement).
DPP advice	On 23 June 2010 and 28 September 2010, DPP advised sufficient evidence to prosecute three offences under section 80(c) ICAC Act and an offence under section 88(3) ICAC Act (fabrication of a document).
Status	Matters before the court.

Name	Beth Morgan
Offences recommended for DPP consideration	Section 249B Crimes Act (corrupt reward), common law offence of misconduct in public office, and section 80(c) ICAC Act (make false statement).
DPP advice	On 28 September 2010, DPP advised insufficient evidence to prosecute Ms Morgan for any offences relating to her dealings with Ray Younan, Gerald Carroll, Glen Tabak, Michael Kollaras or Frank Vellar (in relation to the receipt of gifts or benefits or her assessment of development applications for Lot 3 Phillips Avenue West Wollongong or the Bather's Pavilion).  On 20 May 2011, DPP advised no section 80(c) ICAC Act charges available.
Status	Awaiting advice in relation to Ms Morgan's conduct in assessing and determining the Quattro DA and providing council information to Mr Vellar.
Name	Ray Younan
Offences recommended for DPP consideration	Section 178BB Crimes Act (obtain money by false or misleading statement), section 249B Crimes Act (soliciting corrupt reward), section 87 ICAC Act (give false evidence), and section 88(3) ICAC Act (fabrication of a document).
DPP advice	On 28 September 2010, DPP advised sufficient evidence to prosecute for an offence of impersonating an ICAC officer contrary to section 95(1) ICAC Act.  On 6 May 2011, DPP advised insufficient evidence to prosecute Mr Younan for any offence relating to his dealings with Mr Gigliotti, Ms Morgan, Joe Scimone, Lou Tasich, Mr Vellar or Valerio Zanutto.
Status	Court Attendance Notice issued on 28 September 2009 for section 95(1) ICAC Act offence. An arrest warrant was issued on 30 September 2010.  Awaiting advice on whether sufficient evidence to prosecute for section 87 ICAC Act offences.
Name	Gerald Carroll
Offences recommended for DPP consideration	Section 178BB Crimes Act (obtain money by false or misleading statement), section 249B Crimes Act (soliciting corrupt reward), section 87 ICAC Act (give false evidence), and section 80(c) ICAC Act (mislead a Commission officer).
DPP advice	On 6 May 2011, DPP advised insufficient evidence to prosecute Mr Carroll for any offence relating to his dealings with Mr Gigliotti, Ms Morgan, Mr Scimone, Mr Tasich, Mr Vellar or Mr Zanutto.
Status	Awaiting advice on whether sufficient evidence to prosecute for section 87 offences.
Name	Valerio Zanutto
Offences recommended for DPP consideration	Common law offence of misconduct in public office, and section 80(c) ICAC Act (mislead a Commission officer).
DPP advice	On 6 May 2011, DPP advised insufficient evidence to prosecute for any offence relating to dealings with Ray Younan and Gerald Carroll.
Status	Awaiting advice on whether Mr Zanutto should be prosecuted for offences relating to his dealings with Mr Vellar.

Recommendations were made in this report that consideration be given to obtaining the advice of the DPP with respect to the prosecution of four other individuals for various criminal offences. Two of these (Messrs Zeki Essen and Kiril Jonovski) were dealt with in the *Annual Report 2009–2010*. The Commission has received advice from the DPP that there is insufficient evidence to prosecute Messrs Joe Scimone or Lou Tasich for any offences.

### **Investigation into tendering and payments in relation to NSW Fire Brigades capital works projects (Operation Mirna) (December 2008)**

Recommendations were made in this report that consideration be given to obtaining the advice of the DPP with respect to the prosecution of five named individuals for various criminal offences. Briefs of evidence for all matters were provided to the DPP on 8 January 2009. The Commission is awaiting advice from the DPP on these matters.

### **Investigation into an attempt to obtain entry to a selective public high school through payment of money (Operation Bellin) (February 2009)**

Name	Xiaodong Lu
Offences recommended for DPP consideration	Section 249B Crimes Act (offer corrupt reward).
DPP advice	On 22 May 2009, DPP advised sufficient admissible evidence to proceed with an offence under section 249B Crimes Act.
Status	Convicted 17 August 2010. Community service order for 150 hours imposed.

### **Investigation into attempts to improperly influence a Ku-ring-gai Council officer (Operation Capella) (February 2009)**

Name	Diana Huang
Offences recommended for DPP consideration	Section 249B Crimes Act (offer corrupt reward).
DPP advice	On 6 August 2009, DPP advised sufficient admissible evidence to proceed with an offence under section 249B Crimes Act.
Status	Charge dismissed 12 August 2010.

### **Investigation into corrupt conduct associated with tendering for TransGrid (Operation Tambo) (September 2009)**

Recommendations were made in this report that consideration be given to obtaining the advice of the DPP with respect to the prosecution of three named individuals for various criminal offences. Briefs of evidence for all matters were provided to the DPP in February 2010. The Commission is awaiting advice from the DPP on these matters.

### **Investigation into the solicitation and receipt of corrupt payments from a RailCorp contractor (Operation Chaucer) (September 2009)**

Name	Wasim Khan
Offences recommended for DPP consideration	Section 249B Crimes Act (solicit corrupt reward).
DPP advice	On 4 April 2011, DPP advised sufficient admissible evidence to proceed with three offences under section 249B Crimes Act.
Status	Matters in court.
Name	Tabrez Khan
Offences recommended for DPP consideration	Section 249F Crimes Act (aid and abet solicitation of corrupt reward).
DPP advice	On 28 February 2011, DPP advised sufficient admissible evidence to proceed with an offence under section 249F Crimes Act.
Status	A Court Attendance Notice could not be served as Mr Khan has returned to Canada.

Name	Mohammed Ali
Offences recommended for DPP consideration	Section 249F Crimes Act (aid and abet solicitation of corrupt reward).
DPP advice	On 28 February 2011, DPP advised sufficient admissible evidence to proceed with an offence under section 249F Crimes Act.
Status	Matter in court.

#### **Investigation into the misuse of Sydney Ferries corporate credit cards (Operation Argyle) (November 2009)**

Name	Vincenzo Rossello
Offences recommended for DPP consideration	Section 87 ICAC Act (give false evidence).
DPP advice	On 12 April 2011, DPP advised sufficient admissible evidence to proceed with one offence under section 87 and one offence under section 80(c) ICAC Act (mislead ICAC officer).
Status	Matters in court.

Name	Geoffrey Smith
Offences recommended for DPP consideration	Common law offence of misconduct in public office.
Status	Awaiting DPP advice.

#### **Report on corruption in the provision and certification of security industry training (Operation Columba) (December 2009)**

Recommendations were made in this report that consideration be given to obtaining the advice of the DPP with respect to the prosecution of eight named individuals for various criminal offences. Briefs of evidence for all matters were provided to the DPP on 24 May 2010. The Commission is awaiting advice from the DPP on these matters.

#### **Investigation into corrupt conduct affecting the administration of justice in the Wagga Wagga and other local court areas (Operation Segomo) (March 2010)**

Recommendations were made in this report that consideration be given to obtaining the advice of the DPP with respect to the prosecution of five named individuals for various criminal offences. Briefs of evidence were provided to the DPP in September 2010. The DPP has forwarded the briefs to the Crown Solicitor's office for consideration.

#### **Investigation into the offer of a corrupt payment to an officer of Strathfield Municipal Council (Operation Centurion) (May 2010)**

Recommendations were made in this report that consideration be given to obtaining the advice of the DPP with respect to the prosecution of one named individual. A brief of evidence was provided to the DPP on 13 May 2010. The Commission is awaiting advice from the DPP on this matter.

#### **Investigation into a Housing NSW officer's failure to declare conflicts of interest and secondary employment (Operation Coral) (June 2010)**

Name	Frank Garzaniti
Offences recommended for DPP consideration	Common law offence of misconduct in public office.
DPP advice	On 22 September 2010, DPP advised insufficient admissible evidence to prosecute.
Status	Matter finalised.



### Investigation on the use of TAFE funds to pay for work on a dog kennel complex (Operation Corsair) (June 2010)

Name	Garrie Cooper
Offences recommended for DPP consideration	Section 178BB Crimes Act (obtain money by false or misleading statement), and section 87 ICAC Act (give false evidence).
DPP advice	On 6 May 2011, DPP advised insufficient admissible evidence to prosecute.
Status	Matter finalised.

### Investigation into the submission of false claims for sitting day relief payments by a NSW MP and members of her electorate staff (Operation Corinth) (July 2010)

Name	Karyn Paluzzano
Offences recommended for DPP consideration	Section 178BA Crimes Act (obtain valuable thing by deception), and offences under section 87 ICAC Act (give false evidence).
DPP advice	A brief of evidence was sent to the DPP in July 2010.
Status	Awaiting advice from the DPP.

### Investigation into the smuggling of contraband into the John Morony Correctional Centre (Operation Cicero) (July 2010)

Name	Sebastian Wade
Offences recommended for DPP consideration	Section 249B Crimes Act (receive corrupt reward), and section 87 ICAC Act (give false evidence).
DPP advice	On 11 November 2010, DPP advised sufficient evidence to prosecute three section 249B Crimes Act offences and four section 87 ICAC Act offences.
Status	Plea of guilty entered 18 November 2010. Sentenced 15 April 2011 to overall sentence of 24 months imprisonment.

### Investigation into attempted corrupt payment and submission of false resumes to public authorities (Operation Avoca) (August 2010)

Name	Don Gamage
Offences recommended for DPP consideration	Section 249B Crimes Act (offer corrupt reward), section 178BA Crimes Act (publish false statement to obtain valuable thing), section 192G Crimes Act (publish false statement to obtain valuable thing), section 80(c) ICAC Act (misleading an ICAC officer), and section 87 ICAC Act (give false evidence).
DPP advice	On 20 January 2011, DPP advised sufficient evidence to prosecute seven offences under section 178BA Crimes Act, one offence under section 192G Crimes Act, one offence under section 249B Crimes Act, one offence under section 80(c) ICAC Act, and one offence under section 87 ICAC Act.
Status	Mr Gamage is not available to be served with Court Attendance Notices. Consideration being given to applying for a warrant for arrest.

### Investigation into the misuse of resources by a NSW Maritime legal services officer (Operation Vargas) (September 2010)

Recommendations were made in this report that consideration be given to obtaining the advice of the DPP with respect to the prosecution of two named individuals. Briefs of evidence were provided to the DPP on 19 November 2010. The Commission is awaiting advice from the DPP on this matter.

### **Investigation into the submission of false claims for sitting day relief entitlement by Angela D'Amore MP and some of her staff (Operation Syracuse) (December 2010)**

Recommendations were made in this report that consideration be given to obtaining the advice of the DPP with respect to the prosecution of one named individual. A brief of evidence was provided to the DPP on 10 March 2011. The Commission is awaiting advice from the DPP on this matter.

### **Investigation into acceptance of corrupt benefits by a City of Canada Bay Council employee (Operation Challenger) (December 2010)**

Recommendations were made in this report that consideration be given to obtaining the advice of the DPP with respect to the prosecution of two named individuals. Briefs of evidence were provided to the DPP on 21 December 2010. The Commission is awaiting advice from the DPP on this matter.

### **Investigation into corrupt conduct of Sydney Water employees and others (Operation Siren) (March 2011)**

Recommendations were made in this report that consideration be given to obtaining the advice of the DPP with respect to the prosecution of five named individuals. Briefs of evidence were provided to the DPP on 1 April 2011. The Commission is awaiting advice from the DPP on this matter.

### **Investigation into alleged corrupt conduct involving Burwood Council's general manager and others (Operation Magnus) (April 2011)**

Name	Pasquale (Pat) Romano
Offences recommended for DPP consideration	Section 249C Crimes Act (provide false document), section 178BB Crimes Act (obtain money by false or misleading statement), common law offence of misconduct in public office, section 20 <i>Protected Disclosures Act 1994</i> (taking detrimental action), section 93 ICAC Act (causing disadvantage to persons assisting the ICAC), and section 87 ICAC Act (give false evidence).
DPP advice	In April 2011, DPP advised insufficient evidence to prosecute Mr Romano for any offence under section 20 <i>Protected Disclosures Act 1994</i> .
Status	Briefs on other matters to be forwarded to the DPP.

**Table 39: Progress of disciplinary matters in 2010–11**

### **Investigation into corrupt conduct affecting the administration of justice in the Wagga Wagga and other local court areas (Operation Segomo) (March 2010)**

Name	John Hart
ICAC recommendation	Consideration of disciplinary action under the <i>Legal Profession Act 2004</i> for unsatisfactory professional conduct or professional misconduct.
Status	Matter finalised. On 21 March 2011, the NSW Court of Appeal declared Mr Hart guilty of professional misconduct and that his name be removed from the roll of legal practitioners.

Name	Anthony Paul
ICAC recommendation	Consideration of disciplinary action under the <i>Legal Profession Act 2004</i> for unsatisfactory professional conduct or professional misconduct.
Status	Matter referred to Legal Services Commissioner. Awaiting determination.

**Investigation into the submission of false claims for sitting day relief payments by a NSW MP and members of her electorate staff (Operation Corinth) (July 2010)**

Name	Timothy Horan
ICAC recommendation	Consideration to taking action with a view to dismissing, dispensing with, or otherwise terminating service on ground of misconduct.
Status	Resigned before disciplinary proceedings commenced.
Name	Jennifer Launt
ICAC recommendation	Consideration to taking action with a view to dismissing, dispensing with, or otherwise terminating service on ground of misconduct.
Status	Resigned before disciplinary proceedings commenced.
Name	Kerrie Dorlan
ICAC recommendation	Consideration to taking action with a view to dismissing, dispensing with, or otherwise terminating service on ground of misconduct.
Status	Resigned before disciplinary proceedings commenced.

**Investigation into the smuggling of contraband into the John Morony Correctional Centre (Operation Cicero) (July 2010)**

Name	Sebastian Wade
ICAC recommendation	Consideration to taking action with a view to dismissal on ground of misconduct.
Status	Dismissed 16 March 2011.

**Investigation into the misuse of resources by a NSW Maritime legal services officer (Operation Vargas) (September 2010)**

Name	Tonette Kelly
ICAC recommendation	Consideration to taking action with a view to dismissal on ground of misconduct and referral of her conduct in relation to the preparation of a false reference for Nicholai Dacombe to the Legal Services Commissioner.
Status	Dismissed on 14 October 2010. Practising certificate suspended 16 September 2010. Investigation currently being conducted by the Office of the Legal Services Commission.
Name	Bonita (Bonnie) Dacombe
ICAC recommendation	Consideration to taking disciplinary action for her failure to obtain approval for secondary employment.
Status	Resigned effective from 9 December 2010 (after commencement of disciplinary proceedings).
Name	Nicholai Dacombe
ICAC recommendation	Consideration to taking disciplinary action by the Legal Profession Admission Board (LPAB) in relation to false and misleading statements contained in his application to commence a study of law in the course conducted by the LPAB.

Status	The LPAB wrote to Mr Dacombe in September 2010 putting the allegations to him. The LPAB resolved to hold an oral hearing, however, Mr Dacombe cannot be compelled to attend. He is currently excluded from the course due to his failure to progress and will need to reapply to the LPAB for re-admission.
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#### **Investigation into the submission of false claims for sitting day relief entitlement by Angela D'Amore MP and some of her staff (Operation Syracuse) (December 2010)**

Name	Agatha La Manna
ICAC recommendation	Consideration to taking action with a view to dismissal.
Status	Resigned after commencement of disciplinary proceedings.

#### **Investigation into corrupt conduct of Sydney Water employees and others (Operation Siren) (March 2011)**

Name	Robert Rodgers
ICAC recommendation	Consideration to taking disciplinary action.
Status	Issued with final warning.
Name	Anthony Vecchio
ICAC recommendation	Consideration to taking disciplinary action.
Status	Dismissed 13 May 2011.

#### **Investigation into the solicitation of a corrupt payment by a Strathfield Municipal Council officer (Operation Danby) (May 2011)**

Name	Michael Chau
ICAC recommendation	Consideration to taking disciplinary action with a view to dismissal for misconduct.
Status	Recommendation under consideration by Strathfield Council.

## **Appendix 4 – Implementation of corruption prevention recommendations**

In 2009–10, the CP Division introduced a more flexible system for monitoring the implementation of corruption prevention recommendations by agencies. Before this, agencies were given identical timeframes to submit implementation plans, progress and final reports.

The revised approach has given agencies the opportunity to either complete post-investigation actions and reporting within 12 months (when feasible) or extend dates, if required. Agencies requiring more complex reforms may need several years to effectively complete the implementation of the Commission's recommendations.

Tables 40 and 41 show the information received by the Commission from agencies in 2010–11, including the number and percentage of recommendations that agencies report having implemented at the progress report and final report stages.

Final reports received in 2010–11 indicate that agencies had fully or partially implemented or implemented in an alternative way 100% of recommendations.

**Table 40: Progress reports received in 2010–11**

Inquiry	Agencies	Number of recommendations	Progress report received	Not implemented	Not agreed	Partially implemented	Implemented in alternative way	Implemented as described in report	% Partially implemented	% Fully implemented
Corsair	TAFE	8	April 2011	0	0	3	0	5	37.5%	62.5%
Chaucer	RailCorp	5	April 2011	1	0	1	0	3	20%	60%
Columba	Department of Education and Training / Vocational Education & Training Accreditation Board	5	Jan 2011	0	0	1	0	4	20%	80%
	WorkCover NSW	2	Jan 2011	0	0	1	0	1	50%	50%
	Office of Liquor, Gaming and Racing	2	Feb 2011	0	0	0	1	1	0%	100%
Cicero	Corrective Services NSW	12	Nov 2010	0	0	3	2	7	25%	75%
<b>Totals</b>		<b>34</b>		<b>1</b>	<b>0</b>	<b>9</b>	<b>3</b>	<b>21</b>	<b>26%</b>	<b>71%</b>

**Table 41: Final reports received in 2010–11**

Inquiry	Agencies	Number of recommendations	Final report received	Not implemented	Not agreed	Partially implemented	Implemented in alternative way	Implemented as described in report	% Partially implemented	% Fully implemented
Tambo	TransGrid	6	Nov 2010	0	0	1	2	3	17%	83%
Atlas	Wollongong City Council	20	April 2011	0	0	0	0	20	0%	100%
Monto	RailCorp	40	April 2011	0	0	2	4	34	5%	95%
Mirna	NSW Fire Brigades	14	April 2011	0	0	0	1	13	0%	100%
<b>Totals</b>		<b>80</b>		<b>0</b>	<b>0</b>	<b>3</b>	<b>7</b>	<b>70</b>	<b>4%</b>	<b>96%</b>



## Appendix 5 – 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 2009 sets out what must be included in the report. This appendix contains the information required to be reported on by the Commission.

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 be made available in the public interest and that can be made publicly available without imposing unreasonable

additional costs on the agency. In 2010–11, the Commission conducted one such review.

The Commission received two valid access applications during the reporting period. One of the two valid access applications received was refused on the basis that the application was for the disclosure of information referred to in Schedule 1 of the GIPA Act (information for which there is a conclusive presumption of overriding public interest against disclosure).

The Commission did not hold any information sought under the other valid access application.

### Statistical information about access applications

**Table 42: 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
Media	0	0	0	0	0	0	0
Members of Parliament	0	0	0	0	0	0	0
Private sector business	0	0	0	0	0	0	0
Not for profit organisations or community groups	0	0	0	0	0	0	0
Members of the public (application by legal representative)	0	0	0	0	0	0	0
Members of the public (other)	0	0	1	1	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 43.

**Table 43: 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
Personal information applications*	0	0	1	1	0	0	0
Access applications (other than personal information applications)	0	0	0	0	0	0	0

\* A “personal information application” is an access application for personal information (as defined in clause 4 of Schedule 4 of the GIPA Act) about the applicant (the applicant being an individual).

**Table 44: Invalid applications**

Reason for invalidity	Number of applications
Application does not comply with formal requirements (section 41 of the GIPA Act)	0
Application is for excluded information of the agency (section 43 of the GIPA Act)	2
Application contravenes restraint order (section 110 of the GIPA Act)	0
Total number of invalid applications received	2
Invalid applications that subsequently became valid applications	0

**Table 45: Conclusive presumption of overriding public interest against disclosure: matters listed in Schedule 1 of the GIPA Act**

	Number of times consideration used*
Overriding secrecy laws	1
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 environment heritage	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 46.

**Table 46: Other public interest considerations against disclosure: matters listed in table to section 14 of 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 47: Timeliness**

	Number of applications
Decided within the statutory timeframe (20 days plus any extensions)	4
Decided after 35 days (by agreement with applicant)	0
Not decided within time (deemed refusal)	0
<b>Total</b>	<b>4</b>

**Table 48: 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 section 93 of the GIPA Act	0	0	0
Review by Administrative Decisions Tribunal	0	0	0
<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>

\* 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 49: 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 section 54 of the GIPA Act)	0

## Appendix 6 – Participation in significant committees

### Complaint Handling, Information Sharing and Liaison Group

**Participating Commission staff member:** Jacqueline Fredman, Manager Assessments

This group meets quarterly, and is a network of state and federal complaint-handling bodies. Members share information and resources about complaint-handling and alternative dispute resolution issues, and arranges occasional seminars on complaint-handling matters.

### Inter-Agency Committee for Department of Corrective Services

**Participating Commission staff member:** Robert Lang, Chief Investigator

This committee meets monthly, and includes representatives from state and federal law enforcement agencies, including the Police Integrity Commission and the ICAC. The Committee oversees and makes decisions about the Department's custodial witness-protection program.

### Interagency Technical Group

**Participating ICAC staff member:** Paul Empson, Senior Technical Officer

This is a subcommittee of the annual Law Enforcement Telecommunications Interception Conference. The committee meets quarterly to discuss issues relating to the delivery of material from telecommunications carriers and to share solutions for overcoming technical problems. Representatives of the telecommunications carriers also attend and provide information and research results on industry initiatives and solutions.

### Interception Consultative Committee

**Participating Commission staff member:** Paul Empson, Senior Technical Officer

This committee is made up of representatives from law enforcement and investigative agencies. It deals with legal, policy and technical issues relating to the administration of interceptions. The Commission is also represented on subcommittees and provides technical advice to the committee.

### Joint Outreach Initiatives Network

**Participating Commission staff member:** Yvonne Miles, Principal Officer, Corruption Prevention

This network, comprising state and federal complaint handling agencies, meets bimonthly to share ideas and information about one another's outreach activities. Where appropriate, joint initiatives are planned.

### Local Government Liaison Group

**Participating Commission staff members:** Jacqueline Fredman, Manager Assessments, Alan Mathison, Deputy Manager Assessments, and Giselle Tocher, Principal Officer, Local Government and Planning

This group meets quarterly and brings together representatives from the Office of the NSW Ombudsman, the Department of Local Government and the Commission to discuss common initiatives, integrity and better practice in NSW local government.

### National Oversight Covert Group

**Participating Commission staff members:** David Casserly, Chief Investigator, Surveillance and Technical Unit and John Hoitink, Acting Chief Investigator, Surveillance and Technical Unit

This group concerns the improvement and the sharing of knowledge between the smaller oversight and anti-corruption agencies that have a covert physical and technical capability.

### NSW Corruption Prevention Network

**Participating Commission staff member:** Yvonne Miles, Principal Officer, Corruption Prevention

This is a network of public sector staff who work to promote corruption prevention strategies through corruption prevention forums. It also encourages formal and informal networks of practitioners.

## SEDNode User Forum

SEDNode is a secure information system used by law enforcement and anti-corruption agencies to receive telecommunications data from providers. The Commission subscribes to the SEDNode system (as do the other agencies and telecommunications providers). The SEDNode user forum has been established to keep members updated with the system in terms of enhancements, functionality and new members.

## Special Networks Committee

**Participating Commission staff member: Paul Empson, Senior Technical Officer**

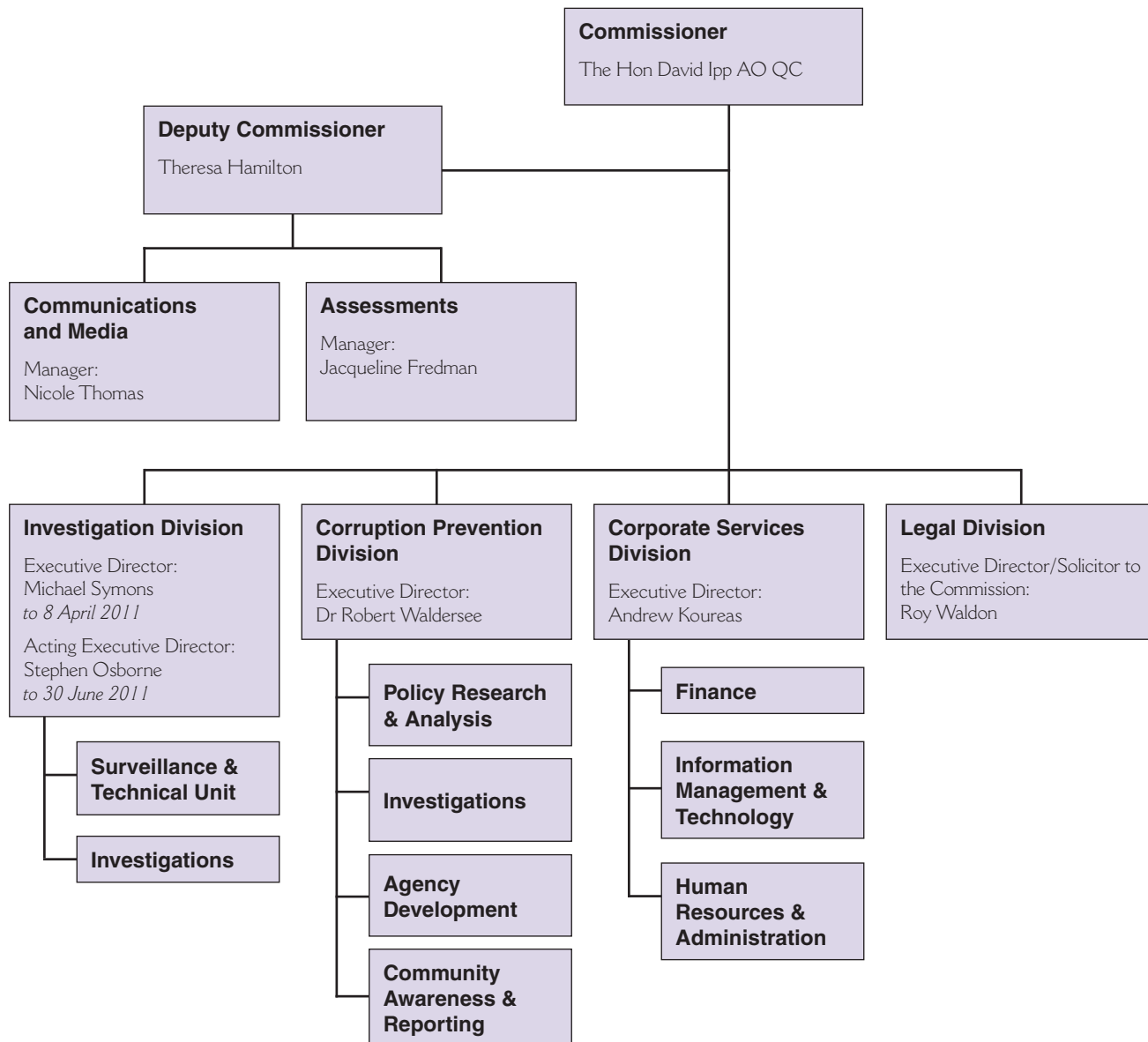
This committee includes representatives of intercepting agencies, and is the discussion forum for telecommunications interception capability projects and related contractual issues. It meets quarterly before the Interception Consultative Committee, and sends its minutes to this committee.

## Appendix 7 – Overseas travel

**Table 50: Overseas travel 2010–11**

Name of officer	Date of travel	Destination	Purpose	Amount (\$)
Michael Symons Executive Director Investigation Division	15–22 September 2010	Japan	Forum of Anti-Corruption Expert Task Force	1,381.42
Stephen Osborne Chief Investigator	29 October 2010 – 28 November 2010	Hong Kong	Chief Investigators Training Course run by the Hong Kong ICAC	7,969.76
Michael Symons Executive Director Investigation Division	20–28 November 2010	Hong Kong	Lecture, Post Graduate Certificate, Hong Kong University	Nil
Michael Symons Executive Director Investigation Division	31 December 2010 – 15 January 2011	Thailand & Bhutan	Lecture at Bhutan Anti-Corruption Commission and attendance at meeting with US State Department re corruption-related investigations in Asia-Pacific Region	Nil
Don McKenzie Principal Lawyer	2–5 November 2010	Macau	4 <sup>th</sup> International Association of Anti-Corruption Authorities Annual Conference and General Meeting	Nil

## Appendix 8 – Organisational chart





## Appendix 9 – Chief Executive Officer and Executive Officers

On 14 November 2009, the Governor of New South Wales appointed the Hon David Ipp AO QC ICAC Commissioner for a five-year term.

Mr Ipp's conditions of employment are outlined in his instrument of appointment, and his salary is paid in line with the determination provided by the Statutory and Other Offices Remuneration Tribunal (SOORT) for puisne judges.

The Commissioner's salary is calculated at 160% of the remuneration of a NSW Supreme Court puisne judge. The total annual remuneration package for Mr Ipp is currently \$589,680. No fringe benefits were paid for the relevant reporting period. In its annual determination, SOORT awarded a 4% increase, effective 1 October 2010.

Theresa Hamilton is the Deputy Commissioner of the ICAC. Ms Hamilton's original appointment was for a five-year term, and the remuneration package of the Deputy Commissioner's position is equivalent to a Level 5 Senior Executive Service (SES) Officer. Ms Hamilton's current total annual remuneration package is \$278,350. Ms Hamilton's term has been extended for a further two years on the advice of the Executive Council on 2 June 2011.

### Performance of Deputy Commissioner

The Commission reports on the performance of its Executive Officers of or above SES Level 5. In 2010–11, Ms Hamilton, Deputy Commissioner, was the only ICAC senior officer in this category. Ms Hamilton commenced her appointment as Deputy Commissioner in January 2007.

In 2010–11, the Commissioner assessed Ms Hamilton's overall performance as outstanding. She has successfully met the criteria contained in her performance agreement, including the provision of high-quality and timely operational and strategic advice.

Ms Hamilton acts as the Commission's main point of liaison with its external oversight bodies, namely the ICAC Inspector's Office and the NSW Parliamentary Committee on the ICAC. She also liaises at a senior level with the Office of the Director of Public Prosecutions about the progress of prosecutions arising from Commission investigations, and with CEOs and other SES officers in various government departments and agencies.

As the Commissioner's delegate, she approves the use of the Commission's compulsory powers, and presides at ICAC compulsory examinations and public inquiries, as required by the Commissioner.

Ms Hamilton directly supervises the Manager, Assessments and the Manager, Communications and Media. Ms Hamilton also supports the Commissioner by undertaking a direct supervisory role in respect of the Commission's Executive Directors responsible for investigations, corruption prevention, legal services, and corporate services.

### Executive management

In 2010–11, the Commission's Executive Management Team consisted of:

- David Ipp AO QC, Commissioner, BCom LLB (Stellenbosch University)
- Theresa Hamilton, Deputy Commissioner, LLB (University of Queensland)
- Andrew Koureas, Executive Director, Corporate Services, BCom, MCom (University of NSW), LLB (University of Technology, Sydney), FCPA
- Michael Symons, Executive Director, Investigation (until 8 April 2011), LLB with Hons (University of Adelaide), BBus (Marketing) (University of South Australia), Grad Cert Management (Charles Sturt), Grad Dip Legal Practice (University of Adelaide), Grad Dip Fraud Investigation (Charles Sturt), Grad Dip Public Admin (Policing) (Charles Sturt), MBA (University of Adelaide)
- Dr Robert Waldersee, Executive Director, Corruption Prevention, BA (University of Sydney), MA (University of Sydney), MA Clinical Psychology (University of Nebraska), PhD Management (University of Nebraska)
- Roy Waldon, Executive Director, Legal and Solicitor to the Commission, LLB Hons (University of Tasmania).

**Table 51: Total number of executive staff in 2010–11 compared to previous years**

Level	2010–11	2009–10	2008–09	2007–08
Commissioner	1	1	1	1
Level 5*	1	1	1	1
Level 3*	1	1	1	1
Level 2*	3	2	2	2
Level 1*	–	1	1	1
<b>Total</b>	<b>6</b>	<b>6</b>	<b>6</b>	<b>6</b>

\* Commission executive staff employed at the equivalent of this SES level. One of the Executive Director's roles was upgraded from (equivalent) SES 1 to 2 in December 2010.

**Table 52: Number of female executive staff at 30 June 2011 compared to previous years**

Year	Number
2010–11	1
2009–10	1
2008–09	1
2007–08	1

## Appendix 10 – Access and equity

The Commission promotes management policies and practices that reflect and respect the social and cultural diversity contained within the staff of the Commission and its clients.

The Commission supports the NSW Government's goals of:

- a workplace culture displaying fair practices and behaviours
- improved employment opportunities and participation of Equal Employment Opportunity (EEO) groups.

The Commission's EEO Management Plan facilitates the identification and removal of systemic barriers to the participation in and promotion of employment of EEO groups.

The Access and Equity Committee is a key body responsible for overseeing and implementing equity issues in the Commission.

The members of the Committee in 2010–11 were:

- Justin Agale, Corruption Prevention Division
- Rachel Carroll, Executive Unit (filling in for member on leave)
- Cindy Fong, Corporate Services Division (since February 2011)
- Bill Kokkaris, Corruption Prevention Division
- Jacqueline Fredman, Assessments Section
- Andrew Koureas, Corporate Services Division
- Jay Lawrence, Legal Division
- Catherine O'Brien, Human Resources (HR) and Administration
- Robert Lang, Investigation Division
- Michael Kane, Investigation Division (since May 2011)
- Michele Smith, Executive Unit
- Cathy Walsh, Corporate Services Division.

Ms O'Brien, Manager HR and Administration, is the Committee's designated member responsible for reporting on initiatives for female employees. The Committee agreed that, due to the size of the Commission and the ratio of female to male employees, any future initiatives identified for female staff would be addressed on a case-by-case basis and staff notified by email. Where applicable, these initiatives will be reported on at meetings.

In 2010–11, the following outcomes were achieved in accordance with the Commission's EEO Management Plan:

- re-survey of the Commission's EEO & Workforce Profile Data Collection form
- appointment of an additional Grievance Support Officer
- information for staff on the availability of an Online Merit Selection Training Portal included in the staff newsletter
- training on EEO/diversity issues was provided to new staff and EEO/diversity refresher training was provided for identified existing staff. All training was conducted by an accredited external consultant familiar with the Commission's policies and procedures relating to EEO and discrimination, harassment and bullying prevention, and grievances.
- provision of merit selection training to new managers/supervisors by an accredited external consultant.

The Commission has identified the following strategies for the 2011–12 period:

- provide merit selection training for all new managers/supervisors and refresher training for identified staff
- conduct a new survey of the Commission's EEO and Workforce Profile Data Collection form
- appoint an additional Grievance Support Officer to address equity and gender representation across the divisions
- review previous EEO/ Diversity training and identify new compliant training providers

- provide a raft of new EEO training to Commission staff
- review the Commission's established EEO Management Plan.

## Work arrangements

The Commission has a strong commitment to providing flexible work arrangements in order to assist staff to balance work and family commitments. Approval was given to several staff members to reduce their working hours and/or proceed on leave without pay to meet family obligations.

In addition, the Commission supported applications from staff for leave to meet family and community service responsibilities.

## Employee Assistance Program (EAP)

The Commission engages an external provider to supply counselling services to staff and their immediate families. The Commission is committed to providing a safe, equitable and productive working environment for all staff.

The EAP is promoted through the Commission's Corporate Induction Program for new staff; a dedicated EAP intranet site and an EAP Policy, which is accessible to staff via the intranet.

In 2010–11, four employees and one family member accessed the EAP service.

A new EAP contract will be negotiated with an external provider to continue to supply counselling services to staff and their immediate families upon the expiration of the current contract in August 2011.

## Strategies to increase Aboriginal and Torres Strait Islander representation

The Commission is committed to strengthening employment opportunities for Aboriginal people in line with government policy. To assist the Commission in meeting the 2.6% target of Indigenous Australian employment in the Commission's workforce development strategies, external job vacancies were advertised on the Indigenous Jobs Australia website, a national employment website dedicated to connecting Indigenous Australian job seekers with employers that are searching for Indigenous Australian employees.

The Commission also promoted an Aboriginal Project Officer job vacancy on behalf of another NSW public sector agency.

Support was provided to an Indigenous Australian staff member to attend the Sydney Leadership Australia's four-day "Introduction to Adaptive Leadership Program" to assist them to develop their knowledge and skills with regard to corruption prevention activities.

## Initiatives for female employees

The Commission strives to promote the NSW Government's employment and development strategies for women.

The Commission acknowledges the need to implement flexible working practices that recognise and value the contribution that women with caring responsibilities can make to the workforce and is committed to attracting, developing and retaining female staff.

In 2010–11, the Commission provided the following development opportunities or initiatives for female staff:

- supported the secondment and the extension of a secondment of a female employee to another NSW public sector agency
- promoted the Executive Master of Public Administration course conducted by the Australia and New Zealand School of Government
- sponsorship of two female employees to attend the "Ethical Leadership: The Key to Creating and Sustaining Integrity in Organisations" training course
- sponsorship of a female employee for training in "Managing Multiple Projects, Objectives and Deadlines"
- sponsorship of a female employee at a conference for women
- promoted the Department of Premier and Cabinet's publication *Breaking Through: Stories of women in non-traditional occupations*
- promoted the Commission's new Breastfeeding Policy
- sponsorship of several female employees to attend the "United Nations Development Fund for Women International Women's Day Breakfast", part of International Women's Day
- supported a request for 12 months leave without pay from a female employee for childcare reasons
- supported requests for flexible work arrangements for various reasons for several female employees
- temporary appointments both within divisions and between the various divisions of the Commission in order to develop and/or enhance skills, knowledge and experience.

The Commission continues to facilitate a work environment that supports a balance between work and family responsibilities through an array of parental leave policies and flexible work arrangements policies.

In relation to the NSW Government's "Making the public sector work better for women" strategy, which is the sector-wide women's employment and development strategy to improve women's recruitment, development and retention from 2008 to 2012, the Commission ensures that it has a skilled and diverse workforce.

The Commission maintains a benchmark of 50% of its staff being women. Furthermore, 68% of the Commission's female employees earn in excess of \$73,709 per annum, while 15% earn in excess of \$119,149 per annum.

**Table 53: Staff numbers by salary level 2010–11**

Level	Total staff	Respondents	Men	Women	Aboriginal people and Torres Strait Islanders	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
<\$39,670	0	0	0	0	0	0	0	0	0
\$39,670 – \$52,104	1	1	1	0	0	0	0	1	0
\$52,104 – \$58,249	2	2	0	2	0	1	0	0	0
\$58,249 – \$73,709	22	22	4	18	0	8	6	0	0
\$73,709 – \$95,319	30	29	13	17	1	13	10	4	1
\$95,319 – \$119,149	47	47	31	16	0	12	9	4	0
>\$119,149 (non-SES)	19	18	10	9	0	4	2	2	0
>\$119,149 (SES)	5	5	4	1	0	2	1	1	1
<b>Total</b>	<b>126</b>	<b>124</b>	<b>63</b>	<b>63</b>	<b>1</b>	<b>40</b>	<b>28</b>	<b>12</b>	<b>2</b>

**Table 54: Trends in the representation of EEO groups**

EEO group	Distribution index					
	Benchmark or target	2010–11	2009–10	2008–09	2007–08	2006–07
Women	50.0%	50.0%	50.4%	49.6%	49%	55%
Aboriginal people and Torres Strait Islanders	2.6%	0.8%	0.9%	0.8%	1.6%	0.8%
People whose language first spoken as a child was not English	19.0%	22.6%	19.9%	21.8%	18%	17%
People with a disability	n/a	9.7%	9.5%	19.3%	13%	12%
People with a disability requiring work-related adjustment	1.5%	1.6%	1.5%	5.9%	4.8%	0.8%

**Table 55: Staff numbers by employment basis in 2010–11**

	Total staff	Respondents	Men	Women	Aboriginal people and Torres Strait Islanders	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
Permanent full-time	110	105	60	50	1	36	27	11	2
Permanent part-time	12	12	2	10	0	1	0	1	0
Temporary full-time	15	15	6	9	0	4	1	2	0
Temporary part-time	4	4	1	3	0	0	1	0	0
Contract – SES equivalent	6	6	5	1	0	1	0	0	0
Contract – non-SES equivalent	0	0	0	0	0	1	0	0	0
Training positions	0	0	0	0	0	0	0	0	0
Retained staff	0	0	0	0	0	0	0	0	0
Casual	2	2	0	2	0	0	0	0	0
<b>Total</b>	<b>149</b>	<b>144</b>	<b>74</b>	<b>75</b>	<b>1</b>	<b>43</b>	<b>29</b>	<b>14</b>	<b>2</b>
<b>Subtotals</b>									
Permanent	122	117	62	59	1	37	27	12	2
Temporary	19	19	7	12	0	4	1	2	0
Contract	6	6	5	1	0	1	1	0	0
Full-time	125	120	5	1	1	40	0	0	0
Part-time	16	16	3	13	0	1	0	0	0

**Table 56: Employment basis for 2010–11, compared to previous years**

Employment basis		2010–11	2009–10	2008–09	2007–08	2006–07
Permanent	Full-time	110	101	91	97	99
	Part-time	12	11	14	8	3
Temporary	Full-time	15	11	7	11	10
	Part-time	4	4	1	3	3
Contract	SES equivalent	6	6	6	6	6
	Non-SES equivalent	0	0	0	0	0
	Trainee	0	0	0	0	0
<b>Total</b>		<b>147</b>	<b>133</b>	<b>119</b>	<b>125</b>	<b>121</b>

Note: Two casual staff are not included in this table for 2010–11.

**Table 57: Average full-time equivalent (FTE) staffing in 2010–11, compared to previous years**

	2010–11	2009–10	2008–09	2007–08
Average FTE staffing	117.1	117.6	111.9	116.1

## Appendix 11 – Disability Action Plan

The Commission is committed to the provision of opportunities in all aspects of its operations and service delivery to people with disabilities. The Commission embraces the NSW EmployABILITY strategy to increase employment for people with a disability in the NSW public sector. The Commission's Disability Action Plan is based on the NSW Government's Disability Policy Framework.

The Commission's Access and Equity Committee is a key stakeholder in the review, monitoring and evaluation of the Disability Action Plan. The committee reports to the Commissioner through the Commission Consultative Group.

In 2010–11, the following initiatives were implemented:

- review of the Commission's Employment of People with Disabilities Policy to enhance the definitions of disability discrimination, adjustment and unjustifiable hardship
- re-survey of equal employment opportunity (EEO) data for all staff to identify any disability issues and/or reasonable adjustments required
- promotion of TTY (telephone typewriter) service for hearing-impaired callers in all Commission publications and related material, including job vacancies
- training in EEO/grievance/diversity provided by an external trainer to new staff and refresher training for identified staff
- training in merit selection for new managers provided by an external trainer
- awareness of people with disabilities in evacuation procedures and the availability of evacuation procedures on the intranet and exposure in workplace areas
- needs of people with a disability were addressed in the delivery of education and training services
- venues used in the delivery of education and training services were checked for suitability for people with a disability
- disability groups and/or peak organisations were invited to attend community breakfasts, as part of the rural and regional outreach program.

## Appendix 12 – Multicultural Policies and Services Program

The Commission values the skills, experience and linguistic abilities of its staff, and management is encouraged to recognise and develop diversity in the workplace.

The Commission embraces the four principles of multiculturalism, as defined in the *Community Relations Commission and Principles of Multiculturalism Act 2000* (NSW):

- All individuals in NSW should have the greatest possible opportunity to contribute to, and participate in, all aspects of public life.
- All individuals and public institutions should respect and accommodate the culture, language and religion of others within an Australian legal and institutional framework where English is the primary language.
- All individuals should have the greatest possible opportunity to make use of and participate in relevant activities and programs provided or administered by the Government of NSW.
- All public institutions of NSW should recognise the linguistic and cultural assets in the population of NSW as a valuable resource and promote the resource to maximise the development of the State.

The Commission endeavours to ensure that its services are responsive to the needs of a diverse community and that employment opportunities for members of diverse cultural and linguistic backgrounds are addressed.

In 2010–11, the following initiatives were implemented:

- inclusion of six new interpreters and/or translators on the Commission's Translators and Interpreters Directory for the provision of language services
- engagement of accredited interpreters and translators to assist clients, where needed. During the reporting



period, there were 26 occasions during which the Commission utilised external services for the languages of Greek, Portuguese, Korean, Mandarin and Cantonese

- publication of two articles translated into Chinese in the *Epoch Times* newspaper to provide information about the Commission and help promote corruption prevention messages to the Chinese community
- promotion to staff of the 2011 days of religious significance for multicultural NSW
- nominations sought from staff to undertake the Community Language Allowance Scheme (CLAS) examination
- issue of the *Communicating anti-corruption messages in community languages – guidelines for NSW local councils*
- promotion of the Commission's existing culturally and linguistically diverse (CALD) resources in the aforementioned publication
- use of DVD resources and case studies with relevant scenarios during Commission training delivery to CALD communities
- promotion of multilingual resources through the Commission's website, presentations, public displays and information brochures

- meetings with and presentations to five relevant agencies.

The Commission has identified the following strategies for the Multicultural Policies and Services Program in 2011–12:

- development of a new three-year Multicultural Policies and Services Program
- ongoing review of CLAS and updating of the bilingual skills directory
- consideration of new translators and/or interpreters for the Commission's Translators and Interpreters Directory
- promotion to staff of the 2012 days of religious significances for multicultural NSW
- monitoring of Commission investigations to identify and address those with issues involving CALD communities
- presentations and training to CALD communities and other relevant agencies.

## Appendix 13 – Commission Consultative Group (CCG)

The CCG meets on a monthly basis, and is the main consultative forum for the Commission's executive team, staff and delegates of the Public Service Association (PSA) to consult on policy and issues that may arise relating to conditions of employment. In accordance with the CCG Charter, the CCG endorses new and revised policies and procedures that affect staff conditions of employment prior to final approval by the Commissioner. It also provides a mechanism for staff to raise any issues that may relate to the ICAC Award.

Furthermore, the CCG ensures that the Access and Equity Committee and the Occupational Health and Safety Committee operate in accordance with the ICAC Award and other relevant legislation.

CCG membership at 30 June 2011 consisted of the following representatives:

### Executive team

- Theresa Hamilton, Deputy Commissioner
- Andrew Koureas, Executive Director, Corporate Services Division
- Michael Symons, Executive Director, Investigation Division (until April 2011)

- Robert Waldersee, Executive Director, Corruption Prevention Division
- Roy Waldon, Executive Director, Legal Division and Solicitor to the Commission.

### Staff

- John Alston, Finance and Services Officer, Corporate Services Division
- Andrew Browning, Senior Investigator, Investigation Division
- Jacqueline Fredman, Manager Assessments, Assessments Section
- Bill Kokkaris, Senior Project Officer, Corruption Prevention Division
- Nicole Thomas, Manager Communications and Media, Communications and Media Section
- Catherine O'Brien, Manager HR and Administration, Corporate Services Division
- Michele Smith, Executive Assistant to Commissioner/Deputy Commissioner.

## Appendix 14 – Occupational Health and Safety

The Commission is committed to the prevention of workplace accidents and injuries and in providing a safe environment for staff and others who access its premises. Occupational health and safety (OHS) principles have been incorporated into all facets of business planning and operational activities.

The principles of the NSW Government's Working Together: Public Sector Workplace Health and Safety and Injury Management Strategy 2010–2012 is reflected in the Commission's Occupational Health, Safety and Risk Management Plan.

The Commission's OHS portal is a major resource in the dissemination of OHS information. The portal reflects both the Commission's OHS responsibilities as an employer and those OHS responsibilities an employee is required to be aware of and adhere to.

The Commission's OHS Committee, which reports to the Commissioner through the Commission Consultative Group, is a major stakeholder in the review and implementation of OHS policies and practices at the Commission. The committee developed the Commission's new Managing Unreasonable Complaint Conduct Policy, which provides practical guidance to staff on how to deal with complainants effectively and safely. The committee also oversees the Commission's workplace hazards and undertakes quarterly workplace inspections.

In 2010–11, the following initiatives were implemented by the Commission:

- appointment of an additional Grievance Support Officer
- review and enhancement of the Commission's OHS portal
- availability of the flu vaccine administered by health professionals either in-house, by way of a pre-paid flu vaccination voucher or through the reimbursement of the costs of the vaccine and/or medical practitioner's visit
- promotion of the Commission's Employee Assistance Program (EAP) through the Corporate Induction Program and dedicated EAP intranet site
- ongoing provision by an accredited occupational therapist of ergonomic workplace assessments for new staff and staff who identify as requiring a workplace assessment
- engagement of an accredited occupational therapist to assist in the development of return-to-work plans for two staff members
- electrical testing and tagging of relevant equipment
- training provided to identified staff in baton training, first aid, and operational safety and defensive tactics.

**Table 58: OHS incidents, injuries and claims in 2010–11**

Body stress	2
Mental stress	0
Journey to/from work	0
Fall, trip, slip	0
Hitting objects	1
Other non-specified	1
Heat, radiation, electricity	0
<b>Total injuries 2010–11</b>	<b>4</b>
Number of workers' compensation claims (provisional liability)	4*

\*There has been an increase in the number of workers' compensation claims; from nil in 2009–10 to four in 2010–11. Two of these claims related to a journey to/from work, and a further two claims related to injuries associated with previous workers' compensation claims.

## Appendix 15 – Training statistics

**Table 59: Training statistics by Division/Section/Unit and core learning stream in 2010–11**

Core Learning and Development Stream	Assessments	Corruption Prevention	Corporate Services	Executive	Legal	Investigation	Total
Information technology	4	7	6	5	2	14	38
Leadership/management	–	5	–	–	–	1	6
Organisational development	30	14	9	9	7	38	107
Project management	–	–	–	–	–	–	–
Risk management	3	2	4	4	2	30	45
Technical skills	29	24	23	7	23	43	149
<b>Total</b>	<b>66</b>	<b>52</b>	<b>42</b>	<b>25</b>	<b>34</b>	<b>126</b>	<b>345</b>

## Appendix 16 – Engagement and use of consultants

**Table 60: Engagement and use of consultants 2010–11**

		Base Amount \$
Unisys	Phase 1 – ICT Infrastructure Review (balance)	2,096
	Phase 2 – ICT Infrastructure Strategy Workshops	29,600
	Phase 3 – ICT Infrastructure Road Map	14,800
		46,496
Deloitte	Information to Support Management of Resources and Service Delivery (balance – \$30,000 paid last year)	6,000
<b>Totals</b>		<b>52,496</b>

## Appendix 17 – Payment performance indicators

All performance indicators relating to payment of accounts were met and there were no instances where interest was payable on overdue accounts.

**Table 61: Aged analysis at end of each quarter 2010–11**

Quarter	Current (i.e.) within due date \$	Less than 30 days overdue \$	Between 30 and 60 days overdue \$	Between 60 and 90 days overdue \$	More than 90 days overdue \$
September 2010	2,091,893	107,446	–	–	825
December 2010	1,598,574	39,563	–	–	999
March 2011	1,329,758	19,163	1,107	2,756	–
June 2011	1,577,295	53,924	11,022	5,282	–

**Table 62: Accounts paid on time within each quarter**

Quarter	Total accounts paid on time			Total amount paid \$
	Target %	Actual %	\$	
September 2010	95	95	2,091,893	2,200,164
December 2010	95	98	1,598,573	1,639,136
March 2011	95	98	1,329,757	1,352,785
June 2011	95	96	1,577,295	1,647,523

The format is in accordance with the requirements of Treasury Circular TC 06/26. No interest was paid on overdue amounts.

## Appendix 18 – Waste Reduction and Purchasing Policy (WRAPP)

The Commission is required to report progress under WRAPP on a triennial basis.

- Reducing generation of waste: the Commission has implemented the MOCCA (Management of Cases, Complaints and Assessments) system, which provides for greater use of electronic means to conduct essential business processes to minimise the use of paper-based methods. Also, the scanning of correspondence, emails, internet and intranet, and the use of double-sided printing reduces paper usage. The Commission also provides an online corruption report form to minimise waste.
- Resource recovery: all printer and copier toner cartridges are returned to recycling suppliers for re-use. It is estimated that 28 tonnes of paper waste was sent for recycling during the year. Arrangements are also being made to install bins for metal, plastic and glass containers for recycling purposes.
- Use of recycled material: locally-made copy paper is purchased for the Commission's needs. This is made from 50% recycled, de-inked pulp and the remainder sourced from sustainably managed plantations.

## Appendix 19 – Credit card certification

The Commissioner certifies that credit card usage in the Commission has met best practice guidelines in accordance with Premier's Memoranda and Treasury Directions.

## Appendix 20 – Major works in progress

There were no major works in progress as at June 2011.

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