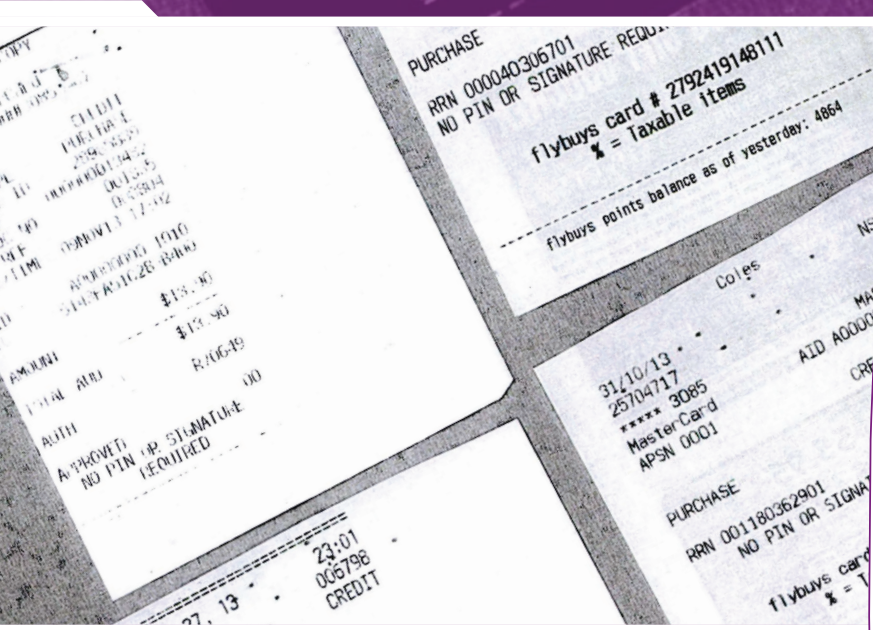


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ICAC

INDEPENDENT COMMISSION
AGAINST CORRUPTION
NEW SOUTH WALES

**INVESTIGATION INTO
THE CONDUCT OF A
PRINCIPAL OFFICER OF
TWO NON-GOVERNMENT
ORGANISATIONS AND
OTHERS**

**ICAC REPORT
SEPTEMBER 2018**



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Mr President
Madam Speaker

In accordance with s 74 of the *Independent Commission Against Corruption Act 1988* I am pleased to present the Commission's report on its investigation into the conduct of a principal officer of two non-government organisations and others.

Acting Commissioner, the Hon Reginald Blanch AM QC, presided at the public inquiry held in aid of the investigation.

The Commission's findings and recommendations are contained in the report.

I draw your attention to the recommendation that the report be made public forthwith pursuant to s 78(2) of the *Independent Commission Against Corruption Act 1988*.

Yours sincerely



The Hon Peter Hall QC
Chief Commissioner

Contents

Summary of investigation and results	7
Corrupt conduct findings	7
Section 74A(2) statement	9
Corruption prevention	9
Recommendation that this report be made public	11
Chapter 1: Background and jurisdiction	12
How the investigation came about	12
Why the Commission investigated	12
A question of jurisdiction	13
Conduct of the investigation	15
The public inquiry	15
Ms Sharobeem, IWHS and NESH	16
Ms Sharobeem’s credibility as a witness	16
Chapter 2: Reimbursements and other transfers	17
The IWHS reimbursement process	17
The transfers	19
Use of IWHS funds to pay for wardrobes	23
Conclusion	24
Corrupt conduct	25
Section 74A(2) statement	27

Chapter 3: IWHS payments made on the basis of false documents	28
The MLC Pest Control payment	28
The Fencing & Gate Commercial payment	28
The Classic Holidays Club reimbursement	29
The Inada reimbursement	30
Corrupt conduct	30
Section 74A(2) statement	32
Chapter 4: Misuse of the IWHS credit card and BPAY facility	34
Use of the IWHS credit card	34
Other payments to Sydney Water	36
Other payments to the SDRO	36
Corrupt conduct	37
Section 74A(2) statement	38
Chapter 5: Facilitator fees	39
Payments of facilitator fees	39
Using aliases	39
Evidence of IWHS staff concerning Ms Sharobeem	40
Ms Sharobeem’s facilitator payments	40
Ms Sharobeem’s explanation for her claims	42
Ms Sharobeem’s sons receive facilitator payments	44
Corrupt conduct	45
Section 74A(2) statement	46

Chapter 6: Payment for property work 48

The lease	48
The work	48
Ms Sharobeem's authorisation of payments	50
Declaration to NSW Community Building Partnership	50
Corrupt conduct	51
Section 74A(2) statement	51

Chapter 7: Falsifying information 53

Altering information in the IWHS computer database	53
Reporting to the SWSLHD	55
IWHS KPI reports	56
IWHS annual reports	56
The Smith Family and the Commission's jurisdiction	57
Multicultural Parenting Project	58
Steps to Employment Project	59
Corrupt conduct	61
Section 74A(2) statement	62

Chapter 8: Misuse of NESH funds 63

Ms Sharobeem's role at NESH	63
Ms Sharobeem obtains NESH funds	64
Payment for Richard Sharobeem's medical procedure	65
Paying for a Mercedes car	66
Corrupt conduct	67
Section 74A(2) statement	68

Chapter 9: Richard Sharobeem 69


The NESH employment policy	69
Richard Sharobeem obtains employment at NESH	69
Richard Sharobeem's use of a NESH vehicle	70
Corrupt conduct	71
Section 74A(2) statement	72

Chapter 10: Ms Sharobeem and false qualifications 73

Ms Sharobeem's educational qualifications	73
Ms Sharobeem's representation of academic qualifications	73
Representation as a qualified psychologist at IWHS	74
Representation as a qualified psychologist at other agencies	75
Representations to the media	75
Did Ms Sharobeem treat IWHS clients?	76
Did Ms Sharobeem receive referrals as a psychologist?	77
Further remarks	79
Corrupt conduct	79
Section 74A(2) statement	80

Chapter 11: Ms Sharobeem's employment with NSW government boards 81

Community Relations Commission	81
Anti-Discrimination Board NSW	82
Corrupt conduct	82
Section 74A(2) statement	83



Chapter 12: Corruption prevention	84
Overview of NGOs	84
Overview of IWHS	86
The SWSLHD's NGO monitoring framework	87
Audited financial reports	88
Governance in NGOs	90
Background to FACS involvement with NESH	95
Appendix 1: The role of the Commission	100
Appendix 2: Making corrupt conduct findings	101
Appendix 3: Summary of reforms to the human services funding regime	104
Appendix 4: Summary of responses to adverse findings	106

Summary of investigation and results

Those entrusted with public funds should use those funds for the public purposes for which they are provided. Unfortunately, on occasion public funds may be misused for personal gain rather than the public good. This investigation by the Independent Commission Against Corruption (“the Commission”) concerned such a case.

The investigation primarily concerned allegations that Eman Sharobeem, when service manager or chief executive officer (CEO) of the Immigrant Women’s Health Service (IWHS) and the person in day-to-day charge of the Non-English Speaking Housing Women’s Scheme Inc (NESH), misused public funds entrusted to those agencies for the financial benefit of herself and members of her family. Other matters investigated included whether Ms Sharobeem falsely claimed certain academic qualifications and then used them to obtain employment as a part-time commissioner and board member of the Community Relations Commission (CRC) and member of the Anti-Discrimination Board (ADB) NSW.

The Commission found that, between 2007 and early 2016, Ms Sharobeem improperly exercised her official functions at IWHS and NESH to misapply public funds to benefit herself and members of her family. Up to \$773,000 was misused. The Commission was not able to identify the precise amount of funds misused because, as noted in chapter 2 of this report, while over \$443,000 in IWHS funds were transferred from the IWHS bank account to Ms Sharobeem, the Commission could not preclude the possibility that some of that money was reimbursement for work-related expenses. Given the limited funding received by both organisations, the misuse of funds represented a substantial amount of public funds entrusted to those organisations for public purposes.

The Commission also found that Ms Sharobeem knowingly falsified information provided to funding bodies, improperly arranged for a family member to be employed at NESH and have personal use of a NESH vehicle, falsely represented herself as a qualified psychologist and

provided psychological treatment to IWHS clients and others, and used false academic qualifications to obtain paid employment with the CRC and the ADB.

Corrupt conduct findings

The Commission found that Ms Sharobeem engaged in serious corrupt conduct by:

1. between 2009 and 2015, improperly exercising her official functions to benefit herself by arranging to obtain up to \$443,000, through transfers to her bank account, from IWHS by way of reimbursement for the cost of goods and services she had purchased for personal use, knowing that she was not entitled to such reimbursements (chapter 2)
2. between February and June 2015, improperly exercising her official functions to benefit herself by arranging for the transfer of funds totalling \$13,500 from IWHS to Andrew’s Designer Jewellery, knowing that the payments related to the purchase of jewellery for personal use and that she was not entitled to use IWHS funds for that purpose (chapter 2)
3. between 2010 and 2014, improperly exercising her official functions to benefit herself by arranging for the transfer of funds totalling \$3,850 from IWHS to a wardrobe supplier, knowing that the payments related to the purchase of wardrobes for personal use and that she was not entitled to use IWHS funds for that purpose (chapter 2)
4. in about December 2013, improperly exercising her official functions by submitting an invoice for \$210 to IWHS, which she knew to be false, in order to obtain payment from IWHS of \$210 for pest control services at her home, knowing that she was not entitled to use IWHS funds for such a purpose (chapter 3)

5. in about June 2015, improperly exercising her official functions by submitting an invoice for \$3,878 to IWHS, which she knew to be false, in order to obtain payment of \$3,878 from IWHS for the purchase of a gate at her home, knowing that she was not entitled to use IWHS funds for such a purpose (chapter 3)
6. in March 2014, improperly exercising her official functions by submitting a receipt for \$489 to IWHS, which she knew to be false, in order to obtain payment of \$489 from IWHS to reimburse her for payment for a Classic Holiday Club VIP membership pass for herself, knowing that she was not entitled to use IWHS funds for such a purpose (chapter 3)
7. in June 2015, improperly exercising her official functions by submitting an invoice for \$6,900 to IWHS, which she knew to be false, in order to obtain reimbursement of her personal credit card expense of \$5,900, and to cover the use of the IWHS credit card to pay \$1,000, for the purchase of a massage chair for her personal use, knowing that she was not entitled to use IWHS funds for such a purpose (chapter 3)
8. between January 2009 and February 2016, improperly exercising her official functions to benefit herself or members of her family by using the IWHS credit card to pay \$35,211.39 for personal goods and services, knowing that she was not entitled to use IWHS funds for such a purpose (chapter 4)
9. between 2007 and 2016, improperly exercising her official functions to benefit herself or members of her family by causing payments totalling \$31,157.87 to be made to Sydney Water Corporation and the State Debt Recovery Office (SDRO) by direct transfer of IWHS funds for personal expenses, knowing that she was not entitled to use IWHS funds for such a purpose (chapter 4)
10. between May 2014 and March 2015, improperly exercising her official functions to obtain \$99,685 through submitting invoices to IWHS, falsely claiming she had worked as a facilitator and causing payment of those invoices to be made to her by IWHS (chapter 5)
11. between May 2014 and March 2015, improperly exercising her official functions to obtain \$34,050 for her son, Richard Sharobeem, through submitting invoices to IWHS, falsely claiming he had worked as a facilitator and causing payment of those invoices to be made to him by IWHS (chapter 5)
12. between May 2014 and February 2015, improperly exercising her official functions to obtain \$7,750 for her son, Charlie Sharobeem, through submitting invoices to IWHS, falsely claiming he had worked as a facilitator and causing payment of those invoices to be made to him by IWHS (chapter 5)
13. between 2011 and 2015, improperly exercising her official functions to benefit herself by arranging for IWHS to pay \$59,558.70 for work on her property at 92 Smart Street, Fairfield, knowing that, as owner of that property, those costs were her responsibility (chapter 6)
14. in 2014, improperly exercising her official functions to benefit herself by falsely stating in an application to the NSW Community Building Partnership that IWHS was the owner of her property at 92 Smart Street, Fairfield, with the intention of obtaining public funds to pay for work on her property (chapter 6)
15. in 2015, improperly exercising her official functions by knowingly falsifying statistics relating to the numbers of attendees for IWHS programs reported in the IWHS 2014–15 annual report, which she submitted to the South Western Sydney Local Health District (SWSLHD), knowing the false statistics would be relied on by NSW Health and the SWSLHD in determining IWHS's funding (chapter 7)
16. between 2013 and 2015, improperly exercising her official functions by providing false statistics to the Smith Family in order to falsely represent to the Smith Family that IWHS had conducted the Multicultural Parenting Project and the Steps to Employment Project programs in accordance with its contractual obligations to the Smith Family (chapter 7)
17. between January and April 2014, improperly exercising her official functions to transfer a total of \$13,500 from the IWHS bank account into her bank account and then arranging for NESH to reimburse IWHS for that amount (chapter 8)
18. on 16 March 2015, improperly exercising her official functions to transfer \$3,000 from the NESH bank account to her own bank account in order to reimburse herself for the \$3,000 payment she made to Westmead Private Hospital for her son's medical procedure (chapter 8)

19. in late December 2014, improperly exercising her official functions to apply \$18,000 in IWHS funds towards the purchase of a Mercedes car for her husband, Haiman Hammo, and then arranging for NESH to reimburse IWHS for that amount (chapter 8)
20. in early 2015, improperly exercising her official functions to arrange for her son, Richard Sharobeem, to be hired as a paid employee of NESH (chapter 9)
21. for a period of about six months from late December 2014 or early January 2015, improperly exercising her official functions to facilitate the exclusive use, including personal use, of a NESH motor vehicle by her son, Richard Sharobeem (chapter 9)
22. between at least 2006 and 2016, improperly exercising her official functions by falsely representing herself to be a qualified psychologist with a PhD in psychology and providing psychological treatment to IWHS clients and patients referred to her (chapter 10)
23. in March 2011, knowingly submitting false academic qualifications to the CRC for the purpose of obtaining financial advantage by being appointed to the paid position of part-time commissioner of the CRC (chapter 11)
24. in about December 2012, knowingly submitting false academic qualifications to the ADB for the purpose of obtaining financial advantage by being appointed to the paid position of a board member of the ADB (chapter 11).

No findings of serious corrupt conduct were made against any other person.

Section 74A(2) statement

Statements are made in the report pursuant to s 74A(2) of the *Independent Commission Against Corruption Act 1988* (“the ICAC Act”) that the Commission is of the opinion that consideration should be given to obtaining the advice of the Director of Public Prosecutions with respect to the prosecution of Ms Sharobeem for the following offences:

- the common law offence of misconduct in public office (chapters 2, 3, 4, 5, 6 and 8)
- fraud contrary to s 192E of the *Crimes Act 1900* (“the Crimes Act”) (chapters 2, 4, 5 and 11)
- obtaining benefit by deception contrary to s 178BA of the *Crimes Act* (chapters 2 and 4)

- publishing a false statement contrary to s 192H of the *Crimes Act* (chapter 3)
- using a false document contrary to s 254 of the *Crimes Act* (chapter 3)
- giving false or misleading evidence to the Commission contrary to s 87 of the *ICAC Act* (chapters 2 and 10).

Corruption prevention

Chapter 12 of this report sets out the Commission’s review of the corruption risks identified during the course of its investigation. The Commission has made the following corruption prevention recommendations.

Recommendation 1

That the SWSLHD, in conjunction with relevant non-government organisations (NGOs), develops additional outcomes-based key performance indicators (KPIs) that reflect the critical objectives of the services that it funds. Where possible, measurement of these KPIs should not be based solely on information self-reported by NGOs.

Recommendation 2

That the SWSLHD adopts a coordinated and holistic framework for monitoring its funded NGOs that incorporates and links NGO governance capability, performance measures and financial reporting. This should entail less reliance on self-reported information.

Recommendation 3

That the SWSLHD considers allocating additional staff to manage the NGOs it funds. Considerations for setting adequate staffing levels could include the nature of the service, the vulnerability of the client groups, and the potential governance and financial risks that could arise.

Recommendation 4

That the SWSLHD requires funded NGOs to provide it with copies of audit management letters from external auditors.

Recommendation 5

That the SWSLHD conducts an initial, thorough review of its funded NGOs, focusing on financial competence and whether adequate governance arrangements are in place to ensure probity around funding arrangements.

Recommendation 6

That the SWSLHD develops risk metrics and conducts regular risk assessments of funded NGOs. The risk metrics should have regard to the risks that small NGOs can be prone to, including:

- limited staff numbers
- perverse incentives to falsify client data, either to enhance reputation or to lobby for increased funding
- volunteer boards with limited time and skills to properly oversee the financial and administrative practices of the NGO and that members of these boards may not be aware of their responsibilities as managers of the CEO and/or other senior staff
- poorly segregated financial practices and controls
- CEO/coordinators with limited skills in managing staff, and in overseeing financial practices and systems.

Recommendation 7

That the SWSLHD checks and, wherever possible, verifies the qualifications, and continued registration (where relevant), of NGO employees. This should adopt a risk-based approach by focusing on qualifications that are:

- mandatory to perform the service
- required for the provision of medical, psychological and allied health services or
- linked to the provision of any other services that could bring risks to the NGOs' clients, and to the NGOs themselves.

These checks could take the form of spot checks, risk-based checks or randomised checks on NGO staff members.

Recommendation 8

That SWSLHD considers requiring funded NGOs to maintain an internal reporting or whistleblowing program that aligns to better practice (such as AS 8004-2003), and/or guidance issued by the NSW Ombudsman. Among other things, this should facilitate reporting directly to the SWSLHD or a similar representative body.

Recommendation 9

That the NSW Department of Family and Community Services (FACS) considers requiring funded NGOs to provide it with copies of audit management letters from external auditors.

Recommendation 10

That FACS, in conjunction with relevant NGOs, develops additional outcomes-based KPIs that reflect the critical objectives of the services that it funds. Where possible, measurement of these KPIs should not be based solely on information self-reported by NGOs.

Recommendation 11

That FACS considers, as part of its ongoing review of its contract governance framework, implementing checks and (wherever possible) verifying qualifications, and continued registration (where necessary) of NGO employees.

Recommendation 12

That FACS considers requiring funded NGOs to maintain an internal reporting or whistleblowing program that aligns to better practice (such as AS 8004-2003) and/or guidance issued by the NSW Ombudsman. Among other things, this should facilitate reporting directly to FACS or a similar representative body.

These recommendations are made pursuant to s 13(3)(b) of the ICAC Act and, as required by s 111E of the ICAC Act, will be furnished to the SWSLHD, FACS and the ministers responsible for those agencies.

As required by s 111E(2) of the ICAC Act, the SWSLHD and FACS must inform the Commission, in writing, within three months (or such longer period as the Commission may agree to in writing) after receiving the recommendations, whether they propose to implement any plan of action in response to the recommendations and, if so, of the plan of action.

In the event that a plan of action is prepared, the agency is required to provide a written report to the Commission of its progress in implementing the plan 12 months after informing the Commission of the plan. If it has not been fully implemented by then, a further written report must be provided 12 months after the first report.

The Commission will publish the response to its recommendations, any plan of action and progress reports in its implementation on the Commission's website, www.icac.gov.au.

Recommendation this report be made public

Pursuant to s 78(2) of the ICAC Act, the Commission recommends that this report be made public forthwith. This recommendation allows either Presiding Officer of the Houses of Parliament to make the report public, whether or not Parliament is in session.

Chapter 1: Background and jurisdiction

This chapter sets out some background information on the investigation, including the jurisdiction of the NSW Independent Commission Against Corruption (“the Commission”), the relevant organisations and Eman Sharobeem.

How the investigation came about

On 14 December 2015, the South Western Sydney Local Health District (SWSLHD) made a report to the Commission regarding an allegation that Ms Sharobeem, the chief executive officer (CEO) of the Immigrant Women’s Health Service (IWHS), misappropriated more than \$100,000 in publicly provided funds from IWHS. This was relevant to the SWSLHD because it was the public authority that funded IWHS. The report arose as the result of the IWHS auditor reporting his concerns about Ms Sharobeem’s conduct to the SWSLHD.

This report was made pursuant to s 11 of the *Independent Commission Against Corruption Act 1988* (“the ICAC Act”), which imposes a duty on the principal officer of a public authority to report any possible corrupt conduct to the Commission.

Why the Commission investigated

One of the Commission’s principal functions, as specified in s 13(1)(a) of the ICAC Act, is to investigate any allegation or complaint that, or any circumstances which in the Commission’s opinion imply that:

- (i) *corrupt conduct, or*
- (ii) *conduct liable to allow, encourage or cause the occurrence of corrupt conduct, or*
- (iii) *conduct connected with corrupt conduct, may have occurred, may be occurring or may be about to occur.*

The role of the Commission is explained in more detail in Appendix 1, while Appendix 2 sets out the definition of corrupt conduct under the ICAC Act.

The conduct reported to the Commission, if established, would involve serious misuse of position and serious corrupt conduct for private benefit. After assessing the complaint and undertaking some initial enquiries, on 10 February 2016, the Commission commenced a preliminary investigation. A preliminary investigation can be conducted for the purpose of assisting the Commission to discover or identify conduct that might be made the subject of a more complete investigation, or to decide whether to make particular conduct the subject of a more complete investigation.

During the course of the preliminary investigation, other information came to light supportive of the allegation and which gave rise to further allegations involving Ms Sharobeem’s conduct at IWHS. There was also evidence that suggested that she had misrepresented her qualifications to government bodies and the community at large, and provided false statistics to funding bodies.

On 11 March 2016, the Commission determined to conduct a full investigation. Other information obtained during the course of that investigation raised concerns that Ms Sharobeem had misused her position with the Non-English Speaking Housing Women’s Scheme Inc (NESH) to improperly financially benefit herself and members of her family.

Ultimately, the matters investigated by the Commission were whether:

- Ms Sharobeem submitted false invoices and receipts to IWHS for reimbursement for goods and services for private purposes
- Ms Sharobeem used an IWHS credit card to pay for personal expenses

- Ms Sharobeem submitted and authorised payment by IWHS of false invoices for facilitation fees
- Ms Sharobeem improperly submitted and authorised payment of invoices by IWHS for the renovation of her property
- Ms Sharobeem falsified IWHS statistics provided to IWHS funding bodies
- Ms Sharobeem falsely claimed to be a psychologist and obtained and retained paid appointment as a part-time commissioner of the Community Relations Commission (CRC) and member of the Anti-Discrimination Board (ADB) NSW by using false academic qualifications
- Ms Sharobeem improperly authorised payments from NESH to be made to IWHS which were then transferred into her own bank account
- Ms Sharobeem caused NESH to contribute \$18,000 towards the purchase of a motor vehicle for her husband, Haiman Hammo
- Ms Sharobeem improperly arranged for her son, Richard Sharobeem, to be hired by NESH and improperly arranged for him to have a NESH vehicle for his private use
- Richard Sharobeem improperly used a NESH vehicle for his private use.

A question of jurisdiction

It was submitted on behalf of Ms Sharobeem, her husband Mr Hammo, and her sons Charlie Sharobeem and Richard Sharobeem (“the Sharobeems”) that the Commission did not have jurisdiction to investigate this matter, conduct a public inquiry or make any findings, whether adverse or otherwise, affecting the Sharobeems. That submission was put on a number of bases.

The first basis was that neither Ms Sharobeem or Richard Sharobeem were public officials for the purposes of the ICAC Act. It was submitted that, as employees of non-government organisations (NGOs), neither was capable of coming within the definition of “public official” in s 3 of the ICAC Act. The High Court decision in *NEAT Domestic Trading Pty Ltd v AWB* [2003] HCA 35 was cited in support of the proposition that, when considering its jurisdiction, the Commission should take into account the distinction between public and private spheres of service delivery and that IWHS and NESH were essentially private providers of services.

The definition of “public official” is set out in s 3 of the ICAC Act. The term is defined as an individual having public official functions or acting in a public official capacity.

Both IWHS and NESH were publicly funded through NSW Government agencies. IWHS entered into contractual arrangements with the SWSLHD to provide health improvement and prevention services for culturally and linguistically diverse women, including refugees living in south-western Sydney. Ms Sharobeem was identified as the service manager in those agreements. NESH entered into contractual agreements with the NSW Department of Family and Community Services (FACS) to provide housing services to disadvantaged sections of the community. The agreements provided that, as a service provider, NESH could be directed by FACS as to what services it should provide.

Both IWHS and NESH were obliged to act in accordance with their contractual agreements with government agencies to deliver important community services. In the case of IWHS, these were women’s health services. In the case of NESH, they were the provision of emergency accommodation. There was no provision in the relevant agreements entitling either to place its commercial interests, or the interests of any of its employees, ahead of its contractual obligations. The Commission accepts the submission of Counsel

Assisting the Commission that there was a clear nexus to the public/governmental sphere in the work Ms Sharobeem was in fact performing.

It is also relevant to take into account judicial consideration of the term “public officer” in relation to the common law offence of misconduct in public office. The accepted definition of that term is as given in *R v Whitaker* [1914] 3 KB 1283 per Lawrence J (at 1296). There it is stated that a public officer “is an officer who discharges any duty in the discharge of which the public are interested, particularly if he or she is paid out of funds provided by the public”.

The Commission is satisfied that, in her roles with the publicly funded IWHS and NESH, Ms Sharobeem was acting in a public official capacity by virtue of the functions and responsibilities she assumed in those roles with respect to the proper use of public funds for public purposes. Both organisations provided a public service and both received public funds to enable them to provide those services. She was CEO of IWHS and effectively CEO of NESH. Both were senior managerial roles in those organisations. In both cases, she was responsible for ensuring the effective delivery of public services and the proper expenditure of public monies and was paid with public funds to perform her duties.

The Commission is also satisfied that, while employed at NESH, Richard Sharobeem was an individual acting in a public official capacity. This is because, as a NESH project officer, he was responsible for delivering essential housing services to relevant sectors of the community for which purpose NESH was granted government funding. The salary he received was dependent on FACS funding.

It was also submitted on behalf of the Sharobeems that the allegations investigated by the Commission did not constitute corrupt conduct within the meaning of the ICAC Act. It was argued that, proceeding on the basis that Ms Sharobeem and Richard Sharobeem were not public officials, their alleged conduct could only be corrupt conduct if it came within s 8(1)(a), s 8(2) or s 8(2A) of the ICAC Act (these sections are set out in Appendix 2); that is, that their conduct adversely affected or could adversely affect, either directly or indirectly, the honest or impartial exercise of official functions by any public official or public authority (s 8(1)(a) and s 8(2)) or impaired or could impair public confidence in public administration (s 8(2A)).

With respect to s 8(1)(a) and s 8(2), it was argued that, given the decision of the majority in *ICAC v Cunneen* [2015] HCA 14, the conduct in question had to affect the probity of the exercise of official functions. If neither Ms Sharobeem or Richard Sharobeem were public officials then, absent evidence that their alleged conduct could adversely affect the probity of public officials, their conduct could not be said to “adversely affect” the honest

or impartial exercise of official functions. The Commission accepts that submission but notes that the Commission has found both Ms Sharobeem and Richard Sharobeem come within the definition of “public official” in the ICAC Act and therefore it is sufficient if their conduct could involve the dishonest or partial exercise of any of their official functions or a breach of public trust.

With respect to s 8(2A), it was submitted that, although that section broadened the definition of corrupt conduct, the conduct encompassed by that section remains narrow and its terms should be strictly construed. It was argued that the Commission’s jurisdiction was limited by the legislative requirement in s 12A of the ICAC Act that the Commission is to direct its attention to serious corrupt conduct and systemic corrupt conduct. It was also argued that the Commission’s jurisdiction was limited by the principle of legality. The principle of legality is a rule of statutory interpretation. Put briefly, it means that, if Parliament intends to interfere with fundamental rights or principles, or to depart from the general system of law, then it must express that intention by clear and unambiguous language.

Section 12A of the ICAC Act requires that, in exercising its functions, the Commission is:

as far as practicable, to direct its attention to serious corrupt conduct and systemic corrupt conduct and is to take into account the responsibility and role other public authorities and public officials have in the prevention of corrupt conduct.

It was argued on behalf of the Sharobeems that the combined effect of s 12A and the principle of legality meant that the Commission must not use its powers to investigate all alleged crime and its jurisdiction was not enlivened merely because the alleged criminal activity had a public nexus. There must be something more to justify the exercise of the Commission’s coercive powers, in place of the powers of ordinary law enforcement authorities. In those circumstances, it was submitted, s 8(2A) of the ICAC Act did not provide a clear legislative intention to permit or entitle the Commission to investigate or make adverse findings on any conduct that had some, no matter how remote, nexus to the public purse.

The Commission rejects the submission that s 8(2A) does not confer jurisdiction in the present matter.

Section 8(2A) gives the Commission jurisdiction over the conduct of those who are not public officials where their conduct impairs or could impair public confidence in public administration and which could involve any of the five matters identified in that section. For present purposes, the relevant matters are dishonestly obtaining the payment of public funds for private advantage and fraudulently obtaining or retaining employment or appointment as a public official.

The Commission accepts that the allegations under investigation must be sufficiently serious, or be likely, to impair public confidence in public administration. However, the allegations that were the subject of this investigation were sufficiently serious to undermine public confidence in the public administration of health and housing services and the public funding of those services. If established, the allegations concerning Ms Sharobeem involved intentional, planned, ongoing and systematic conduct, the misuse of relatively substantial amounts of public money for private advantage, and the use of false academic qualifications to obtain and retain paid public employment. If established, the alleged conduct of Richard Sharobeem constituted a substantial breach of the standard of conduct to which he was subject and involved the misuse of publicly funded resources intended for the provision of important public services. The conduct of each of Ms Sharobeem and Richard Sharobeem could, if established to the criminal standard, involve criminal offences.

For the reasons given above, the Commission is satisfied that both Ms Sharobeem and Richard Sharobeem were public officials for the purposes of the ICAC Act. Their alleged conduct, as public officials, could therefore come within each of s 8(1)(a), s 8(1)(b), s 8(1)(c) and 8(2A) of the ICAC Act.

Neither Mr Hammo nor Charlie Sharobeem were public officials, nor were they the subject of allegations of corrupt conduct. Their respective conduct was, however, relevant to obtain evidence of their role and knowledge of the circumstances relating to some of the allegations and in determining whether Ms Sharobeem engaged in corrupt conduct in relation to those allegations.

Section 13(3)(a) of the ICAC Act provides that the principal functions of the Commission include the power to make findings and form opinions, on the basis of the results of its investigations, in respect of any conduct, circumstances or events with which its investigations are concerned, whether or not the findings or opinions relate to corrupt conduct. The Commission is satisfied that its jurisdiction extended to taking evidence from Mr Hammo and Charlie Sharobeem and, where relevant, making factual findings concerning their conduct, in order to effectively investigate allegations involving Ms Sharobeem.

Conduct of the investigation

The Commission's investigation involved obtaining information and documents from a number of government and other organisations including the SWSLHD, FACS, the NSW Department of Justice, Multicultural NSW, the Smith Family, financial institutions, retailers and other service providers by issuing notices under s 21 and s 22 of the ICAC Act.

As part of its investigation the Commission interviewed and obtained statements from a number of witnesses, including former staff members of IWHS and NESH, former board members of IWHS and NESH, and various vendors who provided goods and services to Ms Sharobeem or members of her family. The Commission also executed a search warrant on 17 August 2016 at Ms Sharobeem's home. A number of compulsory examinations were conducted with relevant witnesses in November and December 2016.

The public inquiry

The Commission reviewed the information obtained during the course of its investigation and, after taking into account that material and each of the matters set out in s 31(2) of the ICAC Act, determined that it was in the public interest to hold a public inquiry. In making that determination, among the other matters specified in s 31(2) of the ICAC Act, the Commission had particular regard to the seriousness of the alleged conduct, which, if established, would involve serious misuse of position and breach of public trust by a public official with a high profile in the media and general community for personal benefit, and systemic conduct occurring over a long period of time.

The Commission considered that, while there was a risk of prejudice to the reputations of those involved in the investigation, the public interest in exposing the matters under investigation outweighed the public interest in preserving the privacy of the persons concerned. It was also considered desirable to expose the conduct for the purpose of educating and deterring others who might be minded to engage in similar conduct. The Commission also recognised the strong public interest in identifying any corruption risks and system weaknesses of NGOs in NSW and like bodies in order to encourage reform.

The Hon Reginald Blanch AM QC, Acting Commissioner, presided at the public inquiry. Ramesh Rajalingam acted as Counsel Assisting the Commission. The public inquiry commenced on 1 May 2017 and continued over a total of 17 days from 1 to 15 May, 13 to 16 June, and 12 to 13 July 2017. A total of 21 witnesses gave evidence.

At the conclusion of the public inquiry, Counsel Assisting prepared detailed written submissions setting out the evidence and the findings and recommendations he contended the Commission could make based on the evidence. These submissions were provided to all relevant parties on 11 September 2017. The last of the submissions in response was received on 10 November 2017. Counsel Assisting provided written submissions in reply on 23 January 2018. All submissions have been taken into account in preparing this report.

As noted above, the submissions made on behalf of the Sharobeems concerned whether the Commission had jurisdiction to investigate, conduct a public inquiry or make findings. Those submissions expressly stated that no submissions were made on which facts should be found by the Commission. Had there been evidence to support factual findings on the issues in contention that were favourable to the Sharobeems, the Commission would expect such submissions to have been made. The whole of the evidence has been considered and analysed for the purpose of determining whether the Commission is satisfied to the applicable standard (the Briginshaw test) in the task of making findings, including factual findings.

Ms Sharobeem, IWHS and NESH

Ms Sharobeem, who is originally from Egypt, came to Australia with her then husband in April 1987. They had two sons, Richard Sharobeem and Charlie Sharobeem. She told the Commission that she started working shortly after arriving in Australia and had a number of jobs, including a position as a liaison officer at Doonside High School and as a welfare worker at Granville Multicultural Centre. She told the Commission that she returned to Egypt briefly in 1995 and again in 1997. She moved to Cairo with her children where they lived with her parents for about six years, during which time she held various jobs. She then returned to Australia, and in 2014, married Mr Hammo.

Both IWHS and NESH were publicly funded incorporated associations. They are no longer in operation.

IWHS was established in 1987 as a not-for-profit women's health service. Its services were provided to immigrant and refugee women from culturally and linguistically diverse backgrounds. It was primarily funded by NSW Health via the SWSLHD, but also obtained some additional funding from the Smith Family and Fairfield City Council. It had its head office in Fairfield and another

office in Cabramatta. The combined staff at both IWHS offices varied over the years but was the approximate equivalent of 4.5 full-time positions. It was governed by a board. Casual employees worked as facilitators for IWHS programs. It also had volunteers who provided assistance in various ways.

In January 2004, Ms Sharobeem commenced employment with IWHS as a project coordinator. She then took up the position of service manager at IWHS's Fairfield office. She subsequently took on the title of CEO of IWHS without changes to her role or responsibilities. Her responsibilities included the day-to-day operations and financial management of IWHS.

NESH was another not-for-profit organisation. It was funded by FACS to provide emergency accommodation housing services to women and children in need, including victims of domestic violence. It was overseen by a board. Ms Sharobeem told the Commission that she became a NESH board member in 2006. She was chairperson of NESH from about 2010 until she resigned from that position in December 2014. The Commission found that she continued to have day-to-day charge of that organisation after her resignation as chairperson.

Ms Sharobeem's credibility as a witness

As demonstrated in the following chapters of this report, Ms Sharobeem's evidence was often inconsistent, ambiguous and contradictory. On issues of substance, her evidence often deviated from objectively established facts. Such matters call into question her credibility. The Commission therefore came to the view that it could not accept her evidence on any contentious issue unless it involved an admission against interest or was corroborated by other reliable evidence.

Chapter 2: Reimbursements and other transfers

Banking and records of the Immigrant Women's Health Service (IWHS) obtained by the Commission indicated that, between August 2009 and June 2015, Eman Sharobeem received over \$443,000 from IWHS by way of bank transfers. The transfers were not related to the payment of her salary. This chapter primarily examines whether Ms Sharobeem obtained any of that money by submitting invoices and receipts for personal expenses to IWHS and then claiming reimbursement of those expenses. It also examines evidence relating to transfers made to a jewellery retailer and to Ms Sharobeem for the purchase of wardrobes.

The IWHS reimbursement process

Ms Sharobeem was not entitled to be reimbursed by IWHS for the cost of personal purchases or to use IWHS funds for personal use.

During the period under investigation, Ms Sharobeem was either the IWHS service manager or CEO. In her evidence to the Commission, she accepted that she was responsible for the operation of that organisation including overseeing its day-to-day financial and administrative management and reimbursing staff for work-related expenses. For part of the period, she delegated the latter task to the IWHS bookkeeper but retained responsibility for approving reimbursements.

Xiao Chen, Chanthaneth Chanthalangsy and Joanne Pappas were IWHS bookkeepers at various times during the period under investigation. All recalled that Ms Sharobeem was reimbursed from IWHS funds based on receipts or invoices she submitted to IWHS. The receipts or invoices were left in bundles on their desk or in a tray, usually with a note from Ms Sharobeem instructing them to be processed for reimbursement. Sometimes they received verbal instructions from Ms Sharobeem. It does not appear that they asked many questions but rather processed the payments as requested.

Ms Chanthalangsy was IWHS's bookkeeper between 2013 and 2015. She told the Commission that only Ms Sharobeem had the authority to approve reimbursements. That is consistent with Ms Sharobeem being the service manager or CEO. She said that Ms Sharobeem divided the receipts into separate bundles and identified the particular grant or program to which the relevant expenses were to be allocated. On the occasions she questioned Ms Sharobeem about any of the payments, Ms Sharobeem got angry with her and told her, "Just do it".

Ms Sharobeem was actively involved in the reimbursement process. She left handwritten notes to IWHS's bookkeepers relating to her reimbursements. One of those notes was made in February 2012 and complained that a replacement bookkeeper had made mistakes in calculating the amount of her reimbursement. That indicates that she reviewed the reimbursement transfers to her bank account to ensure she was fully paid for the claims she submitted. Another handwritten note related to an April 2012 receipt for \$8,999, paid on her credit card, for which she sought reimbursement of on the basis that the money had been used to pay a handyman for IWHS-related work. She was also taken to receipts submitted as part of her reimbursement claims and which contained her handwriting.

Ms Sharobeem initially denied using the IWHS online banking system to transfer funds for reimbursements from the IWHS bank account to her bank account. She suggested that Ms Chanthalangsy was solely responsible for processing the reimbursements. Ms Chanthalangsy, however, was often not working on the days or at the times when transfers were made to Ms Sharobeem's accounts and therefore could not have been responsible for those transfers. Ms Sharobeem also claimed that Nevine Ghaly, NESH's project coordinator who worked at IWHS's Fairfield office, may have removed receipts from Ms Sharobeem's desk and then made or arranged for others to make the transfers in order to "frame" her.

The Commission rejects that claim. Such a scheme would have involved Ms Ghaly taking receipts from Ms Sharobeem's desk without Ms Sharobeem's knowledge, knowing they related to personal purchases, processing or arranging for others to process them so that Ms Sharobeem would receive IWHS funds by way of reimbursement for personal expenses, and then waiting in the hope that someone would find out that Ms Sharobeem was being reimbursed for personal expenses and take action against her. Such a scheme would also rely on Ms Sharobeem not being aware that she was receiving money from IWHS to which she was not entitled and not taking any action in relation to the payments. Ms Ghaly denied involvement in such a scheme. The Commission accepts her evidence.

Ms Chanthalangsy told the Commission that Ms Sharobeem knew how to use the IWHS online banking website to conduct transfers to other bank accounts and that Ms Sharobeem had conducted such transfers from time to time. Ms Sharobeem also knew the password required to operate the online banking system. Ms Chanthalangsy's evidence was supported by an email Ms Sharobeem sent to Ms Chanthalangsy on 23 March 2015.

In the email, Ms Sharobeem advised that she had made a banking transfer to pay for some printing orders required by NESH. She sent another email to Ms Chanthalangsy on 28 June 2015, in which she noted she had made a transfer and attached the online transfer record issued by IWHS's bank. Later at the public inquiry, when confronted with documentary evidence of the notes she had left for various bookkeepers about her reimbursements, Ms Sharobeem ultimately conceded that she had conducted some transfers. Her initial denial reflects poorly on her credibility as a witness.

The Commission is satisfied that Ms Sharobeem was able to use the IWHS online banking system to transfer funds from the IWHS bank account to her own bank account and that she used that knowledge to effect transfers when she was claiming reimbursement from IWHS. From the evidence, it is clear that other reimbursements were processed by Ms Chanthalangsy and other bookkeepers. The Commission, however, is satisfied that those transactions were undertaken on the basis of instructions they received from Ms Sharobeem.

Cut receipts

A significant number of the receipts submitted for reimbursement had a section cut off to remove the identity of the vendor. The removal of those details made it more difficult for IWHS staff, or anyone else, to identify whether the purchase was work-related or personal.

Ms Sharobeem gave contradictory evidence about cutting receipts. She initially denied any involvement but subsequently admitted cutting receipts. She said she cut receipts to reduce the amount of paperwork relating to each transaction. She denied she cut the receipts to prevent other IWHS staff from seeing the purchase details.

The day after giving that evidence, she changed her evidence and said she did not reduce the size of the receipts. When questioned about a cut credit card receipt for the purchase of a screen from Harvey Norman she told the Commission "I used to take half of the information out there, yes, and some of the times it's my fault that I did that to get reimbursed of things belong to me". She also gave the following evidence:

[Counsel Assisting]: So you accept that some of the times you would cut receipts?

[Ms Sharobeem]: Before 2014, yes, when, before the beginning of 2014 I think or end of 2013 when the auditor told me to stop.

Q: And you cut those receipts because you didn't want people to know what you were purchasing, correct?

A: Not all the time, but—

Q: But some of the times, yes?

A: Yes, some of the times, yes.

Q: You didn't want the bookkeeper to know?

A: Some of the times, yes.

She made a further admission about cutting receipts when questioned about three cut Harvey Norman credit card receipts for purchases made on 8 February 2014. She said that she had cut receipts until, in about September 2014, when she was told by Nathan Boyd, the IWHS auditor, to attach whole receipts or invoices to reimbursement claims. Records obtained by the Commission, however, showed that cut receipts continued to be submitted in 2014 and 2015, sometime after Mr Boyd had told her only complete receipts should be submitted. When asked whether she had continued to submit cut receipts after her discussion with the auditor, Ms Sharobeem told the Commission "not to my recollection".

The Commission is satisfied that Ms Sharobeem was responsible for cutting receipts to remove vendor identity before submitting them for reimbursement. The Commission rejects her evidence that she did so in order to reduce paperwork. The clear purpose in cutting the receipts was to conceal such details of the

relevant transactions as might enable other IWHS staff to question whether the transactions were personal rather than work-related. As indicated by her above evidence, Ms Sharobeem admitted as much.

On 22 September 2014, Mr Boyd issued an audit management letter addressed to the IWHS board. In the letter, he identified issues and discrepancies that he had discovered during the course of his 2013–14 audit, including that Ms Sharobeem had submitted incomplete documentation in support of her claims for reimbursement. He gave the letter to Ms Sharobeem and asked her to give it to the board and discuss it with the board. He told the Commission that he did not find out until late 2015 that the board never received the letter. Audrey Lai, IWHS board chairperson at the time, also told the Commission that Mr Boyd's letter was not brought to the board's attention until 2015. The Commission accepts their evidence and is satisfied that Ms Sharobeem deliberately withheld the letter from the IWHS board so that the board would not be alerted to the extent of her claims for reimbursement or that her claims were supported by incomplete documentation.

The transfers

During the period between August 2009 and June 2015, there were almost 160 transfers from the IWHS bank account to accounts operated by Ms Sharobeem. During the public inquiry, it was not practicable to take her to every transfer. She was therefore questioned only on selected transfers (although the relevant documentation relating to all the transfers was provided to her).

That Ms Sharobeem was directly involved in the transfer of funds from IWHS to herself was demonstrated by a number of online banking transfer receipts initialled by her. They included the following transfer receipts:

- 28 August 2009 for \$2,581.56
- 4 September 2009 for \$2,000
- 11 September 2009 for \$3,522.30
- 9 October 2009 for \$3,950.67
- 6 November 2009 for \$3,812.56
- 15 January 2010 for \$3,041.06
- 29 January 2010 for \$1,026.00
- 9 July 2010 for \$3,307.20
- 3 December 2010 for \$1,074.61
- 17 December 2010 for \$3,999
- 14 January 2011 for \$2,999
- 3 February 2012 for \$1,868.56

- 4 May 2012 for \$2,000
- 22 June 2012 for \$998.

In addition, on the 3 February 2012 transfer receipt, Ms Sharobeem had written advising that the incorrect amount had been transferred and an additional sum of \$2,688.32 should be transferred “today”.

Many of the receipts submitted in support of the transfers for reimbursement of expenses were cut to remove vendor details.

Ms Sharobeem accepted that one of the transfers included a \$1,700 payment for the purchase of a sofa delivered to her son, Charlie Sharobeem. She agreed it was not a work-related expense.

A cut receipt, dated 7 August 2009 for \$1,600, was submitted in support of a transfer made on 11 September 2009. By reference to the merchant identity number on the receipt, the Commission was able to establish that it was issued by Myer and related to the purchase of a television. Ms Sharobeem told the Commission that it was purchased for a parenting program conducted by IWHS. Another Myer receipt, for which Ms Sharobeem was reimbursed \$1,988, related to the purchase of a 50-inch plasma television in November 2009. She said that television went to either the Fairfield or Cabramatta IWHS office. That receipt had not been cut, making it more likely to have been a legitimate work-related expense. Ms Sharobeem justified other receipts on the basis that they represented purchases for IWHS or for programs conducted by IWHS. There was other evidence that not all receipts could be explained on that basis.

The Commission identified the cut receipt used to support the 17 December 2010 transfer of \$3,999 was for the purchase of a “Neptune” sofa from Harvey Norman. The original invoice, obtained by the Commission, showed the delivery address as Ms Sharobeem's home. There was another cut receipt for \$2,999, also found to have been issued by Harvey Norman, for the purchase of a “Charleston” sofa.

Ms Sharobeem told the Commission that both sofas were purchased for IWHS. The Neptune sofa was for IWHS's Fairfield office and the Charleston sofa was for IWHS's Cabramatta office. She accepted that both sofas were delivered to her home but said that the Charleston sofa was subsequently taken to IWHS's Cabramatta office. Sok Luong Chan, the coordinator at IWHS's Cabramatta office, told the Commission that no new sofa had ever been delivered to that office.

The Charleston sofa was observed by Commission officers at Ms Sharobeem's home on 17 August 2016 during their execution of a search warrant. She told the Commission that she had taken it after it was no longer

required by IWHS. Photographs taken of the sofa at the time the search warrant was executed showed it to be in new condition. She told the Commission it had been re-waxed. She later changed her evidence and told the Commission that the Charleston sofa was used in its new condition at her home. The Commission is satisfied that both sofas were delivered to Ms Sharobeem's home and were for personal use.

On 17 February 2012, \$792.26 was transferred from the IWHS bank account to Ms Sharobeem. That transfer related to a compulsory third-party personal injury insurance receipt issued to Ms Sharobeem. The receipt contained a note in Ms Sharobeem's handwriting requesting reimbursement. She agreed the insurance was a personal expense but, despite her handwritten note, claimed that the reimbursement was a mistake. It was clear from the receipt that it related to Ms Sharobeem's insurance and had nothing to do with IWHS. The Commission does not accept that Ms Sharobeem mistook it as an expense for which IWHS was liable or otherwise submitted it by mistake.

On 4 May 2012, three transfers totalling \$8,990 were made to Ms Sharobeem. They were specifically authorised by a note in her handwriting instructing the bookkeeper to reimburse her. The note claimed that she had used her credit card to pay a handyman for work related to an IWHS project. Attached to the note was a cut credit card receipt for \$8,990. Investigation by the Commission established that the receipt had been issued to purchase a Classic Holiday Club membership. The Classic Holiday Club operated a points-based timeshare scheme. As part of the membership, points were allocated that could be used to pay for accommodation or cruises.

Ms Sharobeem claimed the membership was intended to purchase cheap holidays for women and children attending IWHS. She said she offered holidays to a couple of women and one actually went on a trip. Later, she said that the trip had not taken place because of circumstances that had arisen that "didn't allow that to happen". She said she herself used the membership points to take a holiday with her husband to Surfers Paradise. She claimed that her purpose in taking the holiday was to "experience" what happened. She initially claimed that she was entitled to use the points because she was an IWHS client "in some other events". When it was put to her she was never an IWHS client, she said her evidence on that point had been "wrong" and sought to withdraw it.

Classic Holiday Club call logs showed that Ms Sharobeem had used membership points for herself and family members on other occasions, including February 2013, December 2013 and March 2014. She agreed that she had received 40,000 membership points and had listed

her husband as having authority on the club membership account. She had completed the application for membership in her name rather than that of IWHS. Given that the membership was taken out in her name and only used for her benefit and the benefit of her family members, the Commission is satisfied that membership was a personal expense and Ms Sharobeem acted dishonestly in seeking reimbursement of that expense from IWHS.

On 2 December 2012, \$1,199 was transferred from the IWHS bank account to Ms Sharobeem. That related to the purchase of a dishwasher installed at Ms Sharobeem's home and for which she paid using her credit card. She agreed the dishwasher was for personal use and that she had been reimbursed the cost by IWHS but could offer no explanation as to how she came to be reimbursed.

On 10 June 2014, two transfers were made from the IWHS bank account to Ms Sharobeem's bank account. One was for \$5,000 and the other was for \$1,010.55. IWHS records relating to those transactions included a handwritten note with the amounts \$1,514.72, \$1,635.52, \$1,405.24 and \$1,455.07. The total of those amounts equated to the total amount transferred to Ms Sharobeem on 10 June 2014. Next to each of the four amounts was a handwritten four-digit code. Ms Sharobeem agreed that all the handwriting on the note was hers. She told the Commission that the four-digit codes identified to which IWHS expense item the amount should be allocated. That indicated Ms Sharobeem knew enough about the IWHS accounting system to be able to allocate receipts to specific IWHS accounting codes.

Ms Sharobeem was then taken to various receipts submitted in support of the 10 June 2014 transfers. The receipts were in four bundles, the total amount in each bundle equating to the figures in the handwritten note. Some of the receipts had been cut to remove vendor details. Handwritten on one receipt was the amount \$1,635.52, being the total amount of the 11 receipts in that bundle. Ms Sharobeem agreed the \$1,635.52 figure was in her handwriting.

One of the cut receipts in the \$1,635.52 bundle was dated 30 April 2014 for \$500. By reference to the merchant identity number on the receipt, the Commission ascertained that it related to a purchase from Andrew's Designer Jewellery (ADJ). Evidence concerning other receipts issued by that business is set out below.

On 23 June 2014, two transfers were made from the IWHS bank account to Ms Sharobeem's bank account, each for \$5,000. A further transfer was made on 25 June for \$790.33, making a total of \$10,790.33 transferred over two days. Once again, various receipts, including cut receipts, had been submitted in support of the transfers. Using the merchant identity number, the Commission

identified two of the cut receipts came from Auburn Megamall. They were both dated 2 May 2014, and were for \$2,811 and \$998. The vendor's records, obtained by the Commission, showed that the \$2,811 payment related to the purchase of dining chairs. Commission officers located the dining chairs at Ms Sharobeem's home when executing the search warrant. Ms Sharobeem did not deny both receipts related to personal purchases but claimed they must have been taken from her desk and processed for reimbursement by someone else. It is likely, however, that the transfers were effected by Ms Sharobeem. That is because Ms Chanthalangsy, the IWHS bookkeeper, was not working on either of the days the transfers were made. In any event, for the reasons given above, even if the transfers were effected by another member of the IWHS staff, the Commission is satisfied that would only have been done on Ms Sharobeem's instructions.

Ms Sharobeem was also referred to an instance where she claimed and received reimbursement for a cut refund receipt dated 21 January 2012 for \$127.50. In other words, she not only received a refund from the retailer but also successfully received a further payment of \$127.50 from IWHS. The Commission's enquiries identified the refund related to the purchase of a dress from Myer.

During the public inquiry, Ms Sharobeem was questioned about receipts from specific retailers that had been used in support of reimbursement payments made to her by IWHS. In some cases, cut receipts had been submitted but the Commission was able to obtain a copy of the full receipt from the vendor. Transactions involving a selection of vendors are examined below.

Eternity Jewellers

Ms Sharobeem told the Commission that she purchased personal jewellery from Eternity Jewellers on layby.

In evidence before the Commission, were Eternity Jewellers invoices dated:

- 11 March 2014 for a gold diamond ring and a gold gentleman's ring costing \$3,750
- 5 May 2014 for a diamond ring costing \$8,000
- 12 June 2014 for a diamond necklace and studs costing \$20,000.

Receipts from Eternity Jewellers had been submitted in support of transfers made from the IWHS bank account to Ms Sharobeem. These were dated:

- 11 March 2014 for \$750
- 24 March 2014 for \$750
- 1 May 2014 for \$750
- 20 May 2014 for \$900

- 30 May 2014 for \$750
- 12 June 2014; seven receipts, each for \$450.

That the receipts were issued on various dates is consistent with payments being made by layby. Ms Sharobeem denied submitting the receipts and claimed that the reimbursements were made by mistake. She said that, when she found out she had been wrongly reimbursed for those expenses, she repaid the money to IWHS. That was only after Mr Boyd had raised the issue of her reimbursement claims.

Andrew's Designer Jewellery

A number of cut credit card receipts from ADJ were submitted in support of transfers from the IWHS bank account to Ms Sharobeem. The receipts were for the period from 30 October 2014 to 16 January 2015. For example, two purchases were made on 18 December 2014; one for \$400 and the other for \$450. Multiple purchases were also made on 30 October 2014.

Ms Sharobeem admitted some of the cut receipts, including those for 14, 16 and 24 January 2015 for \$450, \$670 and \$500, 27 November 2014 for \$400 and 4 December 2014 for \$420, related to personal purchases. She denied that she submitted them in support of a claim for reimbursement or made the relevant transfers from IWHS to herself.

Ms Sharobeem also admitted that she either made, or directed others to make, transfers from the IWHS bank account to the account operated by Andrew Toma, the owner of ADJ. The transfers totalled over \$13,500 and were made between February and June 2015. She said that the transfers were payment for gifts from IWHS to politicians and officials or for items needed for IWHS. She told the Commission that in any given year she spent between \$5,000 and \$6,000 on gifts for politicians, but usually no more than \$500 per gift. However, she was shown text messages she sent to Mr Toma, which clearly identified at least some of the transfers to him as being payment for the purchase of personal items, including part-payment for her son Richard Sharobeem's engagement ring. She said some of the transfers may have related to purchasing stones for an IWHS jewellery-making group and jewellery was also purchased for IWHS board members at the end of the year. Mr Toma, however, told the Commission that he sold high-end jewellery items, such as gold, silver, platinum and precious stones; that is not the type of inexpensive jewellery that would have been used in jewellery-making classes.

The Commission rejects Ms Sharobeem's claim that the transfers made to Mr Toma were for jewellery given as gifts to politicians, officials, board members or a jewellery-making group at IWHS. There was no

independent evidence that such gifts were made by IWHS. It is inherently unlikely that a publicly funded organisation such as IWHS, with a limited budget with which to provide women's health services, would use public monies to purchase jewellery as gifts. There was no other evidence that jewellery was given as gifts. There was other evidence, set out in chapter 7 of this report, that the jewellery-making classes were separately funded by TAFE NSW and HomeCare and therefore there was no need for IWHS to expend any of its funds. In any event, the type of jewellery supplied by Mr Toma was not suitable for a jewellery-making course.

Lily Room Cosmetics

A number of cut receipts, the originals of which were issued by Lily Room Cosmetics at Chatswood, were submitted between August 2012 and May 2015 in support of claims for reimbursements totalling \$11,025.79. Ms Sharobeem admitted the receipts were all for personal purchases. She said the bookkeeper should have brought the cut receipts to her attention before processing any reimbursement claim. She claimed that she had been reimbursed by mistake.

Harvey Norman

Evidence before the Commission included receipts issued by Harvey Norman for which money had been transferred from the IWHS bank account into Ms Sharobeem's bank account.

The receipts included a credit card receipt dated 29 December 2012 for \$199 for the purchase of a butterfly screen. Ms Sharobeem told the Commission the screen was used to protect a computer at IWHS. The fact that the receipt had been cut to remove the vendor details and that the purchase occurred on a Saturday during the Christmas/New Year holidays makes it unlikely that the purchase was work-related.

Ms Sharobeem accepted that a cut credit card receipt dated 24 June 2013 for \$1,200 for the purchase of a dresser related to a personal purchase and was not work-related.

Reimbursement for a cut credit card receipt dated 13 April 2014 for \$1,259 was recorded in the IWHS transfer receipt as "office furniture outreach clinic".

There were three cut credit card receipts from Harvey Norman Bedding Moore Park for the purchase of unidentified items on 8 February 2014. The receipts were submitted in support of the same reimbursement claim. The total transfers made to Ms Sharobeem's bank account for those receipts was in excess of \$16,000. Harvey Norman Bedding sells beds and manchester,

neither items of which were required by IWHS. The Commission is satisfied the purchases were not related to IWHS but were personal.

Bing Lee

Receipts issued by Bing Lee, between September 2011 and January 2015 totalling \$7,785, were used to justify the transfer of money from the IWHS bank account into Ms Sharobeem's bank account.

They included an uncut credit card receipt dated 3 August 2013 for \$335. It related to the purchase of an urn and an iron. A cut credit card receipt dated 10 May 2014 for \$799 related to the purchase of a microwave oven. Both receipts identified the customer as IWHS. Ms Sharobeem said that the items were for IWHS use. There is insufficient evidence to conclude otherwise.

There were uncut credit card receipts dated 8 June 2014 for two declined transactions on the IWHS credit card and one authorised transaction on Ms Sharobeem's personal credit card. The Commission identified the transaction as a purchase of a TV and a DVD player for \$1,287. All three receipts were submitted for reimbursement. Ms Sharobeem blamed the IWHS bookkeeper for reimbursing her on the unauthorised transactions. Ms Sharobeem did not dispute that she had previously told Mr Boyd that the reimbursement was for the purchase of a camera for IWHS's Fairfield office but said she had been mistaken.

A refrigerator was purchased for which there was a credit card receipt dated 8 June 2014 for \$4,000. Bing Lee recorded the customer as Ms Sharobeem and her home address. In her evidence to the Commission, Ms Sharobeem accepted that the refrigerator was for personal use. In September 2015, she had told Mr Boyd that the purchase was work-related and was for a "multi-room screening system".

Ms Sharobeem also accepted that an uncut receipt dated 8 June 2014 for \$569, which the Commission ascertained was for the purchase of a clothes dryer, was a personal purchase.

Bonnyrigg Garden Centre

Receipts issued by Bonnyrigg Garden Centre between April 2013 and March 2015, totalling \$5,428.30, had been used to justify the transfer of money from the IWHS bank account into Ms Sharobeem's bank account.

When responding to Mr Boyd's concerns in September 2015, Ms Sharobeem had claimed all the Bonnyrigg Garden Centre payments related to an IWHS gardening project. At the public inquiry, she told the Commission that the majority of the expenses were personal and the

receipts for the personal expenses must have been taken from her desk and reimbursed to her by either the IWHS bookkeeper or Ms Ghaly.

She was questioned about some of the transactions, including an invoice and credit card receipt dated 28 June 2014 for \$191.30. She claimed that the purchase related to an IWHS gardening project. She acknowledged, however, that a credit card receipt dated 23 December 2014 for \$1,779.15 related to a personal item, although she could not identify the item. The Commission's enquiries with Bonnyrigg Garden Centre ascertained that it was a large trough. Ms Sharobeem denied submitting the receipt and said that she had been reimbursed by error. She said she subsequently repaid the amount to IWHS.

An invoice dated 14 March 2015 for \$1,904.95 was made out to "Sam" and addressed to Ms Sharobeem's home. It was for the purchase of a fountain. She told the Commission that she sometimes used the name "Sam" as an abbreviation of her name. She did not dispute that the purchase was personal.

An invoice and a cut credit card receipt, both dated 5 April 2014, for \$1,029.35 related to the purchase of a number of items including pots, potting mix and plants. The invoice was addressed to "Sam" and had Ms Sharobeem's home address and mobile telephone number. She claimed that the items were for IWHS. The invoice included a delivery fee for two men to what must have been her home address on a Saturday at 4 pm. She explained that the items might have been initially delivered to her home but then moved to IWHS with the assistance of her husband.

Eye Concepts

Eye Concepts is a retail optometrist. Nine receipts issued by Eye Concepts between December 2011 and March 2015, totalling \$2,196, were used to justify the transfer of money from the IWHS bank account into Ms Sharobeem's bank account.

In her evidence to the Commission, Ms Sharobeem accepted that she had cut some of the receipts and had been reimbursement by IWHS for personal optometry. She said the reimbursements had been made by mistake because the IWHS bookkeeper had not asked her if the receipts were for personal or work-related expenses.

Myer

Receipts issued by Myer between August 2009 and June 2015, totalling \$15,422.47, had been used to justify the transfer of money from the IWHS bank account into Ms Sharobeem's bank account. Ms Sharobeem was not taken to specific transactions during her evidence. She denied any dishonesty on her part.

David Jones

Receipts issued by David Jones between February 2012 and June 2015, totalling \$3,440.89, were used to justify the transfer of money from the IWHS bank account into Ms Sharobeem's bank account. Ms Sharobeem was not taken to specific transactions during her evidence and again denied any dishonesty on her part. She explained that some items, including Christmas decorations and items for "kitchen projects", were purchased from David Jones for IWHS. She agreed other items were personal and that she had been wrongly reimbursed for them. She said that must have occurred through the relevant receipts being taken from her desk by the bookkeeper who failed to check whether they were for personal expenses.

S&S Hair and Beauty

Receipts issued by S&S Hair and Beauty between January 2012 and June 2015, totalling \$7,498.95, were used to justify the transfer of money from the IWHS bank account into Ms Sharobeem's bank account.

Ms Sharobeem agreed the costs of services she received from S&S Hair and Beauty were personal and were paid by her using her credit card. Despite the frequency of payments and that S&S Hair and Beauty receipts were submitted to IWHS for reimbursement over several years, she maintained that the reimbursements were made by mistake.

Dental service providers

Receipts issued by Balmain Dental Clinic and a dentist between March 2012 and June 2014, totalling \$1,811.20, were used to justify the transfer of money from the IWHS bank account into Ms Sharobeem's bank account. She told the Commission that she was unaware the receipts had been submitted for reimbursement. One of the receipts was for dental work for her son, Richard Sharobeem. She again blamed the IWHS bookkeeper.

Use of IWHS funds to pay for wardrobes

The Commission had a number of invoices that appeared to relate to personal expenses paid for with IWHS funds. These included invoices issued by Waratah Wardrobes. The first was dated 25 January 2010 and was for \$1,530. There were two versions of another invoice, one dated 30 October 2013 and the other dated 11 November 2013, both for the same purchase which cost \$1,220. The final invoice was dated 18 February 2014 and was for \$1,100. All the Waratah Wardrobes invoices contained Ms Sharobeem's home address. The amounts in the invoices were paid to Waratah Wardrobes by way of direct transfer from the IWHS bank account.

Ms Sharobeem told the Commission that she had only one wardrobe installed at her home for which she paid using her own credit card. She said that three wardrobes had been installed at IWHS's Fairfield office. She was shown a transfer from the IWHS account for \$1,220 to Waratah Wardrobes on 19 November 2013, and the invoice submitted to IWHS in support of the transfer, which had no reference to the job address. The original tax invoice dated 11 November 2013, which the Commission obtained from Waratah Wardrobes, had her private home address on it next to the word "Site". She denied submitting the invoice without the job address to IWHS, and claimed not to know "how this happened or who actually cleared the name from the document".

The invoice dated 30 October 2013 had a notation saying that the price included removal of old internals. The drawing of the wardrobe on that invoice was strikingly similar to a wardrobe photographed by Commission officers when executing a search warrant at her home. When the drawing and photographs were put to Ms Sharobeem, she told the Commission that she could not respond to the allegation that IWHS funds were used to pay for wardrobes installed at her own home, other than to say that it did not make sense and it was wrong.

There was other evidence, discussed in chapter 6 of this report, that built-in wardrobes from Design A Robe were installed at the IWHS Fairfield office in 2011. They were paid for by IWHS. It is unlikely that further wardrobes were required at the Fairfield office only two years later. It is also notable that the Design A Robe wardrobes were paid for using the IWHS credit card. If the Waratah Wardrobes were for IWHS use it would have been more convenient to pay for them using the IWHS credit card rather than by way of bank transfer, which required access to the IWHS online banking portal.

Given the above and, in particular, that all the invoices were addressed to Ms Sharobeem's home, the Commission is satisfied the wardrobes were a personal expense.

Other transactions where it was alleged that IWHS funds were used to pay for personal expenses are considered in chapters 3 and 8 of this report.

Conclusion

The Commission has found that Ms Sharobeem was directly involved in the reimbursement process and used or instructed other IWHS staff to use the IWHS online banking system to effect transfers of money from the IWHS bank account to her.

Ms Sharobeem conceded that she was reimbursed by IWHS for items of personal expenditure. She claimed those reimbursements occurred by mistake.

The Commission rejects that explanation. The fact that she received reimbursement for so many personal expenses and over a prolonged period without being aware that she was receiving payment from IWHS for personal expenditure militates against error as the explanation. Cut receipts were submitted in support of many of the claims for reimbursement. The Commission is satisfied that they were cut by Ms Sharobeem in order to remove vendor details in a dishonest attempt to disguise from others that the purchases were personal and not work-related. Her handwritten instructions to the IWHS bookkeeper in 2012, to reimburse her for the costs of her Classic Holiday Club membership, support the conclusion that she knowingly sought reimbursement of personal expenses.

The Commission has also taken into account the evidence of Mr Boyd. He told the Commission that he was concerned that cut receipts and invoices had been submitted in support of Ms Sharobeem's claims for reimbursement. On 22 September 2014, he issued an audit management letter addressed to the IWHS board. In the letter, he identified issues and discrepancies he had discovered during the course of his 2013–14 audit, including that Ms Sharobeem had submitted incomplete documentation in support of her claims for reimbursement.

He gave the letter to Ms Sharobeem and asked her to give it to the board and discuss it with the board. He gave it to Ms Sharobeem because he understood she dealt with the board. He told the Commission that he found out in late 2015 that the board never received his 22 September 2014 letter. That came about when he met board members to discuss his ongoing concerns raised in a further letter dated 18 September 2015, which he had emailed to board members.

Ms Lai, IWHS board chairperson, also told the Commission that Mr Boyd's 2014 letter was not brought to the board's attention until 2015 when Mr Boyd showed it to board members after requesting a confidential meeting with them to discuss his concerns. She told the Commission that if the board had been given the letter in 2014 it would have taken action in relation to the concerns he raised in the letter. Ms Sharobeem was not asked at the public inquiry what she did with the 2014 letter. Counsel for Ms Sharobeem did not cross-examine Mr Boyd or Ms Lai on this issue.

The Commission accepts the evidence of Mr Boyd that he provided the letter to Ms Sharobeem and his evidence and that of Ms Lai that it only came to the attention of the board in 2015. The inference which the Commission draws from their evidence is that Ms Sharobeem deliberately withheld the letter from the IWHS board so that the board would not be alerted to the extent of

her claims for reimbursement or that her claims were supported by incomplete documentation.

As noted at the commencement of this chapter, between 2009 and June 2015, over \$443,000 was transferred from the IWHS bank account to Ms Sharobeem. While the Commission is satisfied that a significant part of that amount was improperly used to reimburse Ms Sharobeem for the cost of personal items she purchased, the Commission was not able to calculate the precise amount for which she was improperly reimbursed. The Commission could not preclude the possibility that at least some of the reimbursements were properly made on the basis that they were for work-related expenses. In November 2015, Ms Sharobeem repaid IWHS \$44,757.36 after Mr Boyd, the IWHS auditor, raised his concerns that some of the reimbursements made to her related to personal purchases. The Commission, however, does not accept that was the full monetary extent of the improper reimbursements. Given the number of occasions from limited samples identified by the Commission when improper reimbursements were made and the extended period involved, the Commission is satisfied that the improper reimbursements were significantly higher than the amount subsequently repaid by Ms Sharobeem and closer to the total amount of transfers.

Corrupt conduct

The Commission finds that Ms Sharobeem improperly exercised her official functions as IWHS service manager and CEO to benefit herself or her family members by:

- between 2009 and 2015, arranging to obtain up to \$443,000, through transfers to her bank account, from IWHS by way of reimbursement for the cost of goods and services that she had purchased for personal use, knowing that she was not entitled to such reimbursements
- between February and June 2015, arranging for the transfer of funds totalling \$13,500 from IWHS to ADJ, knowing that the payments related to the purchase of jewellery for personal use and that she was not entitled to use IWHS funds for that purpose
- between 2010 and 2014, arranging for the transfer of funds totalling \$3,850 from IWHS to a wardrobe supplier, knowing that the payments related to the purchase of wardrobes for personal use and that she was not entitled to use IWHS funds for that purpose.

In each case, Ms Sharobeem's conduct was corrupt conduct for the purpose of s 8 of the ICAC Act. This is because her conduct constituted or involved the dishonest and partial exercise of her official functions and therefore

comes within s 8(1)(b) of the ICAC Act. Her conduct also constituted or involved a breach of public trust and therefore comes within s 8(1)(c) of the ICAC Act. Her conduct is also conduct that impairs, or could impair, public confidence in public administration and involves dishonestly obtaining or dishonestly benefiting from the payment of public funds for private advantage, and therefore comes within s 8(2A) of the ICAC Act.

In considering s 9(1)(a) of the ICAC Act, it is relevant to have regard to the common law offence of misconduct in public office. The elements of this offence have been stated in the Victorian Supreme Court case of *R v Quach* (2010) 201 A Crim R 522 at 535 and followed by the NSW Court of Criminal Appeal in *Obeid v R* [2015] NSWCCA 309 at 133, as being the following:

- 1) *A public official;*
- 2) *in the course of or connected to his public office;*
- 3) *wilfully misconduct himself; by act or omission, for example, by wilfully neglecting or failing to perform his duty;*
- 4) *without reasonable excuse or justification, and;*
- 5) *where such misconduct is serious and meriting criminal punishment having regard to the responsibilities of the office and the officeholder, the importance of the public objects which they serve and the nature and extent of the departure from those objects.*

The element of wilfulness is established if the public official is reckless as to whether their conduct was a breach of their duties as a public official (see *R v Obeid* (No.11) [2016] NSWSC 974, also followed in *R v Macdonald* [2017] NSWSC 337).

The evidence establishes that Ms Sharobeem engaged in the above conduct wilfully and deliberately as a public official in the course of and in connection with her public office as the service manager or CEO of IWHS. She had no reasonable excuse or justification for her actions, which improperly conferred substantial personal benefits on herself and her family members. The nature of her misconduct was serious and warrants criminal sanction. This is because at the relevant time she was the head of an agency predominantly funded by public monies to provide important services to women and children in need, whose funds she deprived in large amounts motivated by greed to benefit herself and her family. The conduct was premeditated, systematic and continued over a substantial period of time.

The Commission is satisfied, for the purpose of s 9(1)(a) of the ICAC Act, that, in each case, if the facts it has found were proved on admissible evidence

to the criminal standard of beyond reasonable doubt and accepted by an appropriate tribunal, they would be grounds on which such a tribunal would find that Ms Sharobeem had committed a criminal offence of misconduct in public office.

In considering subsection 9(1)(a) of the ICAC Act, it is also relevant to have regard to s 192E(1) of the *Crimes Act 1900* (“the Crimes Act”) in relation to conduct occurring from 22 February 2010 and s 178BA of the Crimes Act for conduct occurring prior to that date.

Section 192E(1) of the Crimes Act provides:

- (1) *A person who, by any deception, dishonestly:*
- (a) *obtains property belonging to another, or*
 - (b) *obtains any financial advantage or causes any financial disadvantage,*
- is guilty of the offence of fraud.*

Section 178BA of the Crimes Act provided:

Whosoever by any deception dishonestly obtains for himself or herself or another person any money or valuable thing or any financial advantage of any kind whatsoever shall be liable to imprisonment for 5 years.

The term “deception” is defined in s 192B of the Crimes Act:

- (1) *In this Part,*
- “deception” means any deception, by words or other conduct, as to fact or as to law, including:*
- (a) *a deception as to the intentions of the person using the deception or any other person, or*
 - (b) *conduct by a person that causes a computer, a machine or any electronic device to make a response that the person is not authorised to cause it to make.*
- (2) *A person does not commit an offence under this Part by a deception unless the deception was intentional or reckless.*

“Dishonesty” is generally defined in s 4B of the Crimes Act as, “dishonest according to the standards of ordinary people and known by the defendant to be dishonest according to the standards of ordinary people”. Whether conduct is dishonest will depend on all of the circumstances (*Kreicichwost v R* [2012] NSWCCA 101).

Obtaining a financial advantage or causing a financial disadvantage is defined in s 192D of the Crimes Act to include inducing a third person to do something that results in oneself or another person obtaining a financial

advantage, irrespective of whether the financial advantage is permanent or temporary. The financial advantage must be obtained by the deception; that is, it is necessary for a causal connection to be established between deception and the obtaining of money (see *Ho and Szeto v R* (1989) 39 A Crim R 145).

Section 4A of the Crimes Act also provides that, if an element of an offence is recklessness, that element may also be established by proof of intention or knowledge.

As discussed above, Ms Sharobeem engaged in deception by submitting receipts in support of claims for reimbursement relating to personal purchases, knowing that she was not entitled to be reimbursed for personal purchases and either effecting or arranging for others to effect the transfer of funds from IWHS to herself using the IWHS online banking facility. Her deception included specifying expense codes to which the receipts were to be allocated, thereby misrepresenting the receipts were for work-related purchases.

The Commission is therefore also satisfied, for the purpose of s 9(1)(a) of the ICAC Act, that in each case, if the facts it has found were proved on admissible evidence to the criminal standard of beyond reasonable doubt and accepted by an appropriate tribunal, they would be grounds on which such a tribunal would find that Ms Sharobeem committed the criminal offence of fraud contrary to s 192E of the Crimes Act, or obtaining money by deception (for offences committed before 22 February 2010) under s 178BA of the Crimes Act.

The Commission is also satisfied, for the purpose of s 9(1)(b) of the ICAC Act, that, in each case, if the facts as found were to be proved on admissible evidence to the requisite standard of on the balance of probabilities and accepted by an appropriate tribunal, they would be grounds on which such a tribunal would find that Ms Sharobeem had committed a disciplinary offence of misconduct.

Accordingly, the Commission is satisfied that the jurisdictional requirements of s 13(3A) of the ICAC Act are satisfied.

The Commission is also satisfied, for the purpose of s 74BA of the ICAC Act that, in each case, Ms Sharobeem engaged in serious corrupt conduct. This is because her conduct involved misusing her position as the service manager or CEO of IWHS to transfer significant funds from IWHS for her own benefit, at the expense of the disadvantaged women and children IWHS was publicly funded to assist and support. The conduct occurred over a number of years and involved a high frequency of transactions. Her conduct also involved a high degree of planning and substantial breach of public trust by putting her personal interests before the

public interest, and could constitute criminal offences of misconduct in public office, fraud or obtaining money by deception. The conduct could also impair public confidence in public administration.

The Commission therefore finds that Ms Sharobeem engaged in serious corrupt conduct by:

- between 2009 and 2015, improperly exercising her official functions to benefit herself by arranging to obtain up to \$443,000, through transfers to her bank account, from IWHS by way of reimbursement for the cost of goods and services she had purchased for personal use, knowing that she was not entitled to such reimbursements
- between February and June 2015, improperly exercising her official functions to benefit herself by arranging for the transfer of funds totalling \$13,500 from IWHS to ADJ, knowing that the payments related to the purchase of jewellery for personal use and that she was not entitled to use IWHS funds for that purpose
- between 2010 and 2014, improperly exercising her official functions to benefit herself by arranging for the transfer of funds totalling \$3,850 from IWHS to a wardrobe supplier, knowing that the payments related to the purchase of wardrobes for personal use and that she was not entitled to use IWHS funds for that purpose.

Section 74A(2) statement

In making a public report, the Commission is required by s 74A(2) of the ICAC Act to include, in respect of each “affected” person, a statement as to whether or not in all the circumstances the Commission is of the opinion that consideration should be given to:

- a) obtaining the advice of the Director of Public Prosecutions (DPP) with respect to the prosecution of the person for a specified criminal offence
- b) the taking of action against the person for a specified disciplinary offence
- c) the taking of action against the person as a public official on specified grounds, with a view to dismissing, dispensing with the services of or otherwise terminating the services of the public official.

An “affected” person is defined in s 74A(3) of the ICAC Act as a person against whom, in the Commission’s opinion, substantial allegations have been made in the course of, or in connection with, its investigation.

With respect to the matters canvassed in this chapter, the Commission is satisfied that Ms Sharobeem is an affected person.

Ms Sharobeem gave evidence under an s 38 declaration, which means that her evidence is not admissible against her in criminal proceedings other than proceedings for an offence under the ICAC Act. However, there is other evidence that would be admissible, including the evidence of Ms Chen, Ms Chanthalangsy, Ms Pappas, Mr Boyd and others, as well as relevant documentary evidence, including financial records such as transfer receipts, vendor invoices and purchase receipts.

The Commission is of the opinion that consideration should be given to obtaining the advice of the DPP with respect to the prosecution of Ms Sharobeem for the criminal offences of misconduct in public office or fraud contrary to s 192E of the Crimes Act and obtaining money by deception (for offences committed before 22 February 2010) under s 178BA of the Crimes Act, in relation to her conduct the subject of serious corrupt conduct findings.

Section 87(1) of the ICAC Act provides that a person who, at a compulsory examination or public inquiry conducted by the Commission, gives evidence that is false or misleading in a material particular knowing it to be false or misleading, or not believing it to be true, is guilty of an indictable offence. The offence carries a maximum penalty of 200 penalty units or imprisonment for five years or both.

A statement will be “false” if it gives a false impression (*R v M* [1980] 2 NSWLR 195), and a statement will be “misleading in a material particular” if it is of moment or significance and not trivial or inconsequential (*Minister for Immigration v Dela Cruz* (1992) 34 FCR 348 at 352).

The Commission is also of the opinion that consideration should be given to obtaining the advice of the DPP with respect to the prosecution of Ms Sharobeem for an offence under s 87 of the ICAC Act in relation to her evidence that she did not know how to use the IWHS online banking website. On 13 July 2017, during the last day of her evidence in the public inquiry, Ms Sharobeem admitted that she had used the IWHS online banking website. Her previous evidence, that she did not know how to use the online banking website, was false in a material particular because it was relevant to whether she used the system to dishonestly obtain a financial benefit by using IWHS funds to pay for personal expenses.

Given that Ms Sharobeem no longer works for IWHS, which itself is no longer in existence, the issue of whether consideration should be given to the taking of action against her for a disciplinary offence or with a view to her dismissal does not arise.

Chapter 3: IWHS payments made on the basis of false documents

This chapter examines whether, between October 2013 and June 2015, Eman Sharobeem knowingly submitted false documentation to the Immigrant Women's Health Service (IWHS) in order to obtain over \$11,000 in IWHS funds for her personal use.

In determining whether Ms Sharobeem acted dishonestly in relation to the payments examined in this chapter, the Commission is not, of course, limited to the evidence concerning each transaction. Given in particular the period in which the payments were made, the Commission is entitled in its examination to have regard to the same in context, which includes her conduct the subject of findings made in the previous chapter.

The MLC Pest Control payment

MLC Pest Control is a residential pest control company operating in the Sydney region. An MLC Pest Control invoice dated 25 October 2013 for \$210 was in evidence before the Commission. It showed IWHS as the customer but identified Ms Sharobeem's home as the address where the pest control work had been carried out and her private email address as the billing address.

Rebecca Sore, the manager of MLC Pest Control, provided a statement to the Commission confirming the invoice was issued by that business and that it was paid by direct debit on 17 December 2013. Although Ms Sharobeem did not agree that the invoice was for pest control work at her home, the Commission is satisfied that the invoice was genuine and correctly identified pest control work as having been carried out at Ms Sharobeem's home.

An IWHS internet banking receipt showed that, on 17 December 2013, a transfer of \$210 had been made by IWHS to the MLC Pest Control account. The Commission is satisfied that IWHS money was used to pay for the pest control work at Ms Sharobeem's home.

Among IWHS records obtained by the Commission was an invoice dated 30 November 2013 purporting to have been issued by Jaak Investments Pty Ltd, as trustee for the MLC service trust. It had the same invoice number as the MLC Pest Control invoice, was in the same amount, had the same date as that invoice and set out MLC Pest Control's bank account details. The description of the service provided, however, was different from that in the MLC Pest Control invoice. It merely described the service as "Sale". The invoice was a false invoice.

Ms Sharobeem denied creating the false invoice. The Commission is satisfied, however, that she did create the false invoice. No one else within IWHS had any motive to create such a false invoice. In order to get IWHS to pay her pest control bill, Ms Sharobeem needed a false invoice. That is because, had she submitted the MLC Pest Control invoice, it would have been apparent to anyone at IWHS that it was for work that had nothing to do with IWHS but was for pest control work carried out at Ms Sharobeem's home. That would have raised questions as to why IWHS was paying the invoice. It was in Ms Sharobeem's interest to disguise the purpose of the payment by creating a false invoice. The Commission is satisfied that she used the false invoice to justify IWHS paying her private expense of \$210.

The Fencing & Gate Commercial payment

In about May 2015, Ms Sharobeem purchased an automatic electric gate from Fencing & Gate Commercial (FGC). The cost was \$4,434. She paid a deposit of \$556 using her own funds. The gate was subsequently installed at her home. It is clear that this was a personal expense that had nothing to do with IWHS.

On 23 May 2015, FGC emailed Ms Sharobeem an invoice from the installer for \$308. In her evidence to the Commission, she admitted paying the installer's invoice

from the IWHS bank account using the IWHS online banking facility. She claimed, however, that this was a “very silly human mistake”.

On 4 June 2015, Ms Sharobeem received an email from FGC attaching an invoice dated 29 May 2015 for \$3,878. That was the balance owing for the supply of the gate. The IWHS bank statement shows that there was a transfer of \$3,878 made to FGC on 9 June 2015. On that day, Ms Sharobeem sent an email to FGC advising that the full amount “was just paid”.

Ms Sharobeem initially admitted to the Commission that she had transferred the \$3,878 from the IWHS bank account to FGC on 9 June 2015, but again claimed that it was a mistake. Later in her evidence, she denied making the transfer from the IWHS bank account. Finally, she claimed that she could not recall making the transfer. In light of her earlier evidence, the Commission does not accept her denial or that she could not recall making the transfer.

Her claim that she made the two payments using IWHS funds by mistake is inherently implausible and is rejected. Ms Sharobeem had paid a deposit for the supply of the gate using her own funds. She knew, at the relevant times the other payments were made from the IWHS bank account, that the supply and installation of the gate was not connected with IWHS and that IWHS was not liable for any payment. It would have been clear to her that, at the time she was making the transfers, she was using the IWHS bank account rather than her personal bank account. This finding is reinforced by other evidence showing that she created a false invoice to cover the \$3,878 payment to FGC.

Ms Sharobeem was shown the invoice submitted to IWHS to account for the transfer of the \$3,878 from the IWHS bank account. It was identical to the FGC invoice except that it was addressed to IWHS and did not specify any address. Ms Sharobeem told the Commission that it

was a false invoice but said she had never seen it before and that it must have been created by someone else. Ms Sharobeem, however, accepted that she had access to the FGC invoice and that she had not given it to anyone else. There is no logical reason why anyone other than Ms Sharobeem would go to the trouble of creating the false invoice. Indeed, there was no evidence that anyone at IWHS, other than she, knew the relevant details of the supply of the FGC invoice in order to be able to create a false invoice. The Commission rejects her claim that someone else created the false invoice and finds that she created it in order to justify IWHS paying FGC for what was a private expense.

The Classic Holidays Club reimbursement

In her evidence to the Commission, Ms Sharobeem agreed that, on 26 March 2014, she purchased a VIP pass from Classic Holidays Club (“Classic Holidays”) for \$489. It is clear that this was a personal expense incurred by Ms Sharobeem. She did not dispute that a receipt for that amount was issued by Classic Holidays on the same day, and was addressed to her at her home address. She also agreed that she had received the receipt.

Ms Sharobeem also accepted that, on 31 March 2014, \$489 was transferred from the IWHS bank account to her personal bank account. Attached to the transfer, by way of support for the payment by IWHS, was an invoice for the provision of office furniture and equipment. That invoice was substantially similar to the Classic Holidays invoice. The principal differences were that it did not identify the vendor’s name and purported to be for the supply of chairs and a desk. No telephone or fax details were set out in the invoice. It had the same date, receipt number, ABN number and account number as in the Classic Holidays receipt. It was a false invoice.

There was a handwritten notation at the bottom of the false invoice, as follows: “paid, To be reimbeced [sic]”. Despite telling the Commission that the handwriting was “most likely” hers, Ms Sharobeem claimed not to have previously seen the false invoice and denied creating it. She said someone else must have fabricated it in order to “frame” her.

The Commission rejects Ms Sharobeem’s claim that the false invoice was created by someone for the purpose of framing her. There is no logical reason why anyone else would go to the trouble of creating such an invoice. There was no evidence that anyone, other than she, knew the relevant date, receipt number, ABN, account details or amount set out in the Classic Holidays receipt in order to be able to include that information in the false invoice.

The Commission is satisfied that Ms Sharobeem created the false invoice in order to submit it to IWHS so that IWHS would reimburse her for the \$489 she had paid for her personal Classic Holidays VIP pass.

The Inada reimbursement

Ms Sharobeem was shown a 20 June 2015 Inada invoice for \$6,900 for the purchase of a massage chair. The invoice was addressed to her at her home address. She agreed the invoice was for the purchase of a massage chair, but claimed that the chair was for IWHS “to enhance women’s health”. She said that, as a result of the salesperson taking down the wrong address, the chair was initially delivered to her home by mistake. The delivery note for the chair shows that it was delivered to her home on 22 June 2015. She told the Commission that it did not stay there for long before being delivered to the IWHS office.

Both IWHS administrators, Watfa El-Baf and Marie Abboud, told the Commission that they had not seen the massage chair at IWHS prior to September 2015, about three months after it was purchased. The Commission is satisfied the chair appeared at IWHS at that time because the IWHS auditor had questioned IWHS payments, which ultimately related to the chair, and it was therefore necessary to show that IWHS had received something in exchange for the payments.

The Commission rejects Ms Sharobeem’s evidence that the chair was delivered to her home by mistake. If the chair had been intended for IWHS there would have been no reason for Ms Sharobeem to give the salesperson her home address. That the chair remained at her home for some considerable time after its delivery is consistent with Ms Sharobeem intending the chair for personal use.

In evidence before the Commission, were two documents showing respective transfers of \$1,900 and \$5,000

on 26 June 2015 from the IWHS bank account to Ms Sharobeem’s bank account. The transfers were described, in the transfer receipts, as being for the purchase of 12 chairs. Ms Sharobeem agreed that she had initialled both transfer receipts.

An invoice dated 19 June 2015 for \$6,900, purporting to have been issued by “INADA Chairs Australia”, relating to the supply of 12 chairs had been submitted to IWHS for reimbursement. Ms Sharobeem agreed that it was a false invoice but denied that she had created it or submitted it to IWHS in order to obtain money from IWHS.

Stapled to the false invoice were five receipts totalling \$5,900 for transactions conducted on Ms Sharobeem’s personal credit card and a further receipt for a transaction for \$1,000 paid with the IWHS credit card. All six receipts had a portion cut off so that purchase details could not be seen. Ms Sharobeem said she left the receipts on her desk for Chanthaneth Chanthalangsy, IWHS bookkeeper. She was reimbursed by IWHS for the \$5,900 expenditure incurred on her credit card.

Ms Sharobeem sought to explain the \$6,900 credit card expenses as being for 12 chairs purchased by Nevine Ghaly, NESH project coordinator, and which, she said, had been delivered to IWHS. She was reminded that, when questioned about the invoice by the IWHS auditor in September 2015, she had not mentioned that Ms Ghaly had purchased the 12 chairs. In any event, Ms Ghaly told the Commission that she had never purchased any chairs from anywhere for IWHS or for NESH. The Commission accepts her evidence.

The Commission is satisfied that Ms Sharobeem purchased a massage chair from Inada in June 2015 for \$6,900 for private use and that she paid \$5,900 using her own credit card, for which she was subsequently reimbursed by IWHS, and \$1,000 using the IWHS credit card. The Commission is satisfied that she created a false invoice in order to disguise from IWHS the true nature of the purchase so that she could receive reimbursement of the \$5,900 paid on her credit card and avoid any questions about why a payment of \$1,000 had been made using the IWHS credit card to purchase a massage chair.

Corrupt conduct

The Commission finds that Ms Sharobeem improperly exercised her official functions by:

- in about December 2013, submitting an invoice for \$210 to IWHS, which she knew to be false, in order to obtain payment from IWHS of \$210 for pest control services at her home, knowing that she was not entitled to use IWHS funds for such a purpose

- in about June 2015, submitting an invoice for \$3,878 to IWHS, which she knew to be false, in order to obtain payment of \$3,878 from IWHS for the purchase of a gate at her home, knowing that she was not entitled to use IWHS funds for such a purpose
- in March 2014, submitting a receipt for \$489 to IWHS, which she knew to be false, in order to obtain payment of \$489 from IWHS to reimburse her for payment for a Classic Holiday Club VIP membership pass for herself, knowing that she was not entitled to use IWHS funds for such a purpose
- in June 2015, submitting an invoice for \$6,900 to IWHS, which she knew to be false, in order to obtain reimbursement of her personal credit card expense of \$5,900, and to cover the use of the IWHS credit card to pay \$1,000, for the purchase of a massage chair for her personal use, knowing that she was not entitled to use IWHS funds for such a purpose.

In each case, Ms Sharobeem's conduct was corrupt conduct for the purpose of s 8 of the *Independent Commission Against Corruption Act 1988* ("the ICAC Act"). This is because her conduct constituted or involved the dishonest and partial exercise of her official functions and therefore comes within s 8(1)(b) of the ICAC Act. Her conduct also constituted or involved a breach of public trust and therefore comes within s 8(1)(c) of the ICAC Act. Her conduct is also conduct that impairs, or could impair, public confidence in public administration and involves dishonestly obtaining or dishonestly benefiting from the payment of public funds for private advantage, and therefore comes within s 8(2A)(c) of the ICAC Act.

For the purposes of s 9(1)(a) of the ICAC Act, in relation to Ms Sharobeem's conduct in knowingly submitting false invoices to IWHS in order to obtain payment for MLC Pest Control and FGC, it is relevant to consider s 192H(1) of the Crimes Act. That section provides that:

An officer of an organisation who, with the intention of deceiving members or creditors of the organisation about its affairs, dishonestly makes or publishes, or concurs in making or publishing, a statement (whether or not in writing) that to his or her knowledge is or may be false or misleading in a material particular is guilty of an offence.

Maximum penalty: Imprisonment for 7 years.

Section 192H(2) of the Crimes Act provides that an "officer of an organisation" includes any member of the organisation who is concerned in its management and any person purporting to act as an officer of the

organisation and "organisation" means any body corporate or unincorporated association. IWHS was incorporated under the *Associations Incorporation Act 2009* as a not-for-profit organisation and was a body corporate.

The word "deceiving" should be read consistently with the definition of "deception" in s 192B of the *Crimes Act 1900* ("the Crimes Act"), which is set out in chapter 2 of this report. It includes any deception, by words or other conduct, as to fact or as to law where the deception was intentional or reckless.

A statement is false where it creates a false impression (*R v M* [1980] 2 NSWLR 195), and is misleading in a material particular if it is of moment or significance and not trivial or inconsequential (*Minister for Immigration v Dela Cruz* (1992) 34 FCR 348 at 352)

For the purposes of s 9(1)(a) of the ICAC Act, in relation to Ms Sharobeem's conduct in knowingly submitting false invoices to IWHS in order to obtain reimbursement from IWHS for payments she had made for the Classic Holidays Club VIP pass and the Inada massage chair, it is relevant to consider s 254 of the Crimes Act. That section provides that:

A person who uses a false document, knowing that it is false, with the intention of:

(a) *inducing some person to accept it as genuine, and*

(b) *because of its being accepted as genuine:*

(i) *obtaining any property belonging to another, or*

(ii) *obtaining any financial advantage or causing any financial disadvantage, or*

(iii) *influencing the exercise of a public duty,*

is guilty of an offence.

Maximum penalty: Imprisonment for 10 years.

The common law criminal offence of misconduct in public office is also relevant in relation to all matters. The elements of that offence are discussed in detail in chapter 2 of this report. Ms Sharobeem's conduct was wilful and deliberate and done in the course of, and in connection with, her public office as the CEO of IWHS. She had no reasonable excuse or justification for her actions, which improperly conferred personal benefits on her at the expense of the provision of services to disadvantaged women and children. Her misconduct was serious and warrants criminal sanction.

The Commission is satisfied, for the purpose of s 9(1)(a) of the ICAC Act, that in each case, if the facts it has

found were proved on admissible evidence to the criminal standard of beyond reasonable doubt and accepted by an appropriate tribunal, they would be grounds on which such a tribunal would find that Ms Sharobeem committed offences under s 192H of the Crimes Act, s 254 of the Crimes Act or common law offences of misconduct in public office.

The Commission is also satisfied, for the purpose of s 9(1)(b) of the ICAC Act, that in each case, if the facts as found were to be proved on admissible evidence to the requisite standard of on the balance of probabilities and accepted by an appropriate tribunal, they would be grounds on which such a tribunal would find that Ms Sharobeem had committed disciplinary offences of misconduct.

Accordingly, the Commission is satisfied that the jurisdictional requirements of s 13(3A) of the ICAC Act are satisfied.

The Commission is also satisfied, for the purpose of s 74BA of the ICAC Act, that in each case, Ms Sharobeem engaged in serious corrupt conduct. This is because her conduct involved misusing her position as the CEO of IWHS by submitting false documents to IWHS to obtain a financial advantage, at the expense of the women and children for whose benefit funds were provided to IWHS by the government. Her conduct also involved a considerable degree of planning as demonstrated by her use of the false documents, and was motivated by a desire for personal financial gain. She had no reasonable excuse or justification for her conduct, which involved a substantial breach of public trust by putting her own interests before the public interest. Her conduct would also significantly impair public confidence in public administration.

The Commission finds that Ms Sharobeem engaged in serious corrupt conduct by:

- in about December 2013, improperly exercising her official functions by submitting an invoice for \$210 to IWHS, which she knew to be false, in order to obtain payment from IWHS of \$210 for pest control services at her home, knowing that she was not entitled to use IWHS funds for such a purpose
- in about June 2015, improperly exercising her official functions by submitting an invoice for \$3,878 to IWHS, which she knew to be false, in order to obtain payment of \$3,878 from IWHS for the purchase of a gate at her home, knowing that she was not entitled to use IWHS funds for such a purpose
- in March 2014, improperly exercising her official functions by submitting a receipt for \$489 to IWHS, which she knew to be false, in order to obtain payment of \$489 from IWHS to reimburse her for payment for a Classic Holiday Club VIP membership pass for herself, knowing that she was not entitled to use IWHS funds for such a purpose
- in June 2015, improperly exercising her official functions by submitting an invoice for \$6,900 to IWHS, which she knew to be false, in order to obtain reimbursement of her personal credit card expense of \$5,900, and to cover the use of the IWHS credit card to pay \$1,000, for the purchase of a massage chair for her personal use, knowing that she was not entitled to use IWHS funds for such a purpose.

Section 74A(2) statement

The Commission is satisfied that Ms Sharobeem is an “affected” person with respect to the matters dealt with in this chapter.

Ms Sharobeem gave evidence under an s 38 declaration, which means that her evidence is not admissible against her in criminal proceedings other than proceedings for an offence under the ICAC Act. However, there is other evidence that would be admissible, including the documentary evidence of the genuine and false invoices/receipts relating to goods or services provided by the relevant vendors, and records of relevant payments made by IWHS to FGC, MLC Pest Control and to Ms Sharobeem, as well as the evidence of Ms Ghaly.

The Commission is of the opinion that consideration should be given to obtaining the advice of the DPP with respect to the prosecution of Ms Sharobeem for offences under s 192H and s 254 of the Crimes Act or common law offences of misconduct in public office in relation to the conduct that is the subject of the findings of serious corrupt conduct.

The Commission is also of the opinion that consideration should be given to obtaining the advice of the Director of Public Prosecutions with respect to the prosecution of Ms Sharobeem for offences under s 87 of the ICAC Act in relation to her evidence that she mistakenly used \$4,186 of IWHS funds to pay for the supply and installation of an automatic gate at her home. The chronology of events surrounding the payments, which were made by Ms Sharobeem, and the submission of a false invoice to IWHS to justify the \$3,878 payment is evidence of the falsity of her claim.

Given that Ms Sharobeem no longer works for IWHS, which itself is no longer in existence, the issue of whether consideration should be given to the taking of action against her for a disciplinary offence or with a view to her dismissal does not arise.

Chapter 4: Misuse of the IWHS credit card and BPAY facility

This chapter examines whether, between 2009 and 2016, Eman Sharobeem misused the Immigrant Women's Health Service (IWHS) credit card to pay over \$35,000 for personal purchases. This chapter also examines whether she improperly caused over \$31,000 in IWHS funds to be paid to Sydney Water Corporation ("Sydney Water") and the State Debt Recovery Office (SDRO).

Use of the IWHS credit card

Ms Sharobeem had authority to use the IWHS credit card, but only for work-related purposes. Set out below are the details of \$35,211.39 in IWHS credit card payments examined by the Commission over the relevant period.

Sydney Water

Between February 2009 and January 2010, the IWHS credit card was used to pay Sydney Water \$708.25. There was no dispute that this represented payment of three of Ms Sharobeem's personal water bills and one for her son, Charlie Sharobeem. Ms Sharobeem denied she was responsible for making the payments. She told the Commission that whomever was acting as IWHS bookkeeper must have paid the water bills by mistake. She nominated the IWHS administrator, Marie Abboud, and the NESH project coordinator, Nevine Ghaly, as people who knew the IWHS credit card details, and who could have used it to make the payments.

Ms Abboud told the Commission that she had never seen or used the IWHS credit card and that Ms Sharobeem was the only person at IWHS who had possession of the card. The Commission accepts her evidence. That Ms Sharobeem had possession of the credit card is supported by the fact that, when executing a search warrant at her home, Commission officers found it in her handbag.

Ms Ghaly told the Commission that she did not know that IWHS had a credit card. Her evidence on this issue

was challenged at the public inquiry by Ms Sharobeem's counsel who showed her a print-out from a vendor's website relating to two purchases of business cards in 2015 using the website account in her name. Both purchases were made using the IWHS credit card.

Ms Ghaly told the Commission that she could not recall purchasing the business cards and denied knowingly using the IWHS credit card for the purchases. She said that she did not enter the IWHS credit card details in the account but others, who had access to and had used the website account, may have done so. She noted that four different credit cards were nominated on the website account, one of which was the IWHS credit card. When she made the purchases in 2015, she would have clicked on "Pay now" without checking the details of the credit card used to make the payment. She also told the Commission that she did not print out the document shown to her by Ms Sharobeem's counsel. This confirms that at least one other person was able to log on to the website account using the relevant password in order to create the print-out.

Given that the evidence shows Ms Ghaly was not the only person with access to the website account, it is likely that someone else entered the IWHS credit card details on the website. The Commission accepts her evidence that, when ordering the business cards, she clicked the "Pay now" option without directing her mind to which credit card account was being used. In any event, the Commission is not satisfied that she used the IWHS credit card to pay the Sharobeem family's water bills.

Other IWHS staff acted as bookkeepers. Their evidence was that they paid any bills through online transfers to the payees rather than by way of credit card. The Commission accepts that evidence. They had no reason to use the IWHS credit card to pay the Sharobeem family's water bills.

The Commission is satisfied that Ms Sharobeem used the IWHS credit card to pay the water bills.

Foxtel

There was no dispute that the IWHS credit card was used to pay \$7,608.77 for Foxtel services provided to Ms Sharobeem's home between April 2011 and September 2015.

It was Ms Sharobeem's evidence that IWHS paid for the Foxtel service because it was part of her duties that she keep up-to-date with what was happening. She told the Commission that she had "memories" of telling IWHS board members Audrey Lai and Nada Damcevska-Stamenkovska about having a Foxtel connection; although, she could not remember when those conversations occurred.

Ms Lai told the Commission that she did not recall any discussion about the credit card account at any IWHS board meetings. She also told the Commission that she did not know Ms Sharobeem was using the IWHS credit card to pay for her personal expenses, and, had the board been aware, it would never have approved it.

Ms Damcevska-Stamenkovska provided a statement to the Commission. In her statement, she did not specifically refer to Foxtel services provided to Ms Sharobeem but did say that she and the other members of the board did not know that Ms Sharobeem was spending IWHS funds on personal expenses, and that, had it known, the board would not have approved it. Ms Sharobeem did not ask that Ms Damcevska-Stamenkovska be called to give evidence.

The Commission is satisfied that neither Ms Lai nor Ms Damcevska-Stamenkovska were aware that Ms Sharobeem was using IWHS funds to pay for her home Foxtel service. There was no documentary evidence that any entitlement to use IWHS funds for such a purpose was taken to the IWHS board let alone approved by the board.

The Commission rejects Ms Sharobeem's claim that she required a home Foxtel service in order to be able

to fulfil her IWHS duties. To the extent that she needed to keep abreast of the news, she could have done so by watching free-to-air television, reading newspapers or listening to the news on the radio. Her duties at IWHS were not such as to require her to have access to Foxtel. The Commission is satisfied that Ms Sharobeem misused the IWHS credit card to pay for Foxtel services for her and her family's private use.

Gym membership

There was no dispute that the IWHS credit card was used to pay \$1,229.20 for Ms Sharobeem's gym membership between January and December 2009.

Ms Sharobeem told the Commission that an external supervisor, Margo Moore, who oversaw her work in 2009, told her that she could have gym membership in order to relieve stress "...to be able to remain fit as, as a manager". She acknowledged that Ms Moore had not specifically told her to use IWHS funds to pay for any stress-relief activities. She said it was her idea to pay for her gym membership with the IWHS credit card because she considered it was part of her employment package.

The Commission rejects Ms Sharobeem's claim that gym membership was part of her employment package. There was no documentary evidence that gym membership was part of any approved employment package. It was a personal expense and public monies should not have been used for such a purpose. The Commission is satisfied that she misused the IWHS credit card to pay for her gym membership.

Delivered meals

There was no dispute that the IWHS credit card was used to pay \$5,221 for Lite n' Easy meals between October 2010 and June 2013. Lite n' Easy prepares and delivers meals.

In her evidence to the Commission, Ms Sharobeem claimed that, with the exception of some transactions that might have been personal in nature, most of this cost related to meals IWHS made available to the Middle Eastern Seniors Group (MESG). Later in her evidence, she claimed that the payments were for a trial of meals for the MESG to enable its members to experience different kinds of food. She said the trial was ultimately unsuccessful and was discontinued. She could not recall how long it lasted.

The Commission rejects Ms Sharobeem's claim that the payments were for the provision of meals to the MESG. There was no evidence from any of the witnesses who gave evidence to the Commission that Lite n' Easy meals were ever purchased for any IWHS groups. Jihan Hana, who worked at IWHS between late 2013 and June 2016, told the Commission that Ms Sharobeem placed a limit on the amount of money that could be spent on purchasing food for IWHS groups, which was a maximum of between \$60 and \$70 for morning tea and between \$70 and \$90 for lunch per group. She also told the Commission that Middle Eastern food was usually cooked for the MESG because it was what the members of that group liked. In any event, Ms Sharobeem's explanation that the meals were purchased for trial purposes is not credible, given that payments were made for over three years.

The Commission is satisfied that Ms Sharobeem used the IWHS credit card to purchase Lite n' Easy meals for personal use.

E-way

It was not disputed that, between October 2009 and February 2016, the IWHS credit card was used to pay \$10,460.75 to E-way for toll charges incurred by Ms Sharobeem and her sons, Richard Sharobeem and Charlie Sharobeem, using her E-way toll tag. She agreed that she used her tag for personal trips. Although she claimed that any E-way expenses incurred by her sons would have been paid back to IWHS, there was no evidence to support that claim.

The Commission is satisfied that Ms Sharobeem deliberately misused the IWHS credit card to pay E-way tolls incurred by her and her two sons for personal travel.

State Debt Recovery Office

Records obtained by the Commission from SDRO showed that, between March 2009 and December 2014, the IWHS credit card was used to pay \$2,692 in relation to infringement notices.

Ms Sharobeem did not dispute that payments were made either with the IWHS credit card or directly from IWHS

funds to SDRO over a number of years for personally incurred traffic fines and other penalties. She claimed that, as the manager of IWHS, she was entitled to have those paid by IWHS as part of her remuneration package. She explained that that had been approved by the IWHS board.

Ms Lai told the Commission that the IWHS board had no idea that Ms Sharobeem was using IWHS funds to pay for her traffic fines. She said the board members were shocked when they found that out from the auditor in 2015. Ms Lai also told the Commission that the board would never have approved Ms Sharobeem using IWHS funds to pay for her own traffic fines. There was no documentary evidence of any board approval allowing Ms Sharobeem to use IWHS funds to pay for personal traffic infringement fines. It is inherently improbable that any publicly funded association with limited funds, such as IWHS, would approve payment of personal fines or infringement notices. The Commission accepts Ms Lai's evidence and is satisfied that Ms Sharobeem never had approval to use IWHS funds to pay for personal traffic fines.

The Commission is satisfied that Ms Sharobeem misused the IWHS credit card to pay for personal traffic fines and penalty notices.

Other payments to Sydney Water

Financial records obtained by the Commission established that, between March 2013 and January 2016, four payments totalling \$1,445.87 were made by BPAY transfer from the IWHS bank account to Sydney Water. Those transactions were payment for Ms Sharobeem's private water bills. It is not clear from the evidence whether Ms Sharobeem made the transfers herself, or whether she instructed other IWHS staff to make them. In any event, she obtained a financial benefit to which she was not entitled.

Other payments to the SDRO

Apart from the \$2,692 paid to the SDRO using the IWHS credit card, a further amount of \$29,712 was paid to the SDRO between 2007 and 2016 using IWHS funds. Those payments were made by direct transfers from the IWHS bank account. The payments represented about \$7,500 in relation to infringement notices, with the balance of over \$22,000 incurred due to failure to nominate a driver with respect to the various infringements.

Ms Sharobeem did not dispute the transfers were payments for personally incurred fines and penalties. She said the payments were made by IWHS as part of her remuneration package.

For the same reasons discussed above, the Commission rejects Ms Sharobeem's claim that she was entitled to pay for her own traffic fines and penalties with IWHS money.

The Commission is satisfied that Ms Sharobeem caused payments totalling \$29,712 to be made to the SDRO by direct use of IWHS funds, for personal traffic fines and penalties.

Corrupt conduct

The Commission finds that Ms Sharobeem improperly exercised her official functions to benefit herself or members of her family by:

- between early 2009 and early 2016, using the IWHS credit card to pay \$35,211.39 for personal goods and services
- between 2007 and 2016, causing payment totalling \$31,157.87 to Sydney Water and the SDRO by direct transfer of IWHS funds for personal expenses.

In each case, Ms Sharobeem's conduct was corrupt conduct for the purpose of s 8 of the *Independent Commission Against Corruption Act 1988* ("the ICAC Act"). This is because her conduct constituted or involved the dishonest and partial exercise of her official functions and therefore comes within s 8(1)(b) of the ICAC Act. Her conduct also constituted or involved a breach of public trust and therefore comes within s 8(1)(c) of the ICAC Act. Her conduct is also conduct that impairs, or could impair, public confidence in public administration and involves dishonestly obtaining or dishonestly benefiting from the payment of public funds for private advantage, and therefore comes within s 8(2A) of the ICAC Act.

The Commission is satisfied, for the purpose of s 9(1)(a) of the ICAC Act, that in each case, if the facts it has found were proved on admissible evidence to the criminal standard of beyond reasonable doubt and accepted by an appropriate tribunal, they would be grounds on which such a tribunal would find that Ms Sharobeem had committed offences of misconduct in public office.

It is also relevant to consider s 192E(1) of the *Crimes Act 1900* ("the Crimes Act") in relation to conduct occurring from 22 February 2010 and s 178BA of the Crimes Act in relation to conduct prior to that date. Section 192E(1) provides:

- (1) *A person who, by any deception, dishonestly:*
- (a) *obtains property belonging to another, or*
 - (b) *obtains any financial advantage or causes any financial disadvantage,*
- is guilty of the offence of fraud.*

Section 178BA of the Crimes Act provided that:

Whosoever by any deception dishonestly obtains for himself or herself or another person any money or valuable thing or any financial advantage of any kind whatsoever shall be liable to imprisonment for 5 years.

Ms Sharobeem was well aware that she was not authorised to use the IWHS credit card or IWHS funds to pay for her personal expenses or those of her family members. She engaged in deception, pretending that the expenses were work-related, and used the IWHS credit card and IWHS funds without disclosing to anyone at IWHS that the expenses were personal expenses related to her or members of her family.

The Commission is also satisfied, for the purpose of s 9(1)(a) of the ICAC Act, that in each case, if the facts it has found were proved on admissible evidence to the criminal standard of beyond reasonable doubt and accepted by an appropriate tribunal, they would be grounds on which such a tribunal would find that Ms Sharobeem committed criminal offences of fraud contrary to s 192E of the Crimes Act, or obtaining money by deception (for offences committed before 22 February 2010) under s 178BA of the Crimes Act.

The Commission is also satisfied, for the purpose of s 9(1)(b) of the ICAC Act, that in each case, if the facts as found were to be proved on admissible evidence to the requisite standard of on the balance of probabilities and accepted by an appropriate tribunal, they would be grounds on which such a tribunal would find that Ms Sharobeem had committed disciplinary offences of misconduct.

Accordingly, the Commission is satisfied that the jurisdictional requirements of s 13(3A) of the ICAC Act are satisfied.

The Commission is also satisfied, for the purpose of s 74BA of the ICAC Act, that, in each case, Ms Sharobeem engaged in serious corrupt conduct. This is because her conduct involved misusing her position as the CEO of IWHS by taking significant amounts of money from IWHS funds for her own financial gain, or for the benefit of members of her family, at the expense of the women and children IWHS was funded by the government to assist and support. Her conduct also involved a degree of planning and substantial breach of public trust by putting her personal interests before the public interest, and could constitute criminal offences of misconduct in public office, fraud or obtaining money by deception. The conduct could also impair public confidence in public administration.

The Commission therefore finds that Ms Sharobeem engaged in serious corrupt conduct by:

- between January 2009 and February 2016, improperly exercising her official functions to benefit herself or members of her family by using the IWHS credit card to pay \$35,211.39 for personal goods and services knowing that she was not entitled to use IWHS funds for such a purpose
- between 2007 and 2016, improperly exercising her official functions to benefit herself or members of her family by causing payments totalling \$31,157.87 to be made to Sydney Water and the SDRO by direct transfer of IWHS funds for personal expenses knowing that she was not entitled to use IWHS funds for such a purpose.

Given that Ms Sharobeem no longer works for IWHS, which itself is no longer in existence, the issue of whether consideration should be given to the taking of action against her for a disciplinary offence or with a view to her dismissal does not arise.

Section 74A(2) statement

The Commission is satisfied that Ms Sharobeem is an “affected” person with respect to the matters dealt with in this chapter.

Ms Sharobeem gave evidence under an s 38 declaration, which means that her evidence is not admissible against her in criminal proceedings other than proceedings for an offence under the ICAC Act. However, there is other evidence that would be admissible, including the evidence of Ms Lai, Ms Abboud, Ms Ghaly, Ms Hana, and IWHS bookkeepers, Xiao Chen, Chanthaneth Chanthalangsy and Joanne Pappas, as well as relevant documentary evidence including financial records.

The Commission is of the opinion that consideration should be given to obtaining the advice of the Director of Public Prosecutions with respect to the prosecution of Ms Sharobeem for criminal offences of misconduct in public office or fraud contrary to s 192E of the Crimes Act and obtaining money by deception (for offences before 22 February 2010) under s 178BA of the Crimes Act in relation to the conduct that is the subject of the serious corrupt conduct findings.

Chapter 5: Facilitator fees

From time to time, the Immigrant Women's Health Service (IWHS) engaged individuals as facilitators to conduct IWHS programs and group activities. They were paid facilitator fees. This chapter examines whether Eman Sharobeem submitted invoices to IWHS falsely claiming facilitator fees and authorised payment of those invoices in order to obtain money for herself and her sons, Richard Sharobeem and Charlie Sharobeem.

Payments of facilitator fees

The Commission's investigation established that, in 2014 and 2015, IWHS paid a total of \$141,485 in facilitator fees to Ms Sharobeem, Richard Sharobeem and Charlie Sharobeem. The individual totals were:

- \$99,685, paid between May 2014 and March 2015 to Ms Sharobeem under the aliases of Emy Adel and Emma Adly
- \$34,050, paid between May 2014 and March 2015 to Richard Sharobeem under the aliases of Rachie Kakel and Rachel Kamol
- \$7,750, paid between May 2014 and February 2015 to Charlie Sharobeem under the aliases of Charl Gamal and Charli G.

Ms Sharobeem did not dispute the amount of the facilitator payments or that they were made to herself and her sons. She said that they were made because they had all worked as IWHS facilitators; although, she agreed that she never told the IWHS board that she was claiming such fees and that the IWHS board never approved her or her sons working as facilitators.

Using aliases

Ms Sharobeem told the Commission that she used the names Emy Adel and Emma Adly in order to avoid IWHS staff questioning her as to why she could be paid

for working extra hours when they were not. She used aliases for her sons because she did not want IWHS staff to know that they were being paid for working at IWHS.

There was evidence that Ms Sharobeem employed aliases to prevent the IWHS auditor finding out that her sons were paid facilitator fees.

On 9 October 2015, Nathan Boyd, the IWHS auditor, sent an email to her and certain IWHS board members in which he requested "Details of facilitators – Victor Baseley, Charl Gamal, Emma Adly, Rachie Kakel, etc. Provide details of their work, contact details for verification, etc". Ms Sharobeem provided Ms Lai, one of the board members, with information in response to the request. The response was that Charl Gamal worked for a company and that Rachie Kakel was an alias for Adyan Rezag who did not want her family to know that she was working at IWHS. In neither case did she identify that Charl Gamal or Rachie Kakel were her sons' aliases.

Ms Rezag told the Commission that she never worked as a facilitator for IWHS or received any payment from IWHS. Her evidence was corroborated by IWHS administrator Marie Abboud.

Ms Sharobeem told the Commission that she identified Rachie Kakel as Ms Rezag by mistake. She said she had meant to tell Mr Boyd that Rachie Kakel was another person who was a victim of domestic violence. Given that Ms Sharobeem admitted having completed and submitted the claims in the name of Rachie Kakel, the Commission does not accept that she confused her son with a domestic violence victim.

If her true motive in using aliases was to avoid questions from IWHS staff as to why they were not allowed to work extra hours for payment or why her sons were paid for working at IWHS, there was no reason for her not to tell Mr Boyd or the IWHS board the truth. Indeed, they were clearly entitled to be given accurate information.

The fact that she did not do so is consistent with her wanting to disguise the fact that her sons were paid facilitator payments because she knew that, if she did so and they had not in fact worked as facilitators, it would become apparent that neither had provided facilitation services.

There was other evidence, set out below, that none of Ms Sharobeem, Richard Sharobeem or Charlie Sharobeem worked as facilitators during the periods for which they received payment.

Evidence of IWHS staff concerning Ms Sharobeem

Sok Luong Chan, project coordinator at IWHS's Cabramatta office, gave evidence that she never saw Ms Sharobeem work as a facilitator at Cabramatta.

Ms Abboud told the Commission that, between 2001 and 2016, she worked as a facilitator on Tuesdays for the Arabic-speaking group at IWHS's Fairfield office. She also said that she never saw Ms Sharobeem work as a facilitator.

Jihan Hana worked at IWHS between October 2013 and June 2016. After initially working as a volunteer for about a month, she became a facilitator and facilitated three senior groups a week; one in Bankstown on Mondays, another in Bossley Park on Wednesdays, and a third at IWHS's Fairfield office on Fridays. She said there were three or sometimes even four facilitators as well as volunteers for the Middle Eastern Seniors Group on Fridays. Ms Hana observed that Ms Sharobeem did not take part in the group activities.

Ms Hana also worked two days a week at the Non-English Speaking Housing Women's Scheme Inc (NESH) Guilford office over about two months in early 2015. During that time she never saw any groups or activities at NESH. She also said that she was not aware of any outreach centres of IWHS, and that there were no weekend programs conducted at IWHS's Fairfield office.

Ms Sharobeem's facilitator payments

Ms Sharobeem usually claimed facilitator fees for six hours per day (from 9 am to 3 pm), but occasionally also for five hours (from 9 am to 2 pm), or for seven hours (from 9 am to 4 pm). She was mostly paid at a rate of \$35 per hour but occasionally \$30 per hour. She did not provide the Commission with any documentary or other objective evidence to show that she had actually performed any work as a facilitator on any of the dates for which she claimed payment.

There was, on the other hand, significant evidence showing that she could not have performed facilitator duties on the dates for which she claimed payment. An analysis of the call charge records (CCR) for Ms Sharobeem's mobile telephone showed that on a number of days for which she claimed facilitator fees, her mobile telephone was not located at the IWHS office, or anywhere else where facilitator work was carried out. Ms Sharobeem did not deny having her mobile telephone in her possession or being at the locations identified by the CCR cell sites at the relevant times.

The facilitator claim forms she submitted show that she had frequently claimed multiple facilitator fees for the same day, sometimes up to four times for one day. Where more than one claim was made for a day, the hours claimed were also often duplicated. Ms Sharobeem admitted that some of the dates were duplicated.

Ms Sharobeem submitted invoices under the alias of Emma Adly and was paid \$3,300 for facilitation work from 9 am to 3 pm on 4, 5, 11, 12, 13, 15, 17, 18, 19, 20, 22, 24, 25, 26, 27, 29 and 31 January 2014. These dates included every Saturday and Sunday in January 2014, as well as every Monday, Wednesday and Friday between 13 and 31 January 2014.

It is apparent Ms Sharobeem claimed and was paid facilitator fees for weekdays when she was meant to be working as the CEO of IWHS, a position for which she was paid. Even if she did act as a facilitator on those days, there was no contractual basis entitling her to receive facilitator fees in addition to her salary as CEO.

On Saturday, 4 January 2014, CCR cell site data identified the location of Ms Sharobeem's mobile telephone as Westfield Parramatta. She was shown a number of receipts for purchases, all dated 4 January 2014, and containing the time of purchase between 1.16 pm and 3.13 pm. She did not dispute being at Westfield Parramatta and making those purchases on 4 January 2014. She admitted she did not work as a facilitator on that date and noted that the IWHS office was not even open on that day.

The CCR cell site data for Friday, 17 January 2014 located Ms Sharobeem's mobile telephone outside the Fairfield area. She was shown a number of receipts for purchases made on that day, as follows:

- Caltex, Wetherill Park, issued at 2.37 pm
- Myer, Parramatta, issued at 4.06 pm
- Ping Ding, Parramatta, issued at 4.33 pm
- Michel's Patisserie, Parramatta, issued at 5 pm.

Ms Sharobeem did not dispute making those purchases, some of which occurred during the time she had claimed

to be working as a facilitator. The Commission is satisfied that Ms Sharobeem did not work as a facilitator on 17 January 2014.

Ms Sharobeem told the Commission that, on 25 January 2014, she was in Cooma where she was scheduled to work as a representative for the Australia Day celebrations. She agreed that she was paid her salary as IWHS CEO for that day's work. The Commission is satisfied she did not work as a facilitator on that day.

Another day for which she received facilitator fees was 26 January 2014. That was Australia Day. In the absence of any reliable evidence to the contrary, the Commission does not accept that a course, workshop or program requiring a facilitator was held by the IWHS on a public holiday.

The CCR cell site data shows the location of Ms Sharobeem's mobile telephone still in Cooma on 27 January 2014 and in Surfers Paradise, Queensland, that evening. It showed the location of her mobile telephone in Surfers Paradise on 31 January 2014. She was also referred to receipts for various purchases, all from Queensland, issued on 29 and 31 January 2014. She did not deny making the relevant purchases and ultimately admitted that she was on a holiday at the Gold Coast for a week around that time. The Commission is satisfied that she did not work as a facilitator on 27, 29 or 31 January 2014.

In February 2014, Ms Sharobeem claimed and was paid \$3,990 in facilitator fees for a number of days under the alias of Emma Adly. The days claimed included every Saturday and Sunday in February, as well as weekdays when she was meant to be working as CEO of IWHS.

Cell site data showed Ms Sharobeem's mobile telephone was in Surfers Paradise on Saturday, 1 February 2014. A number of receipts for purchases were shown to her including one issued by the Gold Coast Airport at Coolangatta on 1 February 2014 at 11.34 am. She was also shown a receipt dated 2 February 2014 for a taxi fare from Sydney Airport to her home.

The Commission is satisfied that, on 1 and 2 February 2014, Ms Sharobeem was either on holiday at the Gold Coast or returning to Sydney and was not working as an IWHS facilitator.

Cell site data for 5 February 2014 showed the location of Ms Sharobeem's mobile telephone was at NSW Parliament House at 9 am, and later, in the inner west area in Sydney. She was referred to two receipts of that date: one was for coffee at a café in Macquarie Street, Sydney, and the other was from a clothes shop at Rozelle. She did not dispute that she was at the locations identified by the cell site data. The Commission is satisfied that she did not work as an IWHS facilitator on 5 February 2014.

On Saturday, 8 February 2014, the cell site data located Ms Sharobeem's mobile telephone in Waverton in the morning. Receipts relating to purchases on that date were shown to her. They included one issued by the 7-Eleven store at Edensor Park at 12.27 pm, and three receipts from Harvey Norman Bedding at Moore Park, issued at 3.06 pm, 3.08 pm and 3.09 pm. After seeing these, she admitted that she did not perform any facilitator work on 8 February 2014.

Friday, 14 February 2014, was another day for which Ms Sharobeem claimed and was paid facilitator fees. Cell data for 14 February 2014 located her mobile telephone in the city of Sydney. She told the Commission she might have attended a Community Relations Commission meeting on that day, and did not dispute that she was not at Fairfield performing facilitator work.

Wednesday, 26 February 2014, was another day for which Ms Sharobeem claimed and was paid facilitator fees for work between 9 am and 3 pm. Cell site data for that day identified the location of her mobile telephone from about 12 pm as Sydney city. It did not show the location as Fairfield until about 4.30 pm. Receipts for expenses incurred that day include:

- one from S&S Hair & Beauty Salon at Fairfield, issued at 10.40 am
- one for fuel at Woodpark, issued at 11.08 am
- two for parking at Elizabeth Street, Sydney, issued at 12.08 pm and 1.22 pm
- one from Sumo Salad Southland Sydney, issued at 2.54 pm.

After being shown those receipts, she admitted that she did not perform any facilitator work on 26 February 2014.

For March 2014, Ms Sharobeem claimed and was paid \$11,105 in facilitation fees under the aliases Emma Adly and Emy Adel. The claims covered every day in the month and, in some cases, there was more than one claim a day covering the same hours. The dates claimed and for which she received payment were:

- every Saturday and Sunday (being 1, 2, 8, 9, 15, 16, 22, 23, 29 and 30 March), from 9 am to 3 pm, for which she received \$2,100
- Saturdays 1, 8, 15, 22 and 29 March, from 9 am to 3 pm, for which she was paid \$1,050
- weekdays of 5, 6, 12, 13, 19, 20, 26 and 27 March, from 9 am to 2 pm, for which she was paid \$1,200
- Monday, 3 March to Friday, 7 March, from 9 am to 4 pm, for which she was paid \$1,225

- weekdays of 4, 10 and 17 March, from 9 am to 3 pm, for which she was paid \$560
- Mondays 3, 10, 17, 24 and 31 March, from 9 am to 3 pm, for which she was paid \$1,050
- Monday, 10 to Friday, 14 March, from 9 am to 4 pm, for which she was paid \$1,225
- Monday, 17 to Friday, 21 March, from 9 am to 4 pm, for which she was paid \$1,225
- Monday, 24 to Friday, 28 March, from 9 am to 4 pm, for which she was paid \$1,225
- Monday, 31 March, from 9 am to 4 pm, for which she was paid \$245.
- Monday, 14 April to Friday, 18 April, from 9 am to 4 pm, for which she was paid \$1,225
- 14, 15, 16, 17, 18 and 19 April, from 1 pm to 7 pm, for which she was paid \$1,260
- Monday, 21 April to Friday, 25 April, from 9 am to 4 pm, for which she was paid \$1,225
- 21, 22, 23, 24, 25 and 26 April, from 2 pm to 8 pm, for which she was paid \$1,260
- Monday, 28 April to Wednesday, 30 April, from 2 pm to 7 pm, for which she was paid \$525.

Once again, for most of the times for which she claimed facilitator fees Ms Sharobeem was being paid as the CEO of IWHS.

Cell site data for Wednesday, 5 March 2014, showed the location of Ms Sharobeem's mobile telephone as her home (which was not in Fairfield), then later as Horsley Park and Bossley Park. Receipts for expenses she incurred that day included one issued by Target, Wetherill Park, at 12.53 pm and one issued by Woolworths, Wetherill Park, at 1.23 pm. Those were times for which she had submitted invoices claiming to have worked as a facilitator. She did not dispute having incurred those expenses on that day. The Commission is satisfied that Ms Sharobeem did not work as a facilitator on 5 March 2014.

For April 2014, Ms Sharobeem claimed, and was paid, \$15,035 in facilitator fees under the aliases Emma Adly and Emy Adel. Once again, the claims covered every day in the month and there were cases of more than one claim a day covering the same hours. The dates claimed and for which she received payment were:

- Monday, 1 April to Friday, 4 April, from 9 am to 4 pm, for which she was paid \$980
- 2, 3, 9, 10, 16, 17, 23, 24 and 30 April, from 9 am to 2 pm, for which she was paid \$1,350
- 4, 5, 6, 11, 12, 13, 18, 19 and 20 April, for various hours, for which she was paid \$1,820
- 5, 6, 12, 13, 19, 20, 26 and 27 April, from 9 am to 3 pm, for which she was paid \$1,680
- 7, 8, 9, 10, 11 and 12 April, from 1 pm to 7 pm, for which she was paid \$1,260
- 7, 8, 9, 10 and 11 April, from 9 am to 4 pm, for which she was paid \$1,225
- 7, 8, 9, 10 and 11 April, from 9 am to 4 pm, for which she was paid \$1,225 (in addition to the above claim)

In 2014, 18 to 21 April was Easter Friday to Easter Sunday, making it unlikely that any facilitation would have taken place. It is also noteworthy that Ms Sharobeem's diary entry for 19 April 2014 recorded "Travel. To be there between 12-6", and referred to an address at Fingal Bay. It was put to Ms Sharobeem that she was not working as a facilitator on 19 April 2014 but holidaying at Fingal Bay. She said she could not remember if she travelled to Fingal Bay about that time. Cell site data for 19 April 2014 also identified the location of Ms Sharobeem's mobile telephone as her home, then later as Canley Heights and her home again, then as Shoal Bay in the evening. Fingal Bay and Shoal Bay are both in the Port Stephens region of NSW. The Commission is satisfied that she was not facilitating on 18, 19, 20 or 21 April 2014.

Cell site data for 26 April 2014 showed the location of Ms Sharobeem's telephone until about 1 pm as the vicinity of Shoal Bay or Nelson Bay (also in Port Stephens), then at her home in the evening. The Commission is satisfied that she was not working as a facilitator on 26 April 2014.

Ms Sharobeem's explanation for her claims

Ms Sharobeem told the Commission that facilitator payments were made for various reasons:

Anyone doing anything within the groups, because we don't have any other financial system in the organisation except the invoicing, we call them facilitator and we use this invoicing. Because we're not a big organisation, that's how everybody in that sense is classified as facilitator. So if they do a report, write a report, taking pictures, doing administration around the groups, setting up the tables, setting up the rooms, even buying something from IKEA and fix it up for us, they are all classified in our bookkeeping system as facilitator because we're a tiny organisation.

Ms Sharobeem ultimately conceded that the claims she made for facilitation fees were "exaggerated", but still maintained that the work was "delivered". She said she performed facilitator work at a number of locations,

including churches, community centres and NESH, as well as at IWHS's Fairfield office during weekends and at nights. The facilitator invoices did not contain any details of the nature or location of the facilitation performed and could not therefore be used to corroborate her evidence.

She also said that the contents of her invoices for facilitator payments did not necessarily correspond to the actual days or hours she worked. She explained that she did not submit facilitator invoices until the IWHS bookkeeper reminded her. She then submitted multiple facilitator invoices for all the work completed up to that point. She said that she did not necessarily specify the actual dates and times when she facilitated because she did not keep records of the actual hours she worked as a facilitator. She relied on other records, such as evaluation reports or three-monthly or six-monthly delivery reports for IWHS programs that she provided to funding bodies, in order to work out how many hours to claim.

That evidence, of course, did not explain why there were duplicate and triplicate claims made for the same day. Ms Sharobeem's explanation was that such claims had been made by "mistake". She said that, had she intended to make false claims, she would have spread the days out and claimed for other months or years rather than using the same dates.

She also told the Commission that she made a significant contribution to the promotion and growth of IWHS by doing extra work for which she was not paid, and her salary was not increased in 12 years. That evidence gave the impression that she regarded the facilitator payments as compensation for other work she had done for IWHS but for which she did not receive payment. If that were the impression Ms Sharobeem sought to give, then the Commission rejects it as justification for falsely charging facilitator fees. If she did other work for which she did not receive payment and she believed that she should receive payment, then the proper course would have been for her to approach the IWHS board and present her case for additional remuneration.

Ms Sharobeem presented no objective evidence that she ever carried out any work as a facilitator for IWHS.

Ms Chan, Ms Abboud and Ms Hana never saw her working as a facilitator. Ms Sharobeem's claim to have worked as a facilitator on the weekends at Fairfield is contradicted by Ms Hana's evidence that there were no weekend programs at Fairfield. Ms Hana had no motive to lie on this issue. The Commission accepts her evidence.

CCR records and receipts for her purchases show that, on many of the dates for which she claimed facilitator payments, Ms Sharobeem could not have been working as a facilitator.

The frequent duplication of claims, sometimes up to four times for the same day, is suggestive of false claims having been made deliberately. Her attempt to explain away the multiple claims for the same day, by claiming that they were simply innocent mistakes, is self-serving and unconvincing. In addition, many of the times for which she claimed and was paid facilitator fees were times when she was working and being paid as CEO of IWHS.

Ms Sharobeem's use of two aliases was dishonest. The Commission does not accept that her purpose in using the aliases was to avoid questions from IWHS staff as to why they could not work extra hours for more money. She told the Commission that other IWHS staff did not have the skills to work as facilitators. That evidence was incorrect, at least to the extent it included Ms Abboud or Ms Hana, both of whom worked as facilitators. If Ms Sharobeem believed that it was appropriate that she act as a facilitator and be paid for that work, then, as CEO of IWHS, she could have explained the position to her staff and dealt with any representations made by them to be permitted to work additional hours for payment. She could have sought approval from the IWHS board. Had her claims been legitimate, there would have been no need to conceal her identity by using aliases.

In any event, Ms Sharobeem did not have approval from the IWHS board to work or be paid as a facilitator, in addition to working and receiving her salary as the CEO of IWHS. If she had sought and obtained approval it would, of course, have been necessary for her to justify any payments by being able to point to actual work she had done as a facilitator. The fact that she never sought board approval is consistent with her not performing facilitator work.

Many of the payments were made outside of business hours or on days or at times when Chanthaneth Chanthalangsy, IWHS bookkeeper, was not working at the IWHS office. If the payments were legitimate, it is difficult to see why Ms Sharobeem would not have arranged for the transfers to be made by Ms Chanthalangsy during her working hours. Ms Sharobeem and Ms Chanthalangsy were the only two persons who had access to the required password to be able to conduct online transactions on the IWHS account.

The Commission is satisfied that Ms Sharobeem made the payments in Ms Chanthalangsy's absence so as to avoid having to answer any questions Ms Chanthalangsy might have raised as to the identity of those claimed to have acted as facilitators, what work they had done, and when they had done it. Such questions were likely to expose the fact that Ms Sharobeem was using aliases and had not done the facilitator work for which payment was sought.

The Commission rejects Ms Sharobeem's evidence that she randomly nominated dates and hours in the facilitator claim forms she submitted to IWHS because she did not keep records of actual dates and hours worked. The Commission further rejects her claim that the hours she claimed were not false but just exaggerated.

The Commission is satisfied that, between May 2014 and March 2015, Ms Sharobeem claimed and received \$99,685 in facilitator fees from IWHS to which she knew she was not entitled because it was work she had not performed.

Ms Sharobeem's sons receive facilitator payments

Ms Sharobeem admitted completing and submitting facilitator invoices to IWHS on behalf of her sons, Richard Sharobeem and Charlie Sharobeem. She said the invoices were for facilitator work they both did; although, because no contemporaneous record was made of the actual days or hours they worked, the details recorded on the invoices did not necessarily represent the actual dates and times worked. She also conceded that the hours claimed may have been exaggerated. She admitted that the IWHS board was not aware her sons worked at IWHS as facilitators.

Ms Sharobeem completed and submitted invoices for facilitator work claimed by Richard Sharobeem under the aliases of Rachie Kakel and Rachel Kamol. She completed and submitted invoices for facilitator work claimed by Charlie Sharobeem under the aliases of Charl Gamal and Charli G. She denied that was done for any dishonest reason. She said aliases were used because she did not want her staff to know that her sons were being paid for working at IWHS.

Richard Sharobeem's facilitator payments

Between May 2014 and March 2015, Richard Sharobeem was paid \$34,050 in facilitator fees under the aliases of Rachie Kakel and Rachel Kamol. There was also evidence that he did some cleaning work for IWHS. Some invoices, in the name of Rachel Kamol, were submitted for cleaning work. Those invoices have not been included with the matters considered in this chapter.

Ms Sharobeem told the Commission that Richard Sharobeem was about 19 or 20 when he started working as a facilitator at IWHS. She could not refer to any relevant qualifications held by him but said that he had "many skills", including taking photos, framing, and producing CDs of IWHS activities.

Richard Sharobeem was employed as a NESH project officer from January or February 2015 to December 2015 and was paid for that work. His educational background did not suggest he had any obvious skills as a facilitator. He told the Commission that, after completing his HSC, he undertook several different courses in various educational institutions, but either failed or did not complete them, except for a photo-imaging course at Ultimo TAFE. He also claimed to have studied for a diploma in community service and case management after he started work at NESH. He agreed that he received facilitator fees but was unable to identify the work he did for those fees.

He told the Commission that, prior to commencing his job at NESH, he helped Ms Sharobeem with IWHS work. He was unable to identify when he provided such assistance. He recalled doing some maintenance and photography work for IWHS. He said the photography work involved attending a number of events and taking pictures from about 2013 or 2014 to about 2015 or 2016. While the Commission accepts that he may have undertaken some photography and maintenance work for IWHS, there was no objective evidence to show that the facilitator fees he received in 2014 and 2015 were payment for that work. The Commission does not accept that such work constituted facilitator work or that the facilitator fees he received were for such work.

On a number of days for which Richard Sharobeem was paid facilitator fees, CCR records identified the location of his mobile telephone as being outside Sydney. For example, CCR records for 24 April 2014 identified the location of his mobile telephone as Pennant Hills, Shoal Bay and Corlette, and for 25 April 2014, as Corlette, Shoal Bay and Nelson Bay. Facilitator fees were claimed and paid for both those days. He claimed he did not recall whether he was on holiday on those dates. He did not, however, dispute that he was nowhere near Fairfield facilitating for IWHS on those days.

He was shown a facilitator invoice for facilitator work between 9 am and 5 pm for the period from 23 to 30 June 2014. CCR records for 25 and 28 June 2014 identified the location of his mobile telephone well outside the Fairfield area during the hours claimed. He admitted that he did not work the hours for which those fees were paid.

Nevine Ghaly worked for NESH from IWHS's Fairfield office during the relevant period. She told the Commission that Richard Sharobeem was often at the Fairfield office but she never saw him do any facilitator work.

Richard Sharobeem was unable to identify the work he had performed as a facilitator in return for the \$34,050 he received in facilitator fees from IWHS. He admitted that he did not do any facilitator work on some of the

days for which he received facilitator fees. There was nothing in his background qualifying him to act as a facilitator. There was no objective evidence that he performed any work as a facilitator. It is also significant that Ms Sharobeem did not disclose to the IWHS board that Richard Sharobeem was working as a paid facilitator at IWHS and that aliases were used.

In all the circumstances, the Commission concludes that the reason for her failure to make such disclosures was because she knew Richard Sharobeem did not provide any facilitator services to IWHS, and was therefore not entitled to the facilitator fees he received.

The Commission is satisfied that Richard Sharobeem did not perform any facilitator work for IWHS.

Charlie Sharobeem's facilitator payments

Between May 2014 and February 2015, Charlie Sharobeem was paid \$7,750 in facilitator fees under the aliases of Charl Gamal and Charli G.

Ms Sharobeem told the Commission that Charlie Sharobeem was not actually a facilitator but was paid facilitator fees for other work he performed. She said he prepared IWHS reports over more than three years, produced the reports on CDs or DVDs, did graphic work and "a lot of IT work". She said that, while this work was not strictly facilitator work, he was paid facilitator fees for bookkeeping purposes. That was, she claimed, because IWHS had no other classification available for people providing the type of services he provided.

Like his brother, Charlie Sharobeem did not appear to have any obvious qualifications to work as a facilitator. He told the Commission that he did not do well in his HSC and did not complete any tertiary education. He said he worked at Optus for about 10 years. He claimed to have "an IT background", but admitted that he had not undertaken any formal studies or work experience in IT.

He claimed to have done some work for IWHS at home, including preparing presentations with photographs that may have been for annual reports. He said he did that once a year for about four years from 2006 or 2007 and put the presentations on 300 to 400 CDs for distribution at IWHS meetings. He did not fill out time sheets and did not keep a record of the amount of time he spent working on the annual reports. He could not recall working on the annual report for 2014 or 2015. There was some evidence that Charlie Sharobeem was paid by IWHS for copying annual reports onto CDs or DVDs, but that was between 2009 and 2011 and outside the period of facilitator payments under examination by the Commission.

He told the Commission that he also did cleaning, gardening and a variety of minor handyman work, such as fixing broken doors or the mailbox, for which he did not claim payment and was not paid. The facilitator payments he received from IWHS were therefore not for that work.

He initially told the Commission that the facilitator fees he received were not for his annual report work but for:

Helping out with working in the office a lot of the time ... helping ladies get into computers, understand what they do, rebooting all of the PCs in the place ... do some of their Internet work in the back rooms.

He later claimed that he was paid facilitator fees for his annual report work but could not recall when he was paid for that work. He again changed his evidence and said that he did not know what the \$7,750 was for, but did not believe it was for his annual report work. He suggested, inconsistently with his earlier evidence that he did work for IWHS for which he was not paid, that the \$7,750 in facilitator fees may have been for "a lot of work that just happened all the time", such as cleaning and handyman work.

It is clear from the evidence that Charlie Sharobeem was unable to identify what, if any, facilitator services he provided to IWHS in return for \$7,750.

Once again, it is also significant that Ms Sharobeem did not disclose to the IWHS board or auditor that Charlie Sharobeem was working as a paid facilitator at IWHS and that aliases were used. The Commission concludes that the reason for her failure to make such disclosures was because she knew he did not provide any facilitator services to IWHS, and was therefore not entitled to the facilitator fees he received.

The Commission is satisfied that Charlie Sharobeem did not perform any facilitator work for IWHS.

Corrupt conduct

The Commission finds that Ms Sharobeem improperly exercised her official functions by:

- between May 2014 and March 2015, obtaining \$99,685 through submitting invoices to IWHS, falsely claiming she had worked as a facilitator and causing payment of those invoices to be made to her by IWHS
- between May 2014 and March 2015, obtaining \$34,050 for her son, Richard Sharobeem, through submitting invoices to IWHS, falsely claiming he had worked as a facilitator and causing payment of those invoices to be made to him by IWHS
- between May 2014 and February 2015, obtaining \$7,750 for her son, Charlie Sharobeem, through

submitting invoices to IWHS, falsely claiming he had worked as a facilitator and causing payment of those invoices to be made to him by IWHS.

In each case, Ms Sharobeem's conduct was corrupt conduct for the purpose of s 8 of the *Independent Commission Against Corruption Act 1988* ("the ICAC Act"). This is because her conduct constituted or involved the dishonest and partial exercise of her official functions and therefore comes within s 8(1)(b) of the ICAC Act. Her conduct also constituted or involved a breach of public trust and therefore comes within s 8(1)(c) of the ICAC Act. Her conduct is also conduct that impairs, or could impair, public confidence in public administration and involves dishonestly obtaining or dishonestly benefiting from the payment of public funds for private advantage, and therefore comes within s 8(2A)(c) of the ICAC Act.

The Commission is satisfied, for the purpose of s 9(1)(a) of the ICAC Act, that in each case, if the facts it has found were proved on admissible evidence to the criminal standard of beyond reasonable doubt and accepted by an appropriate tribunal, they would be grounds on which such a tribunal would find that Ms Sharobeem committed offences of fraud contrary to s 192E of the *Crimes Act 1900* ("the Crimes Act") and common law criminal offences of misconduct in public office.

The Commission is also satisfied, for the purpose of s 9(1)(b) of the ICAC Act, that in each case, if the facts as found were to be proved on admissible evidence to the requisite standard of on the balance of probabilities and accepted by an appropriate tribunal, they would be grounds on which such a tribunal would find that Ms Sharobeem had committed disciplinary offences of misconduct.

Accordingly, the Commission is satisfied that the jurisdictional requirements of s 13(3A) of the ICAC Act are satisfied.

The Commission is satisfied, for the purpose of s 74BA of the ICAC Act, that in each case, Ms Sharobeem engaged in serious corrupt conduct. This is because her conduct involved misusing her position as CEO of IWHS to submit false invoices for facilitator payments to herself and her two sons, and causing payment of these invoices to be made by IWHS for the benefit of herself and her family members, at the expense of the women and children for whose benefit IWHS was publicly funded. The amount of funds thus taken and applied to Ms Sharobeem and her children's private advantage was a substantial sum exceeding \$141,000. Her conduct also involved a degree of planning as demonstrated by her use of aliases, and was motivated by a desire for financial gain for herself and her family. She had no reasonable excuse or justification for her deliberate actions, which involved a substantial

breach of public trust, by putting her personal and family interests before the public interest.

The Commission finds that Ms Sharobeem engaged in serious corrupt conduct by:

- between May 2014 and March 2015, improperly exercising her official functions to obtain \$99,685 through submitting invoices to IWHS, falsely claiming she had worked as a facilitator and causing payment of those invoices to be made to her by IWHS
- between May 2014 and March 2015, improperly exercising her official functions to obtain \$34,050 for her son, Richard Sharobeem, through submitting invoices to IWHS, falsely claiming he had worked as a facilitator and causing payment of those invoices to be made to him by IWHS
- between May 2014 and February 2015, improperly exercising her official functions to obtain \$7,750 for her son, Charlie Sharobeem, through submitting invoices to IWHS, falsely claiming he had worked as a facilitator and causing payment of those invoices to be made to him by IWHS.

Section 74A(2) statement

The Commission is satisfied that Ms Sharobeem, Richard Sharobeem and Charlie Sharobeem are "affected" persons with respect to the matters dealt with in this chapter.

Ms Sharobeem gave evidence under an s 38 declaration, which means that her evidence is not admissible against her in criminal proceedings other than proceedings for an offence under the ICAC Act. However, there is other evidence that would be admissible, including the evidence of Ms Chanthalangsy, Ms Chan, Ms Abboud, Ms Hana, and Mr Boyd, as well as relevant documentary evidence, such as facilitator invoices, transfer receipts and CCRs.

The Commission is of the opinion that consideration should be given to obtaining the advice of the Director of Public Prosecutions (DPP) with respect to the prosecution of Ms Sharobeem for criminal offences of fraud contrary to s 192E of the Crimes Act or common law criminal offences of misconduct in public office for the conduct the subject of the serious corrupt conduct findings.

Given that Ms Sharobeem no longer works for IWHS, the issue of whether consideration should be given to the taking of action against her for a disciplinary offence or with a view to her dismissal does not arise.

The Commission is not of the opinion that consideration should be given to obtaining the advice of the DPP with

respect to the prosecution of Richard Sharobeem or Charlie Sharobeem for any criminal offences. As neither any longer works for IWHS, which itself is no longer in existence, the issue of whether consideration should be given to the taking of action against them for a disciplinary offence or with a view to their dismissal does not arise.

Chapter 6: Payment for property work

On 20 July 2011, Eman Sharobeem purchased the property at 92 Smart Street in Fairfield that was occupied by the Immigrant Women's Health Service (IWHS). This chapter examines whether she subsequently improperly arranged for IWHS to pay for work on that property.

The lease

The principal IWHS office was located at 92 Smart Street, Fairfield in NSW ("the Property"). Between 2004 and 2011, the Property was rented through Marando Real Estate. There was a commercial lease agreement between the then owners of the Property and IWHS dated 15 January 2004. The lease was for a period of two years; from 20 January 2004 to 19 January 2006. The lease required the tenant to take care of the premises, keep it in a clean condition, and notify the landlord of any loss, damage or defect. The lease further provided that, except for any damage caused by the tenant's neglect, deliberate or careless act or a breach of any condition of the lease, the landlord was responsible for carrying out all reasonable repairs necessary for the tenant's ordinary use and occupation of the premises. The landlord was responsible for keeping the premises in a reasonably fit condition.

The lease provided that, after 19 January 2006, unless either party gave the other written notice of termination, the lease would continue as a periodic lease from month to month. In the absence of any evidence that there was a variation of the lease after it expired in January 2006, the same conditions of the lease as those stipulated in the 2004 lease therefore continued to apply.

On 20 July 2011, Ms Sharobeem purchased the Property for \$660,000. The purchase was partly financed through a business loan. She appointed Richardson & Wrench as the managing agent. IWHS continued as tenant. Between July 2011 and June 2016, Ms Sharobeem received a total of \$184,767.30 in rent from IWHS.

In June 2016, IWHS was requested to vacate the Property. In September 2016, Ms Sharobeem sold the Property for \$1.3 million.

Both Marando Real Estate and Richardson & Wrench advised the Commission that they did not have a lease agreement entered into by Ms Sharobeem and IWHS covering the period from July 2011 to June 2016. Ms Sharobeem told the Commission that she understood the conditions of the original lease agreement of 15 January 2004 continued to apply. That is the correct legal position. Importantly, there was no evidence that the landlord's contractual obligation to pay for repairs or other work to the Property changed at any time by any variation to the 2004 lease.

The Commission is satisfied that, while landlord, Ms Sharobeem was legally responsible for meeting the cost of work and repairs to the Property not caused by any neglect, deliberate or careless act or breach of any lease condition on the part of IWHS.

The work

Evidence before the Commission, including the testimony of IWHS administrative officers, Marie Abboud and Watfa El-Baf, showed that, prior to Ms Sharobeem's purchase of the Property, all repairs and other work were paid for by the landlord. The only exception was a \$99 payment for a plumbing job in May 2010. That was paid by IWHS. It is not clear on the available evidence why IWHS paid for that work.

Ms Sharobeem told the Commission that, prior to her purchasing the Property, she was aware that IWHS staff contacted the managing real estate agent to request work be done. She claimed that she did not know at the time that the landlord paid for the cost of that work. She disagreed that the \$99 plumbing job was the only work paid for by IWHS prior to her becoming the new owner. She thought other work may have been paid for

from IWHS's petty cash but did not identify any that had been paid for in that way.

Ms Sharobeem also claimed that she had an agreement with the previous landlord that IWHS would not claim the costs of maintenance from the landlord, as long as IWHS was allowed to stay at the Property. She did not produce any witness or documentary evidence in support of the existence of such an agreement. The Commission rejects her evidence on that point. The relationship between IWHS and the landlord was governed by the terms of the lease. Under those terms, IWHS was entitled to remain at the Property on payment of the rent and the landlord was responsible for the cost of repairs (other than those caused by the tenant's neglect, and so forth) and other work. There was no need for any agreement that the tenant pay for repairs or other work in return for being able to remain at the Property.

Initially, Ms Sharobeem denied that after she became the new owner of the Property, IWHS funds were used to pay for work on the Property.

Evidence before the Commission, including financial records held by IWHS and information provided by the forensic auditor, who investigated a number of matters relating to IWHS finances in 2015, showed that, between July 2011 and September 2016, IWHS paid a total of \$59,558.70 for the cost of work to the Property. The payments were:

- \$13,500 on two invoices from W Concrete, dated 11 July 2011 and 1 August 2011, for concreting work
- \$3,100 on an invoice from Design A Robe, dated 26 July 2011, for the supply and installation of built-in wardrobes
- \$860 for which a receipt was issued by Wally Sid on 26 July 2011 for repairs to a fence between the Property and a neighbour's property

- a total of \$7,256.70 on two invoices from Patriot Electrical Services, dated 10 March 2012 and 2 April 2012, for electrical work
- \$1,166 on an invoice from Aus-Group Property Services, dated 13 March 2012, for installing a chicken-wire barrier and repairing a timber fence
- a total of \$5,140 on invoices from John Bazzi in 2013 and 2014 for roofing and guttering work, fixing a door and other related work
- a total of \$11,030 on three invoices from R&R Painting Services issued in December 2014 for painting
- \$8,400 on an invoice from Minda Australia, dated 19 December 2014, for the installation of shutters
- a total of \$1,610 for invoices from Rinata Electrical, dated January and April 2015, for the installation of power points, switches, timers, outdoor lights and a transformer
- a total of \$6,396 on four invoices issued by Nenad Kelecevic between January and April 2015 for repairs to the back fence, work on the kitchen and bathroom, replacement and painting of posts in the driveway, and change of flyscreens
- \$1,100 on an invoice from Robert Salloum, dated 25 March 2015, for various types of electrical work, including changing the position of power switches and installing a new power outlet in the bathroom.

The nature of the above work indicates that it was either improving the property or normal maintenance and repair work that, under the terms of the lease, should have been paid for by Ms Sharobeem as the owner of the property.

The Commission also found a quote for \$4,200 from Patrick Scarf to IWHS. The quote was for tiling, painting, repairs, relocation of a telephone line, installation of a new

toilet, tap set, dryer, lights and power points for a water heater for the laundry, toilet, bathroom and carport. In an email to Mr Scarf, dated 22 May 2012, Ms Sharobeem instructed him to proceed with his quotation for \$4,200. However, the Commission was not able to confirm that any payment was actually made by IWHS for any of that work.

Ms Sharobeem's authorisation of payments

There was documentary evidence before the Commission in the form of invoices, receipts, transfer records, emails and notes, showing that Ms Sharobeem instructed the IWHS bookkeeper to process invoices for work and approved their payment. The documentary evidence included:

- an email dated 4 August 2011 from Ms Sharobeem to Linda Yab, then IWHS bookkeeper, noting that payment for the invoice from Design A Robe had been made using the IWHS credit card
- a receipt dated 26 July 2011 from Wally Sid with Ms Sharobeem's handwritten instructions to Ms Yab advising, "Linda, this payment was done in cash as an emergency OH&S"
- bank transfer receipts bearing Ms Sharobeem's handwritten initials in relation to payment of the three December 2014 R&R Painting Services invoices
- a handwritten note, which appears to be in Ms Sharobeem's handwriting but not admitted by her as hers, instructing payment for the invoice dated 19 December 2014 from Minda Australia and two transfer receipts for payments made to Minda Australia on 8 and 12 January 2015 bearing Ms Sharobeem's handwritten initial
- an email of 9 April 2015 from Ms Sharobeem to Chanthaneth Chanthalangsy, the IWHS bookkeeper, with the subject title "please process", attaching one of the invoices from Rinata Electrical
- the Nenad Kelecevic invoices for \$450 and \$190 and the relevant IWHS bank transfer receipts for those payments all bore Ms Sharobeem's handwritten initials
- the IWHS bank transfer receipts relating to the Nenad Kelecevic invoices for \$4,976 and \$780 both bore Ms Sharobeem's handwritten initials
- the IWHS bank transfer receipt for the payment to Mr Salloum bore Ms Sharobeem's handwritten initials.

Ms Sharobeem did not ultimately dispute that the work was paid for by IWHS. The Commission finds that she arranged for IWHS to pay for the work. She disagreed that it was her obligation as IWHS's landlord to use her funds to pay for the work. She claimed that the 2004 lease provided that necessary repairs had to be paid for by the tenant. As shown above, that was incorrect. When shown the actual terms of the 2004 lease she claimed that she had not been aware of the terms requiring the landlord to pay for repairs. She said that she understood that, ordinarily, the tenant should pay for any damage caused by the tenant and the landlord should pay for any work that added value to the property. She claimed, notwithstanding that, since IWHS was not a "normal tenant" but an organisation frequented by more than 100 people every day, it should be responsible for any repairs or renovations.

The Commission rejects Ms Sharobeem's assertion that IWHS was responsible for the cost of work because the Property was frequented by a number of IWHS clients each day. The Commission is satisfied that Ms Sharobeem well understood that, under the lease, it was the landlord's responsibility to meet the cost of general maintenance work and work that added value to the property and that the work she arranged IWHS to pay for came within those categories.

Declaration to NSW Community Building Partnership

In her evidence to the Commission, Ms Sharobeem agreed that, in 2014, she applied to the NSW Community Building Partnership for a \$60,000 grant of public money to renovate the Property. The NSW Community Building Partnership is a NSW Government program that awards grants for community infrastructure projects, including financial assistance, to enhance community facilities. The NSW Community Building Partnership paid IWHS \$33,000. The balance of \$27,000 was withheld due to the Commission's investigation.

The application form Ms Sharobeem completed and signed identified "Dr Eman Sharobeem" as the contact person for the application, and described the project for which funding was sought as "to update community facilities and install safety rails". The application referred to the Property being in great need of upgrade or replacement, especially the kitchen and bathroom, and the need to install safety rails at the front ramp. She also ticked boxes on the application indicating that electrical work, drainage, fencing, painting and wall repairs were necessary. All these works would have added to the value of her property.

Ms Sharobeem agreed that she declared in the application form that IWHS was the owner of the Property. That, of

course was incorrect. She said she did so because she could not find any other option in the form available to tick. The Commission rejects that claim. There was a section in the application form where further details could be provided, which Ms Sharobeem could easily have used to explain that she owned the Property. Ms Sharobeem also explained that she may have incorrectly identified IWHS as being the owner, because she understood that it was owned by IWHS through her. That was clearly not the case and the Commission rejects that explanation.

The Commission is satisfied that, in 2014, Ms Sharobeem deliberately misrepresented IWHS as the owner of the Property in an application to the NSW Community Building Partnership for funding to cover the costs of further renovations to the Property, with the intention of obtaining public funds to pay for work on her property.

Corrupt conduct

The Commission finds that Ms Sharobeem improperly exercised her official functions by:

- between 2011 and 2015, arranging for IWHS to pay \$59,558.70 for work on her property at 92 Smart Street, Fairfield, knowing that, as owner of that property, those costs were her responsibility
- in 2014, falsely stating in an application to the NSW Community Building Partnership that IWHS was the owner of her property at 92 Smart Street, Fairfield, with the intention of obtaining public funds to pay for work on her property.

In each case, Ms Sharobeem's conduct was corrupt conduct for the purpose of s 8 of the *Independent Commission Against Corruption Act 1988* ("the ICAC Act"). This is because her conduct constituted or involved the dishonest and partial exercise of her official functions and therefore comes within s 8(1)(b) of the ICAC Act. Her conduct also constituted or involved a breach of public trust and therefore comes within s 8(1)(c) of the ICAC Act. Her conduct is also conduct that impairs, or could impair, public confidence in public administration and involves dishonestly obtaining or dishonestly benefiting from the payment of public funds for private advantage, and therefore comes within s 8(2A) of the ICAC Act.

The Commission is satisfied, for the purpose of s 9(1)(a) of the ICAC Act, that, if the facts it has found were proved on admissible evidence to the criminal standard of beyond reasonable doubt and accepted by an appropriate tribunal, they would be grounds on which such a tribunal would find, in each case, that Ms Sharobeem committed a criminal offence of misconduct in public office, in relation to both her misuse of IWHS funds to pay for work on her property and her false declaration in the

NSW Community Building Partnership application as to the identity of the property owner.

The Commission is also satisfied, for the purpose of s 9(1)(b) of the ICAC Act, that, if the facts as found were to be proved on admissible evidence to the requisite standard of on the balance of probabilities and accepted by an appropriate tribunal, they would be grounds on which such a tribunal would find that Ms Sharobeem had committed disciplinary offences of misconduct.

Accordingly, the Commission is satisfied that the jurisdictional requirements of s 13(3A) of the ICAC Act are satisfied.


The Commission is also satisfied, for the purpose of s 74BA of the ICAC Act, that, in each case, Ms Sharobeem engaged in serious corrupt conduct. This is because her conduct involved misusing her position as the CEO of IWHS by using IWHS funds to pay for work to a property she owned for her personal financial benefit at the expense of the women and children for whose welfare and benefit the IWHS funds were meant to be used. The financial benefit was significant. Her conduct, which was motivated by greed, also involved making a deliberately false declaration in an application for further government funding. Her conduct also involved a degree of planning and a substantial breach of public trust by putting her personal interests before the public interest, and could constitute criminal offences of misconduct in public office. Her conduct could also impair public confidence in public administration.

The Commission finds that Ms Sharobeem engaged in serious corrupt conduct by:

- between 2011 and 2015, improperly exercising her official functions to benefit herself by arranging for IWHS to pay \$59,558.70 for work on her property at 92 Smart Street, Fairfield, knowing that, as owner of that property, those costs were her responsibility
- in 2014, improperly exercising her official functions to benefit herself by falsely stating in an application to the NSW Community Building Partnership that IWHS was the owner of her property at 92 Smart Street, Fairfield, with the intention of obtaining public funds to pay for work on her property.

Section 74A(2) statement

The Commission is satisfied that Ms Sharobeem is an "affected" person with respect to the matters dealt with in this chapter.



Ms Sharobeem gave evidence under an s 38 declaration, which means that her evidence is not admissible against her in criminal proceedings other than proceedings for an offence under the ICAC Act. However, there is other evidence that would be admissible, including the evidence of Ms El-Baf and Ms Abboud, as well as relevant documentary evidence such as the lease agreement of 15 January 2004, invoices and receipts from contractors, transfer records, emails from Ms Sharobeem to IWHS staff, and the application for funding to NSW Community Building Partnership in 2014.

The Commission is of the opinion that consideration should be given to obtaining the advice of the Director of Public Prosecutions (DPP) with respect to the prosecution of Ms Sharobeem for the offence of misconduct in public office, in relation to her arranging for payment by IWHS of \$59,558.70 for works to her property at 92 Smart Street, Fairfield, and making a false declaration as to the ownership of IWHS's premises in the 2014 application to the NSW Community Building Partnership.

Given that Ms Sharobeem no longer works for IWHS, which is itself no longer in existence, the issue of whether consideration should be given to the taking of action against her for a disciplinary offence or with a view to her dismissal does not arise.

Chapter 7: Falsifying information

The Immigrant Women's Health Service (IWHS) was primarily funded by NSW Health through the South Western Sydney Local Health District (SWSLHD). IWHS also received funding from the Smith Family to conduct two projects. This chapter examines whether Eman Sharobeem arranged for false information to be provided to those funding bodies.

Altering information in the IWHS computer database

The IWHS computer database contained details of programs conducted by IWHS as well as the names of clients, facilitators and volunteers.

Watfa El-Baf, a part-time administrator, worked at IWHS between September 2005 and June 2016. One of her duties was to log details of all IWHS programs and their participants in the IWHS computer database.

Ms El-Baf told the Commission that, in about March 2013, she printed a report from the IWHS computer database showing the number of programs and program attendees for the 2012–13 financial year. This was done in response to a request from Women's Health NSW for such a report. Ms El-Baf faxed the report to Women's Health NSW.

According to Ms El-Baf, Ms Sharobeem was upset that Ms El-Baf had sent the report without first obtaining her approval. Ms Sharobeem told Ms El-Baf to give her a copy of the report so she could "fix it" because the information used to generate the report was inaccurate. Ms Sharobeem told Ms El-Baf that, because Ms El-Baf did not work full-time, she did not know about clients and calls that had not been recorded in the computer database. After getting a copy of the report, Ms Sharobeem amended it by writing in new figures. She then told Ms El-Baf to enter the new figures into the IWHS computer database.

On 28 March 2013, Ms El-Baf also received an email from Ms Sharobeem telling her, "Please continue with the report as we started together. I just finished the first table while I was showing you and did not get a chance to get back to it. I better leave it for you to finish. Thanks. Eman". Ms El-Baf told the Commission that she understood those instructions required her to input Ms Sharobeem's handwritten figures into the table in the IWHS computer database, thereby altering the original data. She told the Commission she did not know how to perform that task and therefore did not enter the figures into the IWHS computer database.

During the public inquiry, Ms El-Baf was shown a document dated 25 March 2014 ("the March 2014 document"). Given its date, it is clearly different from the one Ms El-Baf recalled being sent in 2013. The purpose of the March 2014 document was to record attendee numbers for each quarter for the period from 1 July 2012 to 30 June 2013. It contained both typed and handwritten figures. The latter markedly increased the numbers of attendees. For example, the typed total of attendees under the "contact mode" heading was 338. The handwritten total was 12,000. That represented a substantial increase in numbers of attendees. Ms El-Baf told the Commission that the handwriting was Ms Sharobeem's. She also told the Commission that Ms Sharobeem instructed her to enter the handwritten figures into the IWHS computer database.

Ms Sharobeem told the Commission that not all of the handwriting on the March 2014 document was hers. She also said it was only a template that she used to teach Ms El-Baf what to do, including how to calculate relevant numbers. She added that such training was necessary to ensure that all telephone calls received and people aided by IWHS were accurately recorded. She did not accept that she wanted Ms El-Baf to substitute the figures in the IWHS computer database with the handwritten figures.

The Commission was not able to establish a direct link between the handwritten figures on the March 2014 document and the statistics reported to the SWSLHD.

Ms El-Baf told the Commission that, in about June 2015, Ms Sharobeem asked her and Marie Abboud to add additional groups to the IWHS computer database. Ms El-Baf had never heard of the additional groups and believed that they did not exist. Ms El-Baf also said Ms Sharobeem instructed her to amend the IWHS database figures for the financial year 2014–15 by adding an extra 10 people to the daily number of participants in each group.

Ms El-Baf was reluctant to make the changes. That resulted in text messages between herself and Ms Sharobeem. These show that Ms El-Baf was concerned that the fact of making the amendments would itself be recorded on the database. In a text message sent on 17 June 2015, Ms Sharobeem told Ms El-Baf to proceed with the changes because she “got the ok from the consultant and the dept after I talked with you”.

In a further text message, she told Ms El-Baf to “just add the number as I told you before. I am saying that I got approval to top up the numbers on the database”. Ms El-Baf sent a text message to Ms Sharobeem asking Ms Sharobeem to email her what the department and consultant suggested, together with the relevant details to be changed. Ultimately, Ms El-Baf did not have to follow through with the task, as she understood from what Ms Abboud told her that Ms Sharobeem had asked Ms Abboud to make the changes.

When giving evidence at the public inquiry, Ms Sharobeem denied telling Ms El-Baf to increase the daily number of group participants by 10 people. However, in an email dated 7 October 2015, Ms Sharobeem told Ms El-Baf, “I will email you the names of the meetings I attend and the nationalities of the attendees and then you add 20 people per day accordingly”.

Ms El-Baf told the Commission that she asked Ms Sharobeem to email her every week the names of the meetings she attended, the number of people, venue and other relevant details to enable her to enter those details into the IWHS computer database. She said Ms Sharobeem did not agree to do that and instead told her that she would enter the numbers into the computer database herself. That is consistent with an email Ms Sharobeem sent to Ms El-Baf on 7 October 2015 in which she advised Ms El-Baf that, if Ms El-Baf could not add the extra names into the computer database, “I will do it myself”. Ms El-Baf told the Commission that Ms Sharobeem could access and use the IWHS computer database herself.

Ms Sharobeem told the Commission that she could not remember what was discussed with Ms El-Baf about entering data for meetings she attended. She said her instructions to Ms El-Baf on that topic formed part of Ms El-Baf’s training to ensure all relevant data was captured. She denied that the 20 people she referred to in her email of 7 October 2015 did not exist. She initially denied accessing the IWHS computer database and changing the figures herself, but later modified her evidence by saying she could not remember doing so.

Between 2001 and 2016, Ms Abboud worked at IWHS as a part-time administrator three days a week. Between 2002 and 2016, she also worked on Tuesdays as a facilitator in an Arabic-speaking group. From 2002, she was therefore in a position to observe what was happening four days a week at IWHS’s Fairfield office, including the various activities conducted there during those days.

Ms Abboud said that one day Ms Sharobeem asked her to add to the IWHS computer database future programs and numbers of attendees. Ms Abboud was not sure if the future programs were really going to run, but did as instructed because Ms Sharobeem was “the boss”. When Ms Sharobeem also asked her to add the names of facilitators who Ms Abboud did not believe were facilitators, she became suspicious and requested Ms Sharobeem to email her details of what she was being asked to do.

On 25 June 2015, Ms Sharobeem sent Ms Abboud an email listing various programs, including “Healthy Schools Programs”, “Community Engagement”, “Girls Health” and “Women’s Network based in Fairfield”, together with the number of attendees, to be added to the IWHS computer database. Ms Abboud told the Commission that those programs were not conducted in June 2015 or afterwards at IWHS.

Ms Sharobeem did not dispute that she instructed Ms Abboud to enter additional programs in the IWHS computer database. She denied making up the number of attendees and claimed that the programs and number of attendees referred to in her email of 25 June 2015 had been previously missed from being recorded in the database.

The evidence of Ms El-Baf and Ms Abboud is corroborated by the documentary evidence of the text messages and emails referred to above. Their contents are clear in meaning and leave no doubt that Ms Sharobeem instructed Ms El-Baf and Ms Abboud to make changes to the data in the IWHS computer database. There was no independent objective evidence that the changes were based on actual numbers of attendees.

Ms Sharobeem conceded that some of the attendee numbers were random. Her actions in instructing Ms El-Baf

to increase the number of attendees by 10 and 20 people for each group, without reference to any credible source indicative of the true number of attendees, is consistent with her having made up the number of attendees.

The Commission is satisfied that, in 2015, Ms Sharobeem instructed Ms El-Baf and Ms Abboud to enter false statistics relating to IWHS activities in the IWHS computer database.

Reporting to the SWSLHD

From July 2014, Professor Josephine Chow, the SWSLHD's associate director of strategic projects, was responsible for the SWSLHD-funded non-government organisation (NGO) program ("the NGO Program"), of which IWHS was part.

It was her evidence that IWHS was successful in gaining three-year funding in the 2007–08 financial year and again in the 2010–11 financial year from NSW Health through the SWSLHD. An annual funding cycle was introduced for the 2013–14 financial year, along with a key performance indicator (KPI) reporting system. Under the KPI reporting system, IWHS was required to meet and report on various KPIs. Those included the number of clients who attended groups, the number of groups and other information relevant to determining whether public funding of IWHS was appropriate. Ms Sharobeem was responsible for the quarterly reporting of IWHS KPIs to the SWSLHD.

According to Professor Chow, annual reports were required to be tabled at the NGO's annual general meeting, signed by the CEO and sent to the SWSLHD by 15 September each year. Quarterly reports were reviewed by Christine Pollachini, the SWSLHD's program manager, to assess KPI compliance with the agreed target and whether the NGO was underperforming. Where concern was felt about a NGO's performance, a number of steps could be taken by the SWSLHD, before making recommendations to its chief executive and NSW Health that funding be withdrawn. Those included a meeting with the NGO to discuss problems and desired improvements, giving the NGO time to demonstrate improved performance, and training. The Commission is satisfied that Ms Sharobeem was aware of the SWSLHD's reporting requirements and that any failure by IWHS to perform satisfactorily could adversely affect its funding.

In the KPI report for 2013–14, IWHS indicated it ran 3.4 groups per day. In the financial year 2015–16, IWHS advised the SWSLHD that it would be running 7.6 groups per day in the first quarter of the funding period. That raised an alarm with the SWSLHD because IWHS only had about 4.5 full-time equivalent staff. On 10 June 2015, Ms Pollachini sent an email to Ms Sharobeem

enquiring whether the number of groups was correct. According to Professor Chow, Ms Sharobeem replied that the information was correct, as the groups were held at the two IWHS offices as well as part of an outreach program at other locations, and there were volunteers and facilitators to assist.

From August 2004 to June 2016, Sok Luong Chan was employed as project coordinator at IWHS's Cabramatta office. She worked from Monday to Friday between 9.30 am and 2.30 pm. Ms Chan told the Commission that she provided Ms Sharobeem with figures for the yearly activities conducted at the IWHS's Cabramatta office for the purpose of preparing the annual report.

She said that there were two different ways of arriving at the figure relating to the number of people participating in a given group activity. One way was to add up the total number of people that attended a particular group. The other way was to multiply the number of people attending by the number of meetings. For example, if there were 10 people attending a particular group once a week and they continued to attend for 10 weeks, the total number of attendees would be represented as 100 instead of 10. Accordingly, she observed that, while a figure might appear to be too high to be correct, whether that was in fact the case depended on the formula used to calculate the number. Ms Chan could not say which of the two methods of calculation was used for the figures reported in IWHS's KPI reports or IWHS's annual reports.

In her evidence to the Commission, Ms Sharobeem claimed (at least initially) to have counted the number of attendances rather than the number of attendees when reporting on the number of participants in the Multicultural Parenting Project (MPP) discussed later in this chapter. She did not offer the same method of calculation as an explanation for the large number of attendees (some of them in the thousands) of various IWHS programs in IWHS's KPI reports or annual reports. There was no reference in those reports identifying the method used to calculate the numbers reported. For example, in the 2014–15 IWHS KPI report, figures were provided for "Number of clients attending Cabramatta groups per week" and "Number of clients attending outreach groups per year". There was also a figure provided next to a reference to the "Number of face to face counselling occasions of service per year". It appears, therefore, that a distinction was made in the report between the number of attendees and the number of attendances as "occasions of service".

Similarly, IWHS's annual report for 2014–15 stated: "10,131 were the total number of women who were served [at] the service at large", and "The women's health education program has evoked the participation of over 9000 women in its various group activities".

Those statements clearly refer to the number of attendees who participated in IWHS's programs rather than the number of attendances.

The Commission is satisfied that, unless otherwise specified, the figures provided in IWHS's KPI reports and IWHS's annual reports were intended by Ms Sharobeem to show the actual number of attendees in IWHS programs, and not the number of attendances.

IWHS KPI reports

As Ms Sharobeem was only examined on KPI reports for the 2014–15 and 2015–16 financial years, discussion on whether the number of attendees was inflated in the KPI reports will be confined to those periods.

Ms Sharobeem denied she had intentionally falsified figures in IWHS's KPI reports. She told the Commission that IWHS ran numerous classes, programs and group activities throughout the week, including English classes, Jordanian women's unity group, Assyrian group, Turkish group, Spanish group, Arabic-speaking group, Mandaean group, Middle Eastern Seniors Group, Assyrian and Turkish breast cancer group, and yoga classes. She said those activities were conducted at Fairfield, Cabramatta and other locations during the day, on evenings and on weekends.

Two IWHS reports, each titled *Immigrant Women's Health Key Performance Indicators–SWSLHD Financial Year to Date* for the financial years 2014–15 and 2015–16 set out a list of various group activities and other services conducted by IWHS. Next to each group activity were figures representing the number of participants in the respective activities for each quarter.

The 2014–15 KPI report recorded the total number of clients attending as 4,932, 4,325 and 4,525 for the first three quarters. The corresponding figures for the first three quarters in the 2015–16 KPI report were 2,500, 3,166 and 2,908 respectively. The figures for the number of women's groups conducted at IWHS's Fairfield office had also dropped, from a reported 105 in the first quarter of 2014–15 to only 10 in the first quarter of 2015–16. Ms Sharobeem did not dispute that there were significant differences between the KPI figures reported in the 2014–15 KPI report and the 2015–16 KPI report but was unable to proffer an explanation.

It will be recalled that the IWHS annual report for 2014–15 recorded a total of 10,131 women as having attended the IWHS service "at large". That figure was inconsistent with the KPI figure of 18,393 reported to the SWSLHD, as being the total number of women who attended the women's groups in Fairfield alone for the year 2014–15.

Ms Sharobeem told the Commission that the annual report figure was correct and the KPI figure reported to the SWSLHD was a "wrong calculation". Her explanation for the error was that there had been difficulty within IWHS coming to terms with what the SWSLHD required. The Commission does not accept that as an explanation for the difference in numbers. If accurate statistics were kept, the number of women who attended IWHS would have been a known quantity. The large variation in figures between the annual report and the KPI report suggests that Ms Sharobeem had little regard for accuracy, either in the collection of attendee statistics or the reporting of those statistics to the SWSLHD.

Professor Chow told the Commission that the KPI figures provided by IWHS for 2015–16 were very high, given the limited amount of funds and number of staff at IWHS's disposal. She also observed that, when she attended IWHS's office with Ms Pollachini on two occasions in January 2015, the number of programs and participants she saw there did not reflect the high KPI numbers reported by IWHS.

Ms Sharobeem acknowledged, but was unable to explain, the significant differences between some of the figures reported in the 2014–15 and 2015–16 KPI reports. She was also unable to provide a satisfactory explanation for the anomaly between IWHS's KPI report and IWHS's annual report for 2014–15 relating to the total number of women who attended IWHS.

Professor Chow's observations regarding IWHS, and Ms Sharobeem's inability to explain the large discrepancies between the number of attendees of women's groups in years 2014–15 and 2015–16 reported as KPIs, raised concerns about the accuracy of the information reported to the SWSLHD. The wide variation between the number of attendees reported in the 2014–15 KPI report and the 2014–15 annual report demonstrate that, at the very least, Ms Sharobeem had little regard for accurate reporting of statistics. The Commission, however, does not consider there is sufficient evidence to conclude that Ms Sharobeem deliberately provided false attendee statistics in the KPI reports submitted to the SWSLHD.

IWHS annual reports

There was evidence before the Commission suggesting that the number of IWHS group activity participants was inflated in IWHS annual reports. However, given that Ms Sharobeem was only examined in detail about the figures in the 2014–15 annual report, discussion in this report of that issue is confined to the figures in that annual report.

While ultimately responsible for accuracy of IWHS annual reports, Ms Sharobeem told the Commission that she collected information and put it all together with other IWHS staff also participating.

Ms Abboud gave evidence about the nature of groups and programs run by IWHS at the Fairfield office during the years she worked there. She told the Commission that the programs were always conducted between 10 am and 2 pm. She said that the Arabic-speaking group, with which she was involved, had about 15 attendees, the Assyrian group also about 15, the Women's Unity Group about 10 to 12, the English class about 15 to 20, the Mandaean group about 12 to 15, and the seniors group about 25 to 26. She estimated about 250 people in total attended IWHS each week.

Ms Abboud was shown the 2014–15 IWHS annual report. She said that some of the figures for attendees, while higher than expected, might not necessarily be inaccurate. However, other figures were wrong. They included the reported number of 2,512 attendees at yoga classes. That figure, on its face, seemed excessive. Ms Abboud said it was wrong because there were only two yoga classes with a maximum of perhaps 30 people for each class.

Jihan Hana worked at IWHS between October 2013 and June 2016; first as a volunteer, then shortly after as a paid facilitator for the seniors group. She told the Commission that she was involved with three separate seniors groups: the seniors group at Bankstown (with about 15 attendees), the Middle Eastern Seniors Group at Bossley Park (with about 35 attendees), and the seniors group at Fairfield (with up to 25 attendees). She reported the number of attendees to Ms Sharobeem through weekly and monthly reports.

IWHS's annual report for 2014–15 reported that there were 556 participants in just the Middle Eastern Seniors Group. That is a much higher number of attendees than Ms Hana recalled.

In her evidence to the Commission, Ms Sharobeem agreed that some of the figures in the 2014–15 IWHS annual report, such as 1,295 people reported to have attended the Vietnamese Women's Health Group or 2,512 people reported to have attended yoga classes at IWHS, appeared to be very high. She justified the figures, at least in part, by claiming that programs were conducted outside business hours and on weekends. That claim was not supported by the evidence of other witnesses who were in a position to know which programs were conducted and when they were conducted. Ms Abboud was at IWHS four days a week and, as its administrative officer, was responsible for attending to tasks relating to IWHS programs. She told the Commission that the programs were always conducted between 10 am and 2 pm. Ms Lai told the Commission that all programs at IWHS were finished by 3 pm. Ms Chan told the Commission that the programs in the Cabramatta office were only conducted Monday to Friday during business hours.

Ms Sharobeem often gave vague and unresponsive testimony, which undermined her credibility as a witness. She also had a motive to lie to the Commission, namely to protect herself by denying that she manipulated the statistics.

The Commission recognises that allowances should be made for a reasonable margin of honest error. The Commission, however, accepts the evidence of Ms Abboud, Ms Hana and Ms Lai; none of whom had any motive to lie to the Commission. The Commission is therefore satisfied that at least some false figures were knowingly reported in the IWHS annual report for 2014–15 and submitted to the SWSLHD and NSW Health by Ms Sharobeem as representing the number of attendees of IWHS group activities in that financial year. The reason for her doing so was to ensure that IWHS continued to receive public funding.

The Smith Family and the Commission's jurisdiction

IWHS received funding from the Smith Family to conduct programs under the MPP and Steps to Employment Project (STEP). It reported to the Smith Family through quarterly and six-monthly reports in the form of a template provided by the Smith Family for that purpose. The matters investigated by the Commission included whether Ms Sharobeem submitted reports falsely claiming that IWHS had conducted the MPP and the STEP or had inflated the number of participants in those programs.

During the public inquiry, counsel for Ms Sharobeem submitted that the Commission did not have jurisdiction to investigate those matters. The submission was put on two bases. The first basis was that the funding provided by the Smith Family was not public funds. Acting Commissioner Blanch accepted that, if the Smith Family provided private funding to IWHS, then the Commission would not have jurisdiction to investigate the use of that funding. The agreements between the Smith Family and IWHS, however, noted that all the Smith Family funds for the two projects came from the Commonwealth. Acting Commissioner Blanch therefore found that IWHS received public funds for the projects.

The second basis put by counsel for Ms Sharobeem was that, accepting the funds were public funds, they were Commonwealth public funds, not NSW public funds and therefore they were not "public funds" for the purposes of s 8(2A) of the ICAC Act. That section is set out in Appendix 2 of this report. It was contended that s 8(2A) of the ICAC Act should be read as being limited to conduct that impairs, or could impair, public confidence in public administration in NSW because the ICAC Act was not directed towards public confidence

in Commonwealth bodies. Acting Commissioner Blanch rejected that submission. He held that s 8(2A) of the ICAC Act:

...is clearly directed at the impairment of public confidence in public administration and it focuses on payment or application of public funds for private advantage or the disposition of public assets for private advantage. Bearing in mind that that is the primary object of the Act, in my view it should not be read down to exclude a situation where Commonwealth funds are provided.

Multicultural Parenting Project

As described in the funding agreement between the Smith Family and IWHS, the purpose of the MPP was to “implement a culturally appropriate and evidence based parenting program focusing on families with children [up to 12 years of age] from different cultures”. The MPP was meant to help parents in multicultural communities develop parenting skills.

Ms Sharobeem agreed that IWHS was obliged to only use the funds provided by the Smith Family in accordance with the terms of the relevant funding agreements. The agreements entered into by IWHS and the Smith Family for the MPP for the two-year period from 1 July 2012 to 30 June 2014 provided for total funding of \$120,000. The agreement for the period from 1 July 2014 to 30 June 2015 provided for funding of \$60,000. Ms Sharobeem agreed that she prepared all quarterly and six-monthly reports for the MPP in accordance with the requirements of those agreements.

Did IWHS conduct the MPP?

Ms El-Baf’s official duties included entering all program details and client numbers in the IWHS database. She was therefore in a position to know which programs were conducted by IWHS. She told the Commission that the MPP was only conducted for about two or three years but ceased after 2012. She said that, after 2012, Ms Sharobeem continued to advertise the MPP in the IWHS newsletter, despite it no longer being conducted. Ms El-Baf said that Ms Sharobeem also instructed her to take the names and contact numbers of anyone who called IWHS enquiring about the MPP, and to tell them IWHS would contact them when there were enough people to form a group. Ms Sharobeem never provided her with any names or telephone numbers to enter into the IWHS computer database for the MPP group.

That the program was advertised by IWHS was evidenced by the IWHS newsletter for the period from April to June 2015, which advertised the “Multicultural

Parenting Program Supported by The Smith Family and C4C Initiative 10:00 am–12 pm” on Wednesday at Fairfield. Ms El-Baf told the Commission that she never saw the advertised MPP group at IWHS’s Fairfield office and, in any event, it would have been impossible to hold the MPP program at the time specified in the advertisement because other programs, such as the yoga class and the English class, were conducted at that time.

Ms Sharobeem told the Commission that Ms El-Baf’s evidence was “absolutely false”. She did not agree that no MPP program was conducted after 2012, or that she was waiting to attract sufficient numbers of participants before re-starting the program. She maintained that the program was conducted at churches, community centres, the Non-English Speaking Housing Women’s Scheme Inc (NESH) office and other locations, as well as at IWHS’s Fairfield office during weekends and at nights. She explained that Ms El-Baf did not know what was happening because she only worked a limited number of hours per week.

Ms Chan told the Commission that the MPP only lasted about a year-and-a-half. Julie Watton, an IWHS board member, said that she knew the name MPP but was not aware of any MPP programs or activities conducted by IWHS.

Ms Lai told the Commission that she was aware of a number of programs run by IWHS, including the MPP. She also said that she recalled seeing the MPP being conducted at IWHS, and meeting two of its facilitators, when she attended IWHS one day to present a talk on Centrelink services. Ms Lai’s evidence is not necessarily inconsistent with Ms El-Baf’s evidence. Ms Lai could not recall the date on which she observed the MPP being conducted. It is possible that she witnessed one of the sessions conducted before the end of 2012.

When asked at the public inquiry to name the people who were involved in conducting the MPP after 2012, Ms Sharobeem initially said she could not remember their names. Later in her evidence she identified herself and Ms Hana. Ms Hana told the Commission that she was a facilitator for three senior groups only and was not involved in the MPP. The Commission accepts Ms Hana’s evidence on this issue.

Ms Sharobeem also named Georgette Hilmi, Reda Shehata and Ann Khoshaba as MPP facilitators. In their statements to the Commission, however, Ms Hilmi and Ms Shehata said that they never worked as facilitators for the MPP. According to her statement, Ms Khoshaba was only involved as a volunteer at IWHS between 2009 and March 2013, after which she had no further involvement. They had no motive to lie. The Commission accepts their evidence.

Ms Sharobeem was also required to include in the reports the locations where the MPP was conducted. The report for the period January to March 2013 identified Guildford, Fairfield and Carramar as the relevant locations. The report for the period January to June 2013 identified Fairfield and Fairfield Heights as the relevant locations but did not mention Guildford or Carramar, even though it covered the period of the earlier report.

Ms Sharobeem told the Commission that some of the locations in the reports were false. She explained that IWHS was only allowed to conduct the MPP within a designated service area. Due to the popularity of the program, however, she was at times requested to provide it outside of the service area. She said she obtained approval from the Smith Family to provide a random address within the service area to cover the instances where the program was delivered outside the service area. The agreements with the Smith Family, however, specified the areas in which IWHS was to operate the MPP program. IWHS was contractually bound by the terms of the agreements. There was no independent objective evidence to support Ms Sharobeem's claim that the Smith Family had varied the contract to permit IWHS to operate the MPP program outside the areas specified in the agreements. Had it done so, there would have been no reason for any subterfuge in providing random false addresses. The Commission rejects Ms Sharobeem's evidence that the Smith Family agreed that IWHS could operate the MPP program outside the areas specified in its agreements with IWHS.

Ms Sharobeem told the Commission that funding was granted as long as the relevant service was provided and therefore there was no reason for her to exaggerate the number of MPP attendees. The Commission accepts that MPP funding was not necessarily dependent on IWHS demonstrating that high numbers of participants attended the program. It was, however, dependent on the program being delivered. If the program was, in fact, being conducted there would be no reason not to report accurate figures for the number of attendees. There was evidence suggesting that the statistics Ms Sharobeem provided to the Smith Family were false.

Ms Sharobeem provided the Smith Family with the following attendee figures for the MPP program:

- January – March 2014, quarterly report – 195 adults and 85 children
- January – June 2014, six-monthly report – 210 adults and 102 children
- July – December 2014, six-monthly report – 410 adults and 114 children
- January – June 2015, six-monthly report – 502 adults and 135 children.

If the above figures were accepted as accurate, it would mean that, in the three months from April to June 2014, only 15 adults and 17 children had attended, while in the preceding three-month period 195 adults and 85 children had attended.

Ms Sharobeem gave conflicting evidence as to how the numbers were calculated. She told the Commission that, in the NGO sector, the total number of attendees was arrived at by the number of participants multiplied by the number of sessions any one person attended. It was pointed out to her that there were clear instructions in the Smith Family reporting template, in bold capital letters, that participants must be counted only once even if they took part in more than one activity. She then told the Commission that, while she did not have a specific recollection as to whether she counted the number of individuals who took part in the program or the number of times those individuals attended the program, if the template directed her to count them only once, she would have followed that direction. She said she arrived at the relevant figures from reports provided to her by facilitators and other persons who delivered the program. However, as demonstrated above, none of those (other than herself) whom she nominated as facilitators had any involvement in the MPP after 2012.

The Commission is satisfied that, between 2013 and 2015, the MPP was not conducted by IWHS. Accordingly, the Commission is satisfied that the figures stated in the IWHS quarterly and six-monthly reports for 2013 to 2015, which Ms Sharobeem submitted to the Smith Family, purporting to represent the number of participants in the MPP, are false.

Steps to Employment Project

In 2013, IWHS entered into an agreement with the Smith Family to provide the STEP from 1 August 2013 to 30 June 2014. A further agreement was entered into in 2014 for the period from 1 July 2014 to 30 June 2015. Both agreements were signed by Ms Sharobeem on behalf of IWHS. IWHS received \$120,000 from the Smith Family under each agreement in return for delivering the STEP.

Both agreements described the objectives of the STEP as:

- addressing the practical and personal barriers to employment for parents impacted by changes to parenting allowance eligibility
- increasing access to, and uptake of, affordable childcare by parents of children under five years of age
- establishing activities to support vulnerable parents

- developing relationships with relevant bodies such as Centrelink and job service providers.

Did IWHS conduct programs under the STEP?

Ms Sharobeem accepted that she was responsible for preparing the quarterly and six-monthly STEP reports for the Smith Family. She agreed that the following numbers were reported of STEP attendees for various sessions and workshops:

- July – September 2013, quarterly report – 110 adults and 58 children
- July – December 2013, six-monthly report – 255 adults and 103 children
- January – March 2014, quarterly report – 374 adults and 58 children
- January – June 2014, six-monthly report – reported inconsistently as both 560 and 590 adults, and 109 children
- July – December 2014, six-monthly report – 590 adults and 139 children
- January – June 2015, six-monthly report – 596 adults and 152 children.

It was put to Ms Sharobeem that programs under STEP were not, in fact, delivered by IWHS, and that the figures she provided in the IWHS reports to the Smith Family were therefore false. She denied that that was the case.

Both the reports for the periods from January to June 2014 and from July to December 2014 recorded the same number of attendees; namely 590. That suggested the possibility that at least those figures had been concocted. Ms Sharobeem, however, told the Commission the figures were accurate.

Ms Sharobeem told the Commission that programs under the STEP delivered by IWHS included courses on hospitality, English, dressing for success, preparing CVs, making jewellery, community engagement, and activities for parents and children. The IWHS 2013 application for funding identified a number of activities that would be undertaken if the application was successful. The activities included establishing groups to equip people with skills to successfully obtain employment and establishing a new enterprise similar to “the women’s jewellery enterprise” that would be conducted jointly with TAFE.

Between 2011 and 2014, Mark Geerin was employed by TAFE to work with its outreach program to train migrants and the long-term unemployed. He recalled that TAFE ran a jewellery-making course from IWHS’s Fairfield office for about 20 weeks in 2013. It was only

conducted once. There was no cost to IWHS because Ms Sharobeem had refused TAFE’s request for IWHS to provide the course material and had cited budget constraints as her reason.

After being taken to Mr Geerin’s evidence, Ms Sharobeem told the Commission that IWHS’s jewellery-making course for the STEP was undertaken after the TAFE course had concluded.

The only IWHS document the Commission was able to locate relating to a jewellery-making course was an undated pamphlet inviting those interested to contact IWHS. The pamphlet referred to the course being the joint initiative of IWHS and TAFE. No mention was made of the Smith Family. At first, Ms Sharobeem told the Commission that she had inadvertently omitted reference to the Smith Family but then said that she had included reference to the Smith Family in another pamphlet. The Commission is satisfied that the pamphlet located by it related to the 2013 TAFE-run jewellery course and not any course run as part of the STEP.

Ms Watton recalled that, when attending meetings at IWHS’s Fairfield office on Wednesday afternoons, she observed women attending a jewellery-making program. Her evidence, however, did not assist in establishing whether the course was conducted as part of the STEP because she was unable to recall the year when the jewellery-making program had been conducted or who had conducted it.

Ms Abboud told the Commission that she did not know of any jewellery-making programs, other than the one funded by TAFE, and another one held as part of the activities for the seniors group at Bossley Park, which was funded by HomeCare.

It is clear from the evidence that IWHS did conduct a jewellery-making course in 2013 but it was not part of the STEP funded by the Smith Family. Absent any independent corroboration of Ms Sharobeem’s evidence, the Commission does not accept her evidence that another course was subsequently provided under the STEP.

Part of the STEP was about equipping people with skills to gain employment. Mr Geerin told the Commission that he conducted a number of workshops for IWHS at the NESH Guildford office, including one on job-seeking and employment skills. It had about 30 participants and ended in August 2014. He said TAFE met the cost of the training. The only assistance from IWHS was volunteer work provided by Reda Shehata and Safwa Shehata. Ms Shehata confirmed that she and her husband assisted Mr Geerin with the workshops.

The Commission located another IWHS pamphlet advertising a small-business course as part of the STEP.

It identified Barrington Training Services (“Barrington”) as the course provider. The pamphlet referred to the course commencing on 24 March at Fairfield and on 10 April at Cabramatta. The year was not specified in the pamphlet, however, Despina Moutzouris, the Barrington training operations manager, told the Commission Barrington provided courses between 2013 and 2015 using IWHS’s Fairfield and Cabramatta offices. She said the courses were funded under the State Training Services initiative. Barrington paid for the facilitators, learning resources and interpreters.

Ms Chan told the Commission that the only employment-related program conducted at Cabramatta was the one conducted by Barrington. Ms Abboud told the Commission that the only IWHS program that related to employment was the course provided by Barrington. She said that IWHS provided the venue but Barrington paid all the other expenses.

Barrington was not specifically referred to in the reports that Ms Sharobeem submitted to the Smith Family, although “retail courses” was mentioned in the report for the period from July to December 2014 as a project delivered by IWHS.

It was put to Ms Sharobeem that IWHS did not spend any of the funds obtained from the Smith Family for the courses provided by Barrington. Ms Sharobeem maintained that the Barrington courses were conducted as part of the STEP. Her evidence was in direct conflict with that of Ms Moutzouris and Ms Abboud. The Commission is satisfied that, unlike Ms Sharobeem, they had no motive to lie and accepts their evidence.

There was other evidence that no Smith Family-funded programs were conducted by IWHS.

Ms Abboud told the Commission that, although a pamphlet was developed for the STEP, the program was never conducted by IWHS. She said she was in a position to know whether a particular program was running at IWHS because she worked at IWHS four days a week, either as an administrator or a facilitator, and part of her job was to register programs on the IWHS computer database and advertise them to attract participants. Ms Hana also told the Commission there were no STEP courses conducted by IWHS.

The IWHS newsletter for the period from April to June 2015 advertised the STEP as being conducted in Fairfield on Mondays from 9.30 am to 2.30 pm. Ms El-Baf told the Commission that the STEP was not conducted in Fairfield as advertised in that newsletter. She knew that the program was not running at IWHS because, although she did not work on Mondays when the newsletter referred to the STEP being run, she logged details of all IWHS programs in the IWHS computer database as part

of her duties. She never received any information from anyone relating to logging details of any STEP program into the IWHS computer database.

Ms Lai told the Commission that, although she had met with Ms Sharobeem and a Centrelink officer to discuss the STEP funding agreement, she never saw any STEP course conducted by IWHS.

Ms Watton recalled Ms Sharobeem talking about the STEP programs during IWHS board meetings, possibly between 2013 and 2015, but she did not check to see if any programs were actually conducted.

There was no objective evidence before the Commission that IWHS used any of the funds provided by the Smith Family to conduct any STEP courses. The Commission is satisfied that all people who provided evidence in this matter, with the exception of Ms Sharobeem, were credible and truthful witnesses. Many aspects of their individual evidence were corroborated by the evidence of one or more other witnesses.

The Commission is satisfied that no Smith Family-funded STEP courses were conducted by IWHS between 2013 and 2015 and that Ms Sharobeem provided false statistics to the Smith Family in order to misrepresent that IWHS conducted such courses during that period. Given the evidence referred to elsewhere in this report concerning the relatively large sums of money that Ms Sharobeem took from IWHS to cover her personal expenditure, the likely reason for her lying to the Smith Family was in order to obtain funding for IWHS from that organisation to enable her to continue to draw on IWHS funds for personal needs without adversely impacting on the delivery of other IWHS services to the extent that IWHS board members started to question her conduct of IWHS’s affairs.

Corrupt conduct

The Commission finds that Ms Sharobeem improperly exercised her official functions by:

- in 2015, knowingly falsifying statistics relating to the numbers of attendees for IWHS programs reported in the IWHS 2014–15 annual report, which she submitted to the SWSLHD knowing that the false statistics would be relied on by NSW Health and the SWSLHD in determining IWHS’s funding
- between 2013 and 2015, providing false statistics to the Smith Family in order to falsely represent to the Smith Family that IWHS had conducted the MPP and STEP programs in accordance with its contractual obligations to the Smith Family.

In each case, Ms Sharobeem's conduct was corrupt conduct for the purpose of s 8 of the *Independent Commission Against Corruption Act 1988* ("the ICAC Act"). This is because her conduct constituted or involved the dishonest exercise of her official functions and therefore comes within s 8(1)(b) of the ICAC Act. Her conduct also constituted or involved a breach of public trust and therefore comes within s 8(1)(c) of the ICAC Act.

The Commission is also satisfied, for the purpose of s 9(1)(b) of the ICAC Act, that in each case, if the facts as found were to be proved on admissible evidence to the requisite standard of on the balance of probabilities and accepted by an appropriate tribunal, they would be grounds on which such a tribunal would find that Ms Sharobeem has committed a disciplinary offence of misconduct.

Accordingly, the Commission is satisfied that the jurisdictional requirements of s 13(3A) of the ICAC Act are satisfied.

The Commission is also satisfied, for the purpose of s 74BA of the ICAC Act, that Ms Sharobeem engaged in serious corrupt conduct. This is because, in each case, her conduct involved misusing her position as the CEO of IWHS by submitting false information to IWHS's funding bodies in order to obtain public funds. Her conduct was a gross departure from her duties and obligations as the head of a publicly funded agency and involved a substantial breach of public trust in her capacity as CEO of IWHS and in her dealings with the SWSLHD and the Smith Family. The seriousness of her conduct must also be assessed in light of the way in which funds obtained from funding bodies were improperly used by her for the personal benefit of herself and her family members over several years, at the expense of the community for whom the funds were provided.

The Commission finds that Ms Sharobeem engaged in serious corrupt conduct by:

- in 2015, improperly exercising her official functions by knowingly falsifying statistics relating to the number of attendees for IWHS programs reported in the IWHS 2014–15 annual report, which she submitted to the SWSLHD knowing the false statistics would be relied on by NSW Health and the SWSLHD in determining IWHS's funding
- between 2013 and 2015, improperly exercising her official functions by providing false statistics to the Smith Family in order to falsely represent to the Smith Family that IWHS had conducted programs under the MPP and STEP in accordance with its contractual obligations to the Smith Family.

Section 74A(2) statement

The Commission is satisfied that Ms Sharobeem is an "affected" person with respect to the matters dealt with in this chapter.

The Commission is not of the opinion that consideration should be given to obtaining the advice of the Director of Public Prosecutions with respect to the prosecution of Ms Sharobeem for any criminal offence.

Given that Ms Sharobeem no longer works for IWHS, which itself is no longer in existence, the issue of whether consideration should be given to the taking of action against her for a disciplinary offence or with a view to her dismissal does not arise.

Chapter 8: Misuse of NESH funds

This chapter examines whether, in 2014, Eman Sharobeem improperly obtained \$13,500 from the Immigrant Women's Health Service (IWHS) for herself and then arranged for the Non-English Speaking Housing Women's Scheme Inc (NESH) to reimburse IWHS for those funds. It also examines whether she caused NESH to pay \$3,000 towards the cost of a medical procedure for her son, Richard Sharobeem, and \$18,000 towards the purchase of a motor vehicle for her husband, Haiman Hammo.

Ms Sharobeem's role at NESH

Ms Sharobeem became a member of the NESH board in 2006. She was the chairperson from about 2010, until she resigned from that position on 12 December 2014.

Audrey Lai, IWHS board chairperson, told the Commission that Ms Sharobeem was appointed as the CEO of NESH in 2013. Ms Sharobeem denied she became the CEO of NESH in 2013. However, the minutes of NESH's annual general meeting of 28 November 2014 state:

IWHS Manager has been acting as a CEO and Managing the Group Work section of the agreement till funding is clarified to keep the service delivered to the community ... I [Ms Sharobeem] will maintain my role as a CEO for both organizations till Nevine can take over...

There is no reason to doubt the accuracy of those minutes.

Ms Sharobeem's evidence, that she was not in day-to-day charge of NESH, was also in conflict with the evidence of Svetlana Maric and Nevine Ghaly. Ms Maric was an IWHS board member from about 2005 and a NESH caseworker between 2013 and 2014. She told the Commission that she believed, from what Ms Sharobeem herself and other NESH staff told her, that Ms Sharobeem was the manager of NESH,

although Ms Maric was not sure of Ms Sharobeem's title. Ms Ghaly, who started working at NESH in June 2014 as a project coordinator, also told the Commission that Ms Sharobeem was the boss of NESH.

The Commission is satisfied that, from 2013 to until at least 12 December 2014, when she resigned as NESH's chairperson, Ms Sharobeem was in day-to-day charge of NESH. The question then arises as to whether she continued in that role after December 2014.

Ms Sharobeem told the Commission that, after her resignation as chairperson in December 2014, the NESH board asked her to stay as an advisor to the board. Ms Lai told the Commission that Ms Sharobeem asked to remain as an advisor. In any event, the minutes of the board meeting on 12 December 2014 recorded that the board:

...requested that Eman remain as an advisor to NESH ... The Chairperson, Audrey, can authorise Eman to represent NESH at meetings, etc ... Eman will be an Advisor to the Board, Coordinator and general consultant to NESH.

Houda Moukhaiber became Ms Sharobeem's friend sometime between 2013 and 2016 and afterwards became a NESH board member. She expressed doubt that Ms Sharobeem was still in day-to-day control of NESH after her resignation as chairperson.

The minutes of the NESH board meeting of 23 March 2015 record that Ms Sharobeem spoke about a number of important matters affecting NESH. Those included a letter from the NSW Department of Family and Community Services (FACS) regarding NESH expenditures, her sending copies of the financial reports for 2012–13 and 2013–14 to the board members and her sending them a memorandum of understanding relating to the amalgamation of IWHS and NESH. Those matters indicate that, as at 23 March 2015, Ms Sharobeem was still actively involved in important aspects of NESH's management.

Ms Lai told the Commission that she could not say whether Ms Sharobeem was still regarded as being in charge of the day-to-day running of NESH following her resignation as chairperson. However, in an email to NESH board members she sent on 19 August 2015, Ms Lai noted that:

Eman asked a staff member (Richard) to drive the car and keep it on the road ... I would suggest in the future that you discuss any issues like this with Eman directly as NESH advisor and CEO.

Her email shows that, in August 2015, she regarded Ms Sharobeem as NESH's CEO and not just an advisor.

Julie Watton was a NESH board member from 2012. She said that Ms Sharobeem's role and responsibilities at NESH effectively did not change after her resignation as chairperson. Her evidence is borne out by the fact that, after resigning as chairperson, Ms Sharobeem remained a signatory on the NESH bank account and retained access to the tokens and password to operate the NESH online bank account.

The Commission is satisfied that Ms Sharobeem continued to have day-to-day charge of NESH after her resignation as chairperson in December 2014.

Ms Sharobeem obtains NESH funds

From 10 September 2013 to 10 June 2014, 10 IWHS invoices, each for \$1,650 (inclusive of GST) were issued to "NESH Women's Scheme" for "Reimbursement of costs as part of the Community Development agreement on behalf of NESH". Between 7 January and 8 May 2014, 10 payments totalling \$16,050 in respect of those invoices (\$1,500 each for the first three payments and \$1,650 each for the rest) were made by NESH to IWHS. Bank records established that, between 8 January and 29 April 2014, nine transfers of \$1,500 each were made from the IWHS bank account to Ms Sharobeem's bank account.

Most of the transfer receipts for the transfers from the IWHS bank account to Ms Sharobeem's bank account were accompanied by invoices. The invoices typically identified that the money would be reimbursed by NESH. The invoice relating to the transfer of 8 January 2014 recorded, in Ms Sharobeem's writing: "Reimbursed/ Amount has been sent to IWHS from NESH on 7/1/2014 for Eman Sharobeem".

Chanthaneth Chanthalangsy recalled that Ms Sharobeem herself transferred the money from the IWHS bank account to her own bank account, then subsequently instructed Ms Chanthalangsy to repay IWHS by transferring NESH funds to IWHS.

Ms Sharobeem explained the transfers to her bank account were payments to her for acting as the CEO of a new entity. She gave the following evidence:

...the management committee, when they decided to amalgamate and create a new consortium to support NESH and save NESH from closure, they created that new entity and they appointed me as a CEO for the new entity. And they put a provision in a meeting, documented, that Eman will receive 750 a week to continue supporting the new entity, as a CEO of it, and that as managed by the auditor and bookkeeper.

She told the Commission that it was intended that she receive the payments for a limited period of time while she trained someone to take over her role as CEO of the new consortium. She claimed that that decision was recorded in board minutes. The Commission was unable to locate any minutes recording such a decision.

The "new consortium" mentioned by Ms Sharobeem was a proposed consortium involving NESH and IWHS. The Commission obtained an unsigned memorandum of understanding (MOU), dated 10 September 2013, relating to the proposal. It provided that Ms Sharobeem would be CEO of the consortium. The MOU demonstrated that, in about September 2013, there was at least a proposal to form a new entity with Ms Sharobeem as its CEO. The MOU did not, however, record anything about whether the CEO would be paid. It is likely that the MOU was silent as to payment because Ms Sharobeem was continuing to be paid as CEO of IWHS.

Ms Sharobeem told the Commission that the MOU was presented at NESH and IWHS board meetings and was signed by the board members. The Commission could not locate a signed copy of the MOU.

The minutes of the IWHS and NESH board meeting of 6 November 2013 included reference to the proposed consortium, which was to be called the Immigrant and Refugee Women's Services: Health Housing and Domestic Violence. The minutes noted that it would be run by a CEO and would be launched on 12 December 2013, with its first annual general meeting to be held on that date. There was nothing in the minutes about the CEO being paid or that Ms Sharobeem would be appointed as the CEO. Ms Sharobeem told the Commission she could not recall whether the proposed board meeting took place on 12 December 2013.

Ms Watton recalled that there was some conversation about Ms Sharobeem being the CEO of the proposed consortium. However, she did not recall whether there was a meeting where Ms Sharobeem was actually appointed CEO. There was no documentary evidence, such as a contract of employment, establishing that Ms Sharobeem was ever appointed as CEO of the

new entity. There was no objective evidence that the new entity ever operated.

In light of all of the above evidence, the Commission is satisfied that there was a discussion among the board members of IWHS and NESH in 2013 regarding the creation of the consortium, and the possible appointment of Ms Sharobeem as its CEO. The Commission is not satisfied, however, that the consortium was ever established or that Ms Sharobeem was appointed its CEO.

On 22 May 2015, NESH sent a letter to FACS responding to concerns FACS had raised about NESH expenses. Ms Sharobeem agreed that the letter was prepared in consultation with her. The letter identified a community development cost of \$55,612.50 relating to a partnership between IWHS and NESH for 2013–14. It went on to describe 10 \$1,500 “monthly repayments to IWHS for costs relating to the partnership and reimbursement invoice for 2 facilitators totalling \$40,612.50”.

Ms Sharobeem told the Commission that she did not receive any of the \$1,500 monthly payments referred to in the NESH letter. She said those payments related to programs delivered on IWHS premises for women who were residents at housing provided by NESH. She was asked why the NESH letter did not refer to the payments to her. She did not offer an explanation, but denied that it was because she did not want FACS to know that she was receiving payments from NESH.

Ms Watton told the Commission that there might have been a discussion about a \$1,500 payment to Ms Sharobeem at a board meeting, but she could not be definite. She did not recall the board authorising the transfer of funds from NESH to IWHS in 2014 and 2015.

Ms Lai’s evidence was more definite. She told the Commission that Ms Sharobeem was supposed to take responsibility for the proposed consortium in a token role until a new coordinator could be found. She said that Ms Sharobeem was never authorised to receive payment additional to her IWHS salary. She would have opposed any such proposal. Ms Lai was not aware at the relevant time of the \$1,500 payments made to Ms Sharobeem’s bank account.

Nada Damcevska-Stamenkovska was on the NESH and IWHS boards from late 2013. It was her evidence that she knew nothing about paying Ms Sharobeem to carry out the role of the new consortium’s CEO. She was unaware of any payments made to Ms Sharobeem by NESH, and did not recall being asked to authorise any such payments.

The Commission is satisfied that there was no decision by the IWHS or NESH boards to pay Ms Sharobeem for any work she did in relation to the consortium, and that she received \$13,500 from IWHS and arranged for

IWHS to be reimbursed by NESH without obtaining approval from either of the IWHS or NESH boards for that payment.

Payment for Richard Sharobeem’s medical procedure

On 16 March 2015, Richard Sharobeem underwent a medical procedure at Westmead Private Hospital. Ms Sharobeem told the Commission that she accompanied her son to the hospital and used her personal credit card to pay \$3,000 towards the cost of the procedure.

Ms Sharobeem accepted that, on the same day, \$3,000 was transferred from the NESH bank account to her bank account. She accepted that the funds transferred from NESH related to her credit card payment of \$3,000 but denied that she was responsible for or had authorised the transfer.

Records obtained by the Commission showed that the \$3,000 credit card payment made by Ms Sharobeem occurred at 8.38 am on 16 March 2015. Records show that \$3,000 was transferred from the NESH bank account to her bank account less than three hours later. Banking records described the transfer as being “NESH REIMBURSEMENT”. Attached to the transfer document was a credit card receipt dated 16 March 2015 for the \$3,000 payment to Westmead Private Hospital. The bank transfer document recorded that the transfer was confirmed by Ms Sharobeem at 11:00:15 am and authorised by her at 11:01:08 am.

Ms Sharobeem told the Commission that the credit card receipt must have been taken from her desk, possibly by Ms Ghaly or Ms Chanthalangsy, as part of a scheme to “frame” her. The Commission rejects that explanation. Ms Sharobeem told the Commission that she was at the hospital at about 11 am on 16 March. Neither Ms Ghaly nor Ms Chanthalangsy could have obtained possession of the credit card receipt by 11 am that day or even known that Ms Sharobeem had spent \$3,000 for her son’s procedure.

There was evidence that Ms Sharobeem had the means to effect the transfer of funds from the NESH bank account.

Ms Chanthalangsy told the Commission that two tokens (electronic code generators) and a password were required to make online transactions for the NESH bank account. One token processed the payment but did not release the actual payment to the payee. The second token was required to release the payment. She kept the first token in her drawer but Ms Sharobeem had access to it because she had a key to the drawer. Ms Sharobeem kept the second token in her office. Ms Sharobeem was registered with the bank as a person authorised to use the tokens and could therefore authorise online transactions.

Ms Chanthalangsy told the Commission that she and Ms Sharobeem were the only people who knew the password and therefore they were the only people who could process online payments from the NESH bank account. While there was evidence that Ms Ghaly also had access to the tokens, it is clear from her evidence, which the Commission accepts, that was only from about August 2015. She would therefore not have been able to effect a transfer in March 2015. In any event, for the reason given above, the Commission is satisfied that neither Ms Chanthalangsy nor Ms Ghaly could have made the transfer at 11 am on 16 March 2015.

There was other evidence that Ms Sharobeem intended to obtain money from NESH to reimburse her for the \$3,000 she paid towards her son's medical procedure. Ms Chanthalangsy told the Commission that Ms Sharobeem handed her a receipt from Westmead Private Hospital for \$3,000 and instructed her to allocate the expense to NESH. She said she felt she had to do as she was told. The Commission accepts Ms Chanthalangsy's evidence. That evidence establishes that Ms Sharobeem did not effect the actual transfer of funds but allocated the receipt for the \$3,000 to NESH maintenance in the NESH accounting records.

Ms Sharobeem's credit on this issue is undermined by the fact that, in August 2015, she provided a different explanation for the \$3,000 payment when the auditor raised a query. She then claimed that the \$3,000 related to a domestic violence conference for which she had presented a paper and made a monetary contribution.

Stephen Wigmore, finance and administration director at Westmead Private Hospital, provided the Commission with a statement. He said that the hospital held no records relating to the presentation of a paper by Ms Sharobeem at a domestic violence conference associated with Westmead Private Hospital. He also confirmed that the only payment received by Westmead Private Hospital from Ms Sharobeem was in relation to Richard Sharobeem's medical procedure. It is clear from the evidence before the Commission that the \$3,000 transferred to Ms Sharobeem's bank account on 16 March 2015 had nothing to do with any conference at Westmead Private Hospital.

The Commission is satisfied that, on 16 March 2015, Ms Sharobeem improperly transferred \$3,000 from the NESH bank account to her own bank account in order to reimburse herself for the \$3,000 payment she had made to Westmead Private Hospital for her son's medical procedure.

Paying for a Mercedes car

Ms Sharobeem told the Commission that, in late 2014, she decided to buy two motor vehicles – one for NESH and one for IWHS. On 29 December 2014, she took her husband, Haiman Hammo, and her son, Richard Sharobeem, to a car dealership because she wanted their technical advice on cars. While at the dealership, she agreed to purchase a Honda car for NESH (see chapter 9 of this report). A \$500 deposit was paid for that car. No vehicle was purchased for IWHS. However, a Mercedes was purchased for Mr Hammo. The purchase price was \$35,000.

Mr Hammo told the Commission that the Mercedes was one of the cars they saw at the car dealership. He recalled that Ms Sharobeem told him, "You deserve to buy a car". He then spoke to the dealer about the price. Ms Sharobeem agreed that they saw the Mercedes and that she told Mr Hammo he deserved a car. Mr Hammo decided to buy the Mercedes and used his credit card to pay a deposit of \$2,000. It was common ground between Mr Hammo and Ms Sharobeem that Mr Hammo paid a further \$15,000 towards the purchase of the Mercedes and that she paid the \$18,000 balance. The receipt issued by the car dealership recorded that the \$18,000 was paid by bank cheque.

Ms Sharobeem did not dispute that she used IWHS funds to obtain a bank cheque, dated 28 December 2014, for \$18,000 or that the bank cheque was used to pay the balance owing on the Mercedes. She told the Commission the bank cheque had been so used by "mistake".

The Commission does not accept that Ms Sharobeem used the bank cheque by mistake. The bank cheque was drawn a day prior to her attending the car dealership. She agreed that, prior to paying the deposit for the NESH car on 29 December 2014, she would not have known the balance due on that vehicle or how much would be needed to pay for a car for IWHS, in the event a car was purchased for IWHS.

The bank cheque could not therefore have been drawn to pay for either of those cars. The fact that she obtained a bank cheque for \$18,000 the day before attending the car dealership is consistent with an intention to use the money towards the purchase of another vehicle for her husband. In any event, it would have been clear to her at the time she paid the car dealership that she was using a bank cheque that she had obtained using IWHS funds. If she had somehow genuinely made a mistake, she would have taken immediate action to rectify the error. No action was taken by her until September 2015, some nine months later, and then only after the IWHS auditor questioned her about the matter.

The auditor's interest arose from the transfer, on 8 January 2015, of \$18,000 from the NESH bank account to the IWHS bank account. The transfer recorded the transaction as "NESH car repay". That effectively meant that NESH funds were used to reimburse IWHS for the \$18,000 spent on Mr Hammo's car. In September 2015, the IWHS auditor asked Ms Sharobeem about the transfer. In an email dated 2 September 2015, she advised him that there was:

...confusion ... with another car I bought and will refund the amount to IWHS now. I will contact the dealer and ask if there is double payment done in this situation and will check with my bank as well

Although Ms Sharobeem had suggested to the auditor that a payment of \$18,000 may also have been made from her account, her banking records identified no such payment. In her evidence to the Commission, Ms Sharobeem claimed that she did not regularly check her bank account balance and therefore was not aware that she had not used her own money to pay the car dealership the \$18,000 for the Mercedes. The Commission rejects that evidence. An amount of \$18,000 is a substantial amount. The Commission is satisfied that Ms Sharobeem would have noticed that her bank account balance had not been reduced by such an amount. She knew that her funds had not been used to pay for the car.

The Commission is satisfied that Ms Sharobeem effected the transfer of \$18,000 from NESH to IWHS. Although she said that the transfer could have been effected by Ms Chanthalangsy or Ms Ghaly, the Commission does not accept that either was involved. The transfer was made on 8 January 2015, a day on which, according to IWHS work records, Ms Chanthalangsy was not working. As noted above, Ms Ghaly did not have access to the online banking system until about August 2015 and therefore could not have effected the transfer of funds. On the other hand, Ms Sharobeem was able to make such a transfer, having access to the banking tokens and knowledge of the required password to effect such a transfer. Most significantly, no one other than Ms Sharobeem had a reason to make such a transfer or the knowledge that it related to the purchase of a car.

The Commission is satisfied that, in late December 2014, Ms Sharobeem misused \$18,000 in IWHS funds towards the purchase of a Mercedes car for her husband and subsequently arranged for NESH to reimburse IWHS for that amount.

Corrupt conduct

The Commission finds that Ms Sharobeem improperly exercised her official functions by:

- between January and April 2014, transferring a total of \$13,500 from the IWHS bank account into her bank account and then improperly arranging for NESH to reimburse IWHS for that amount
- on 16 March 2015, transferring \$3,000 from the NESH bank account to her own bank account in order to reimburse herself for the \$3,000 payment she made to Westmead Private Hospital for her son's medical procedure
- in late December 2014, applying \$18,000 in IWHS funds towards the purchase of a Mercedes car for her husband and then arranging for NESH to reimburse IWHS for that amount.

In each case, Ms Sharobeem's conduct was corrupt conduct for the purpose of s 8 of the *Independent Commission Against Corruption Act 1988* ("the ICAC Act"). This is because her conduct constituted or involved the dishonest and partial exercise of her official functions and therefore comes within s 8(1)(b) of the ICAC Act. Her conduct also constituted or involved a breach of public trust in using public funds for personal use and therefore comes within s 8(1)(c) of the ICAC Act. Her conduct is also conduct that impairs, or could impair, public confidence in public administration and involves dishonestly obtaining or dishonestly benefiting from the payment of public funds for private advantage, and therefore comes within s 8(2A) of the ICAC Act.

The Commission is satisfied, for the purpose of s 9(1)(a) of the ICAC Act, that in each case, if the facts it has found were proved on admissible evidence to the criminal standard of beyond reasonable doubt and accepted by an appropriate tribunal, they would be grounds on which such a tribunal would find that Ms Sharobeem committed an offence of misconduct in public office.

The Commission is also satisfied, for the purpose of s 9(1)(b) of the ICAC Act, that, in each case, if the facts as found were to be proved on admissible evidence to the requisite standard of on the balance of probabilities and accepted by an appropriate tribunal, they would be grounds on which such a tribunal would find that Ms Sharobeem had committed a disciplinary offence of misconduct.

Accordingly, the Commission is satisfied that the jurisdictional requirements of s 13(3A) of the ICAC Act are satisfied.

The Commission is also satisfied, for the purpose of s 74BA of the ICAC Act, that, in each case, Ms Sharobeem engaged in serious corrupt conduct. This is because her conduct in each case involved misusing her public official position by taking significant amounts of money to enrich herself and provide personal benefits to her family from funds that were meant to be used for public purposes. Her conduct also involved a degree of planning and substantial breach of public trust by putting her personal interests before the public interest, and could constitute a criminal offence of misconduct in public office. The conduct could also impair public confidence in public administration.

The Commission therefore finds that Ms Sharobeem engaged in serious corrupt conduct by:

- between January and April 2014, improperly exercising her official functions to transfer a total of \$13,500 from the IWHS bank account into her bank account and then arranging for NESH to reimburse IWHS for that amount
- on 16 March 2015, improperly exercising her official functions to transfer \$3,000 from the NESH bank account to her own bank account in order to reimburse herself for the \$3,000 payment she made to Westmead Private Hospital for her son's medical procedure
- in late December 2014, improperly exercising her official functions to apply \$18,000 in IWHS funds towards the purchase of a Mercedes car for her husband and then arranging for NESH to reimburse IWHS for that amount.

Section 74A(2) statement

The Commission is satisfied that Ms Sharobeem is an "affected" person with respect to the matters dealt with in this chapter.

Ms Sharobeem gave evidence under an s 38 declaration, which means that her evidence is not admissible against her in criminal proceedings other than proceedings for an offence under the ICAC Act. However, there is other evidence that would be admissible, including the evidence of Ms Lai, Ms Watton, Ms Damcevsk-Stamenkovska, Ms Chanthalangsy, Ms Ghaly and relevant documentary evidence.

The Commission is of the opinion that consideration should be given to obtaining the advice of the Director of Public Prosecutions with respect to the prosecution of Ms Sharobeem for criminal offences of misconduct in public office in relation to each of the findings of serious corrupt conduct.

Given that Ms Sharobeem no longer works for NESH or IWHS, which themselves are no longer in existence, the issue of whether consideration should be given to the taking of action against her for a disciplinary offence or with a view to her dismissal does not arise.

Chapter 9: Richard Sharobeem

This chapter examines the circumstances under which, in early 2015, Eman Sharobeem's son, Richard Sharobeem, came to be employed as a project officer at the Non-English Speaking Housing Women's Scheme Inc (NESH) on a salary of approximately \$50,000 (per annum) and his personal use of a NESH motor vehicle.

In about January or February 2015, Richard Sharobeem was employed to work as a project officer at NESH's Guildford office. He ceased employment in December 2015. He was initially employed on a part-time basis and later became a full-time employee. The Commission was not able to establish when the transition to full-time employment occurred. When working at NESH, he used the alias "Richard Shawky".

The NESH employment policy

The NESH employment policy for the relevant period required that all permanent and temporary positions of greater than three months' duration be advertised externally as widely as possible. The reason for this was expressed to be "to provide equality of opportunity of employment to the broadest pool of potential applicants as is feasible". The policy also required the recruitment process to be conducted through a selection panel comprising "the Service Manager, one Board of Committee member and one independent member". The recruitment process, as outlined in the policy, required applicants to be interviewed and their references checked. Selection of the successful applicant had to be made jointly by "the Staff and Management of NESH".

No witness was specifically questioned in relation to the NESH employment policy in the public inquiry. Accordingly, the Commission is not aware whether Ms Sharobeem, those who worked at NESH or any of the NESH board members knew the terms or even the existence of the policy. Audrey Lai, one of the board members, told the Commission that she understood

NESH's normal recruitment process to include advertising with interviews conducted by a selection panel. What is clear is that the NESH employment policy was not followed in relation to the employment of Richard Sharobeem.

Richard Sharobeem obtains employment at NESH

Richard Sharobeem told the Commission that he found out from his mother that there was a position available at NESH. He said he could not recall whether he submitted a written application to NESH. He said he was interviewed for the position by Nevine Ghaly, NESH's project coordinator, at which time he provided her with a copy of his curriculum vitae (CV).

Ms Sharobeem told the Commission that her son was employed at NESH because a position became available but that it was Ms Ghaly who decided to employ him after seeing his qualifications. She said she was not involved in the decision to employ him and had told the NESH board that, in order to avoid any complications, she did not want to be involved in the recruitment process.

Ms Ghaly, on the other hand, told the Commission that Ms Sharobeem approached her in about January 2015 about employing someone Ms Sharobeem identified as "a young man" who would be ideal for youth-related projects. Ms Ghaly was not told at the time that the "young man" was Ms Sharobeem's son. It was only after he was employed that she found out from Ms Sharobeem he was her son. Ms Ghaly said that he was employed without the position being advertised.

Two NESH board members, Audrey Lai and Julie Watton, told the Commission that they only became aware that Ms Sharobeem's son was employed at NESH after the event. Their evidence contradicts Ms Sharobeem's evidence that she told the NESH

board that there was a recruitment process underway. Ms Lai also recalled that she asked Ms Sharobeem why the position was not advertised or why an interview panel with a board member had not been established. Ms Sharobeem told her that NESH was in a hurry to get someone and her son had obtained a welfare certificate, so he was “good” for the job.

Ms Ghaly denied interviewing Richard Sharobeem or seeing any qualifications. She saw his CV only in March 2015, after he was employed. She told the Commission that she first saw the CV when Ms Sharobeem asked her to get all staff records “straightened up”. She then asked him for a CV. That is consistent with Richard Sharobeem sending her a CV by email on 30 March 2015, in which he attached a CV in the name of Richard Shawky. He told the Commission that he provided that CV following a request from Ms Ghaly. He maintained that he had also given her a CV before commencing employment. He was unable to offer any explanation why Ms Ghaly needed another CV in March 2015 if he had given her one just one or two months previously.

The March 2015 CV included a claim that he held a bachelor of business and finance from Griffith University and a Certificate IV in Frontline Management. He admitted to the Commission that those claims were false. As outlined in chapter 5 of this report, Richard Sharobeem had successfully completed a TAFE photo-imaging course but otherwise had no formal qualifications. He agreed that he listed his mother as a referee in the CV but referred to her as Dr Emma Adly. He claimed he did this “Because I needed more references” and “Because I wanted to differentiate myself”.

At the public inquiry, Richard Sharobeem told the Commission that it was Ms Ghaly’s idea for him to use the name “Shawky” at work. At his previous compulsory examination, in November 2016, he told the Commission he used the alias Shawky “because I wanted to differentiate myself from my mother”. He did not, at that time, claim that Ms Ghaly told him to use an alias. When asked at the public inquiry why he had not mentioned at his compulsory examination that it was Ms Ghaly’s idea he use an alias, he responded: “because you didn’t ask about it”. Ms Sharobeem also claimed that it was Ms Ghaly’s idea that he use an alias. She said, however, that all the NESH board members knew Richard Shawky was her son.

Ms Ghaly knew Richard Shawky and Richard Sharobeem were the same person. She firmly denied that it was her idea for him to use an alias. She said Ms Sharobeem told her that Richard Sharobeem would use the name Richard Shawky to hide the fact from the NSW Department of Family and Community Services (FACS) that NESH was employing her son.

It was not disputed that the position Richard Sharobeem obtained was not advertised or that no one else was interviewed for the position. The Commission accepts that Ms Ghaly employed Richard Sharobeem after being approached to do so by Ms Sharobeem and that she did not interview him for the position.

The Commission rejects Richard Sharobeem’s claim that he gave Ms Ghaly his CV before being employed. Ms Ghaly’s evidence, that she only received a CV some months after he started work at NESH, is supported by the email of 30 March 2015 attaching a CV, and Richard Sharobeem’s inability to explain why Ms Ghaly needed another CV so soon after he had given her one. That there were no other CVs in the NESH files is also consistent with no earlier CV having been provided.

The Commission also rejects the evidence of Richard Sharobeem and Ms Sharobeem that it was Ms Ghaly who told Richard Sharobeem to use the name Shawky. His failure to make such a claim during his compulsory examination, when he was specifically questioned about his use of an alias at work, is consistent with his evidence on that issue at the public inquiry being a recent invention. Ms Ghaly adamantly denied telling him to use an alias. It is inherently unlikely that she would make such a suggestion. There was no motive for her to do so. The Commission accepts her evidence that Ms Sharobeem told her that Richard Sharobeem would use the alias Shawky while working for NESH.

As discussed in chapter 8 of this report, while the exact title and role that Ms Sharobeem had at NESH in 2015 is not completely clear, the Commission is satisfied that she was an executive officer, and continued to exercise significant influence in the decision-making and management relating to NESH matters. The Commission is satisfied that, in early 2015, Ms Sharobeem improperly used her influence as an executive officer of NESH to facilitate Richard Sharobeem’s employment at NESH.

Richard Sharobeem’s use of a NESH vehicle

The evidence before the Commission establishes that Ms Sharobeem, acting on behalf of NESH, purchased a Honda City sedan on 29 December 2014 (see chapter 8 of this report). The purchase price was \$21,846.

There was no suggestion during the public inquiry that the car was allocated to Richard Sharobeem for his personal use as part of his employment package. It was not in dispute that the car was intended to be available for use by all NESH employees.

Ms Sharobeem told the Commission that Richard Sharobeem was with her when the deposit was paid for

the car, and that he helped her to negotiate the purchase. She said he did not select the car but collected it later from the car dealership because he was the only person at NESH available at the time.

At his compulsory examination, Richard Sharobeem told the Commission that Ms Ghaly gave him the keys to the Honda. When subsequently giving evidence at the public inquiry, he said that he collected the keys from the dealership at the end of January 2015 and then drove the car home. When his compulsory examination evidence was put to him, he claimed that he had collected the keys from the dealership but then gave them to his mother, and that Ms Ghaly subsequently gave them to him when he started work at NESH. He said he could not recall the location of the car at the time that Ms Ghaly gave him the keys.

He told the Commission he drove the Honda at work and took it home after work. Although he denied that he used it as his personal car, it is clear from the evidence that he had exclusive use of the car, including on the weekends when he was not working, for a period of about six months.

Ms Ghaly told the Commission that, when she first commenced work at NESH in mid-2014, she understood NESH owned two vehicles. One was a Mazda and the other was a Ford. When Richard Sharobeem commenced work at NESH, he had a Honda motor vehicle. She had also seen him with the same vehicle in the Christmas and new year holiday period before he commenced work at NESH. That is consistent with him having collected the car from the dealership at, or shortly after, its purchase on 29 December 2014 and retaining it in his possession. She understood that the car belonged to him. It was only in about August 2015 that she came to understand that it belonged to NESH. Her evidence is consistent with an email she sent to a number of NESH and IWHS board members on 26 August 2015. In the email, she wrote that "I was not given the opportunity to use the Honda. This is because I was never made aware that this was a NESH vehicle".

Ms Sharobeem denied that she allowed Richard Sharobeem to use the Honda as his personal vehicle without making it available for use by other NESH staff. She maintained that Ms Ghaly knew the Honda was a NESH car even before it was purchased, and claimed it was offered to Ms Ghaly for her use as soon as it was purchased. She asserted that Ms Ghaly refused to drive it, preferring to drive another NESH car and had suggested to Ms Sharobeem that Richard Sharobeem could drive the Honda until NESH started a pool of vehicles for staff.

The Commission prefers Ms Ghaly's evidence to that of Richard Sharobeem and Ms Sharobeem. Ms Ghaly's evidence, that she was not aware at the time the Honda

was purchased that it was a NESH vehicle, is supported by her email of 26 August 2015 sent to IWHS and NESH board members. In any event, she had no motive to lie to the IWHS and NESH boards or the Commission on this issue. On the other hand, Richard Sharobeem and Ms Sharobeem had a motive to conceal from others at NESH that the Honda was a NESH car so that Richard Sharobeem could have its exclusive use, including for personal use.

The Commission is satisfied that, in 2015, Richard Sharobeem used the Honda NESH staff car as his private vehicle.

Corrupt conduct

Eman Sharobeem

The Commission finds that Ms Sharobeem improperly exercised her official functions by:

- in early 2015, arranging for her son, Richard Sharobeem, to be hired as a paid employee of NESH
- for a period of about six months from late December 2014 or early January 2015, facilitating the exclusive use, including personal use, of a NESH motor vehicle by her son, Richard Sharobeem.

In each case, Ms Sharobeem's conduct was corrupt conduct for the purpose of s 8 of the *Independent Commission Against Corruption Act 1988* ("the ICAC Act"). This is because her conduct constituted or involved the dishonest and partial exercise of her official functions and therefore comes within s 8(1)(b) of the ICAC Act. Her conduct also constituted or involved a breach of public trust and therefore comes within s 8(1)(c) of the ICAC Act.

The Commission is satisfied, for the purpose of s 9(1)(b) of the ICAC Act, that, in each case, if the facts as found were to be proved on admissible evidence to the requisite standard of on the balance of probabilities and accepted by an appropriate tribunal, they would be grounds on which such a tribunal would find that Ms Sharobeem had committed a disciplinary offence of misconduct.

Accordingly, the Commission is satisfied that the jurisdictional requirements of s 13(3A) of the ICAC Act are satisfied.

The Commission is also satisfied, for the purpose of s 74BA of the ICAC Act that, in each case, Ms Sharobeem engaged in serious corrupt conduct. This is because her conduct involved the serious misuse of her position to benefit her son, Richard Sharobeem.

Her conduct was also serious corrupt conduct because NESH was funded by the government to assist people without housing, yet she spent a significant amount of NESH funds to purchase the car to facilitate its exclusive use by her son and arranged for him to obtain paid employment with NESH. Her overall conduct therefore involved a substantial breach of public trust motivated by a desire to benefit her own family at the expense of the public interest, and could also impair public confidence in public administration.

The Commission finds that, in early 2015, Ms Sharobeem engaged in serious corrupt conduct by improperly exercising her official functions to arrange for her son, Richard Sharobeem, to be hired as a paid employee of NESH.

The Commission also finds that, for a period of about six months from late December 2014 or early January 2015, Ms Sharobeem engaged in serious corrupt conduct by improperly exercising her official functions to facilitate the exclusive use, including personal use, of a NESH motor vehicle by her son, Richard Sharobeem.

Richard Sharobeem

For the reasons given in chapter 1 of this report, the Commission is satisfied that, while employed at NESH, Richard Sharobeem was a public official for the purposes of the ICAC Act.

The misuse by a public official of the NESH car by using it for personal use could constitute corrupt conduct.

In his submissions, Counsel Assisting the Commission contended for a finding of corrupt conduct to be made against Richard Sharobeem in relation to his use of the NESH car.

However, in determining whether such a finding should be considered the Commission has taken into account his youth at the time and the special nature of his relationship with his mother. He was only 23 years old at the time of

his employment at NESH, and 25 years old at the time of giving evidence at the public inquiry. He is therefore a young man with his whole life ahead of him. The evidence showed that Ms Sharobeem was very closely involved in all aspects of his life. Not only did she organise his work for him, but she also controlled his finances to the extent that she kept his receipts for his purchases in her own handbag. In the Commission's view, it would be fair to say that she directed Richard Sharobeem's life to a great extent, and he essentially did what his mother told him to do. It is therefore quite possible that, had it not been for Ms Sharobeem's strong influence, he may well have acted differently in relation to his use of the NESH vehicle.

Accordingly, in all the circumstances, the Commission has determined to exercise its discretion and does not make any corrupt conduct finding against Richard Sharobeem in relation to his use of the NESH vehicle.

Section 74A(2) statement

The Commission is satisfied that Ms Sharobeem and Richard Sharobeem are "affected" persons with respect to the matters dealt with in this chapter.

The Commission is not of the opinion that consideration should be given to obtaining the advice of the Director of Public Prosecution with respect to the prosecution of Ms Sharobeem or Richard Sharobeem for any criminal offence.

Given that Ms Sharobeem and Richard Sharobeem no longer work for NESH, which itself is no longer in existence, the issue of whether consideration should be given to the taking of action against either for a disciplinary offence or with a view to dismissal does not arise.

Chapter 10: Ms Sharobeem and false qualifications

This chapter examines whether Eman Sharobeem falsely claimed to be a qualified psychologist holding two PhDs and a masters degree and whether she treated clients of the Immigrant Women's Health Service (IWHS) as a psychologist.

Ms Sharobeem's educational qualifications

Ms Sharobeem told the Commission that, in 1984 or 1985, she obtained a degree in commerce/accounting and business administration from Ain Shams University, in Cairo, Egypt. The Commission made enquiries with Ain Shams University and was advised that its records indicated that Ms Sharobeem had been awarded a bachelor of arts in business.

Ms Sharobeem told the Commission that she did not complete any tertiary education in Australia, except for a TAFE office management course. She never obtained a masters or a doctorate degree by undertaking a course of studies at any educational institution. She said that, in about 2002, however, she received an honorary PhD from the American University in Cairo ("the American University") for her work and research relating to "women and girls, microfinance and management".

Ms Sharobeem said that came about when she was working as a general manager for the External Relations Department at the National Council for Women (NCW) in Egypt. She was informed by a professor from the American University, that it was "planning" to award her an honorary PhD. She was not told whether it was a PhD in psychology or another discipline. One of the staff in the NCW human resources department called her sometime later to congratulate her on receiving an honorary degree, and issued her with a business card showing her as having a PhD. From that point on, she was addressed and known as "Dr Eman Sharobeem". She said the Arab League had also issued her with a card describing her as a doctor.

Ms Sharobeem told the Commission that she did not receive a degree certificate or any other documentation evidencing the awarding of an honorary degree by the American University. She said that there was a document that proved the honorary degree was conferred on her, but it must have been burnt during the Arab Spring¹ in 2011 when the NCW building was set on fire. All her attempts to locate a copy had been unsuccessful.

The Commission made enquiries with the American University in Egypt. It advised that there was no record of any degree, honorary or otherwise, ever having been awarded to Ms Sharobeem by that institution. The Commission accepts that evidence. In doing so, the Commission takes into account that it is extremely unlikely that the recipient of an honorary degree from a university would not be given any documentation such as a degree certificate or at least an official letter of confirmation, evidencing that the degree had been conferred on that individual.

The Commission is satisfied that Ms Sharobeem was never awarded an honorary degree from the American University.

Ms Sharobeem's representation of academic qualifications

Ms Sharobeem denied falsely identifying herself as Dr Sharobeem or misrepresenting herself as having a PhD in psychology. She maintained that she was entitled to call herself a doctor by virtue of her honorary doctorate, and denied having provided IWHS with a curriculum vitae (CV) containing false academic qualifications.

There was no reference to Ms Sharobeem having an honorary doctorate in the letter and CV she submitted in

¹ The series of anti-government protests and uprisings, which spread across the Middle East and North Africa in 2011, is known as the "Arab Spring".

2004 as part of her application for a job at IWHS. If she really believed, at that time, that she had an honorary degree it is most likely that she would have included it in her CV in order to enhance her prospects of gaining employment with IWHS. However, her IWHS staff file did contain another CV, dated 4 December 2006. The 2006 CV identified her as “Dr Eman Sharobeem” and stated that she obtained a PhD with a thesis major in psychology and minor in community management, and a masters in community management, both from the American University. The 2006 CV also stated that she also held a diploma in management of community organisations from the University of Technology, Sydney (UTS). Ms Sharobeem admitted to the Commission she did not hold any of the qualifications identified in the 2006 CV. Although she had commenced a UTS diploma course in community organisation, she never completed the course. She also conceded that she never wrote a thesis on psychology. She claimed to have written a thesis on community management at UTS, but said that she no longer had a copy.

Ms Sharobeem told the Commission that the 2006 CV was created by her on her home computer and was “wishful play”, “wishful thinking”, and an attempt to “understand how to phrase the honorary degree in simple terms”. Although she accepted that the information in the 2006 CV concerning her academic qualifications was incorrect, she denied that the 2006 CV was a false document. That denial reflects her lack of credibility as a witness.

Ms Sharobeem told the Commission that she did not submit the 2006 CV to IWHS, and therefore its location in her IWHS personnel file must have been the result of someone “fabricating” it to be used against her. It is inherently implausible that anyone could have obtained the 2006 CV that Ms Sharobeem herself created on her home computer, then arrange for it to be included in her IWHS personnel file for the purpose of it potentially being used against her one day. The Commission rejects Ms Sharobeem’s explanation, and is satisfied that she was responsible for placing the 2006 CV on her IWHS staff file knowing that it contained false information concerning her qualifications.

Representation as a qualified psychologist at IWHS

Ms Sharobeem admitted to the Commission that she was not a trained psychologist and had never been registered as a psychologist. She denied she falsely held herself out as a qualified practising psychologist to the IWHS board, staff, clients and the community in general.

A number of witnesses told the Commission that they were led by Ms Sharobeem to believe she was a qualified psychologist.

Wafaa El-Baf, an administrative officer at IWHS, gave evidence that Ms Sharobeem told IWHS staff that she was a psychologist. Another IWHS administrative officer, Marie Abboud, told the Commission that, in about 2004, when Ms Sharobeem first started working as the IWHS manager, she called herself “Mrs Eman Sharobeem”. However, from about 2008 or 2009, she started calling herself a doctor and signed documents as “Dr Sharobeem”. Ms Abboud recalled that, in about 2009, Ms Sharobeem told her that she had studied psychology.

Sok Luong Chan, who was the project coordinator of IWHS’s Cabramatta office, told the Commission that, at some point in time, Ms Sharobeem told her she had obtained a PhD and subsequently became a psychologist.

Audrey Lai, an IWHS board member, gave evidence that Ms Sharobeem had told her that she was a qualified psychologist; although, she “did not renew her registration with the Psychology Board as she was not charging people”.

Svetlana Maric, who became a board member for IWHS in 2005 and later became a caseworker at NESH, also gave evidence that Ms Sharobeem told her she was a psychologist.

Julie Watton, who was a board member of IWHS and Non-English Speaking Housing Women’s Scheme Inc (NESH), gave evidence that Ms Sharobeem had talked to her about finishing a degree, which she may have said was in psychology, and sometime later she started calling herself “Dr Sharobeem”. Ms Watton told the Commission that her recollection of her previous conversation with Ms Sharobeem, and Ms Sharobeem’s change of title, led her to believe that Ms Sharobeem had obtained a degree and become a doctor of psychology.

There were a number of documents in evidence before the Commission that Ms Sharobeem had signed as “Dr Sharobeem”.

Despite this evidence, Ms Sharobeem maintained that she did not represent herself to IWHS staff or board members as a qualified psychologist. She claimed that, at one point, she corrected Ms El-Baf’s misunderstanding that she was a psychologist. She also suggested that NESH project coordinator Nevine Ghaly had planned to frame and defame her, and had, for that purpose, influenced Ms El-Baf and Ms Abboud to believe what Ms Ghaly wanted them to believe.

The Commission rejects Ms Sharobeem’s evidence and accepts the evidence of the other witnesses on this issue. The consistent and corroborative testimony of the

six witnesses is more persuasive than Ms Sharobeem's unsupported denial. It is inherently unlikely that all six witnesses were lying or mistaken when they gave their evidence to the Commission. In accepting their evidence, the Commission also takes into account the objective evidence that Ms Sharobeem signed IWHS documents as Dr Sharobeem and the other evidence, set out below, that she misrepresented herself to others as being a psychologist.

The Commission is satisfied that Ms Sharobeem intentionally made false representations to IWHS staff and board members that she was a qualified psychologist.

Representation as a qualified psychologist at other agencies

Ms Sharobeem denied that she falsely represented to various agencies that she was a qualified psychologist with a PhD in psychology.

There was documentary evidence before the Commission showing that Ms Sharobeem falsely represented herself as a psychologist with a doctorate in psychology to various agencies. The following are some examples of those documents and Ms Sharobeem's explanations. Ms Sharobeem sent emails as follows:

- 30 May 2005 to a TAFE officer
- 14 December 2006 to officers at the NSW Department of Education, TAFE and Sydney South West Area Health Service
- 30 January 2007 to an officer at the NSW Department of Education and Training
- 30 January 2007 to the Smith Family
- 10 August 2007 to the Western Sydney Regional Organisation of Councils.

All of these emails attached her CV, which stated that she held degrees, including a PhD in psychology, a masters in community management, and a diploma in management or community management. There were slight variations in detail in each CV.

Ms Sharobeem admitted that the educational qualifications set out in the CVs were wrong, but claimed they were unintentional mistakes. She denied that she sent out the CVs knowing they contained false information about her academic qualifications, in order to give the recipients the false impression that she was a trained psychologist. The Commission rejects her denial. It is implausible that over a period of more than two years, she would mistakenly send emails to various recipients attaching various CVs, all with false academic qualifications.

On 7 June 2006, Ms Sharobeem sent an email to the Coptic Orthodox Church attaching minutes of a meeting dated 16 May 2006. She told the Commission that she had proofread the minutes, which she said were an English translation of what was discussed at the meeting in Arabic. The minutes recorded that she introduced herself as Dr Sharobeem with a PhD in psychology. Ms Sharobeem told the Commission that she was suggesting at the meeting that she was a person who had a PhD, and not that she was a trained psychologist.

On 27 May 2015, Ms Sharobeem received a text message in which the sender asked her: "To put the correct credits and names at the end of the DVD, we need to confirm that you have a (PhD) in psychology". Ms Sharobeem responded with a text message on the same day saying, "Yes I do". Those three words constituted the entire text of her message. When giving evidence to the Commission, Ms Sharobeem disagreed that her response was confirmation that she had a doctorate in psychology. She claimed her response was meant to refer to the honorary degree she claimed to have received from the American University.

There is no merit to Ms Sharobeem's claim that it was not her intention to portray herself as a psychologist, rather than someone with an honorary degree in psychology. The Commission has found that Ms Sharobeem did not have an honorary PhD. In any event, she conceded that she never clarified to anyone, either in her official capacity as IWHS manager or outside work, that her status as a doctor was based on an honorary degree and not on completion of postgraduate university studies in psychology.

The Commission is satisfied that Ms Sharobeem knowingly made false representations to government and other agencies that she was a qualified psychologist with a PhD in psychology.

Representations to the media

The Commission also investigated whether Ms Sharobeem held herself out as a qualified psychologist to the public through the media. She denied having done so and claimed she only made herself known in the general community as the holder of an honorary doctorate.

In evidence before the Commission were two radio interviews conducted with Ms Sharobeem. One was an interview on 29 July 2012 on ABC Radio National with Rachel Kohn. The other was an interview on 7 December 2014 on the Sunday Profile program with Richard Aedy. In both interviews, Ms Sharobeem talked about her studies in psychology, obtaining two degrees, a graduation ceremony at the completion of her studies and being a doctor in psychology. During the Sunday Profile interview, the following conversation took place:

- [Mr Aedy]: *You are a psychologist yourself?*
- [Ms Sharobeem]: *I am.*
- [Mr Aedy]: *Do you see clients?*
- [Ms Sharobeem]: *I do. That's the best time of my day when I interact with the client one-on-one and see the client growing with me to a better and safe place.*

Ms Sharobeem denied that what she said at the interviews about being a qualified psychologist was a lie. She said her comments were a “misrepresentation of what I wanted to say”. She initially sought to justify her false statements by claiming to have completed certificates in psychology after doing short courses, although not from a university and despite not being able to recall the first subject she studied. She eventually admitted that the representations she made in the interviews were “absolutely wrong” and misleading, however claimed she did not mean to mislead anyone.

During the public inquiry the Commission also played a video recording of SBS’s Insight program, episode 15 from 2012, which was on the topic of polygamy. Ms Sharobeem appeared in that program and told the host of the show and the audience in the studio that she was a psychologist. At the Commission, she admitted “that was [the] wrong interpretation of who I was”.

The Commission is satisfied that Ms Sharobeem publicly promoted herself during media appearances on radio and television as a trained psychologist, who had completed studies and obtained degrees in psychology.

Did Ms Sharobeem treat IWHS clients?

The Commission also examined whether Ms Sharobeem pretended to be a psychologist when treating IWHS clients.

Ms Sharobeem told the Commission that she told IWHS clients that “I’m a doctor in psychology” but that was a “brief” way of really telling them she had an honorary degree. She claimed that she mostly communicated with clients in Arabic and that saying in Arabic that she was a doctor in psychology “gives more meaning than the word in English”.

Ms Sharobeem admitted that she was not qualified to treat patients as a psychologist and was never registered as one. She denied ever treating anyone as a psychologist. She told the Commission that she only provided clients with counselling when needed, and referred them on to qualified psychologists where required.

A number of witnesses gave evidence that Ms Sharobeem saw patients in the capacity of a psychologist.

Ms Abboud told the Commission that she gave out Ms Sharobeem’s business cards, in which she was described as “Dr Eman Sharobeem”, to people asking to see a psychologist, and made appointments for them to see Ms Sharobeem as a psychologist. Ms Abboud said that a number of people on IWHS client lists saw Ms Sharobeem as a psychologist; some on a regular basis.

Ms El-Baf told the Commission that people from Centrelink, church, police and counsellors, called for or were referred to Ms Sharobeem as a psychologist.

Ms Chan recalled receiving telephone calls at IWHS’s Cabramatta office from people asking for an appointment to see a psychologist or a counsellor. She contacted IWHS’s Fairfield office to find out if such an appointment could be made and, if so, the identity of the psychologist or counsellor. She was told such appointments could be made and that Ms Sharobeem was the psychologist/counsellor. Although no distinction appears to have been made in this instance, between a psychologist and a counsellor, Ms Chan’s evidence is consistent with the evidence of Ms Abboud and Ms El-Baf, that there was an understanding within IWHS that Ms Sharobeem was a psychologist.

Jihan Hana, an IWHS facilitator, told the Commission that she always knew Ms Sharobeem as Dr Sharobeem, believed her to be a doctor in psychology, and even received counselling from her herself for a brief period. In the counselling sessions, Ms Sharobeem referred to herself as a psychologist.

Reda Shehata, a volunteer at NESH and a friend of Ms Sharobeem, told the Commission that she knew Ms Sharobeem as Dr Sharobeem, and believed her to be a practising psychologist from IWHS. She also said there was someone known to her who saw Ms Sharobeem as a psychologist for a couple of months.

Ms Maric gave evidence that IWHS provided psychological counselling to people. During her time at NESH in 2013 and 2014, she was aware of some clients being referred by NESH to IWHS for psychological counselling. She understood that Ms Sharobeem was the only psychologist employed at IWHS.

In her evidence to the Commission, Ms Lai said that she referred clients from Centrelink to Ms Sharobeem in the belief that she was a trained psychologist.

There was documentary evidence that showed that Ms Sharobeem saw a significant number of IWHS clients as patients, including those referred to her by medical practitioners. She also provided official letters

to government and community organisations about individuals she saw, in which she made diagnoses of mental health conditions of the kind that would normally be made by a qualified psychologist. One of the documents was titled “Dr. Eman Sharobeem Client Details”. It listed numerous names of persons, their contact details and appointment dates and times. Ms Sharobeem agreed that it was a list of clients she saw. Although she claimed she only saw them in the capacity of a caseworker or IWHS manager, not as a psychologist, the document title is indicative of her holding herself out as a qualified doctor.

During the public inquiry, Ms Sharobeem was shown a number of mobile telephone text messages of various dates she sent or received, which related to requests from people to see a psychologist and arrangements made for her to see them. One example was a text message to her dated 5 February 2015. The sender commenced the message with “Hi doctor, my name is ...”, reflecting the sender’s belief that Ms Sharobeem was a doctor. A text message dated 12 October 2015 said, “Hi dr. Eman ... I have a marital separation issue. R u working as a psychologist regarding this issues ??”. Ms Sharobeem replied to that text message on the same day, “Yes, but have very long waiting list”. It is particularly clear from that response that she was holding herself out as a psychologist who was able to provide advice. During the public inquiry, Ms Sharobeem was also referred to a Viber text message, dated 9 April 2015, in which she said, “My apologies, I had patients with me. Will call soon”.

The Commission is satisfied that the consistent and corroborative testimony of the witnesses referred to above, the documentary evidence and evidence of the text messages shows that she did hold herself out to IWHS clients as a psychologist and that she saw patients in that capacity.

Did Ms Sharobeem receive referrals as a psychologist?

In her evidence to the Commission, Ms Sharobeem accepted that doctors may have believed she was a qualified psychologist but maintained that she did not psychologically treat any patients referred to her by doctors or make psychological diagnoses. She claimed that she only conducted assessments of those people, and then referred all the cases to a psychologist.

At the public inquiry, Ms Sharobeem was shown referrals of patients by doctors dated 23 November 2009, 29 December 2009, 9 June 2010 and 3 February 2014, all of which thanked Ms Sharobeem for seeing the patients referred. Ms Sharobeem admitted she saw the patients, but insisted that she was never involved in treating them.

She claimed that she just “managed” their cases, by talking to them to determine whether they needed to see a psychologist or required another form of assistance. She also told the Commission that many Arabic-speaking people came to see her, because she was well-known within the Arabic community, as “a woman who is wise and know[s] how to deal with” people under pressure from issues relating to racism, bullying, education, family issues, cultural transition and religious conflict.

Ms Sharobeem was shown the following documents:

- An “Enhanced Primary Care Program Referral Form for Allied Health Services under Medicare” dated 7 May 2009 in which Ms Sharobeem was named as the “servicing allied health professional”. Ms Sharobeem said she did not remember the document.
- A letter dated 22 July 2009 to the University of Western Sydney in which the writer was identified as “Dr Eman Sharobeem, Psychologist, Service Manager”. The letter referred to the “psychological status” of the client as being “assessed” and also referred to “psychological analysis”, “counselling” and “treatment process” for the client. The letter outlined three months of ongoing psychological treatment. Ms Sharobeem said she did not know the client, and sought to cast doubt as to whether she was, in fact, the author of the letter.
- A letter dated 18 December 2009 to the NSW Department of Housing in which the writer was identified as “Dr Eman Sharobeem, Psychologist, Service Manager”. The letter referred to a psychological analysis of the client in question and treatment for depression and anxiety over six months. Ms Sharobeem said “psychologist” was “wrongly written” in the letter. She attempted to dissociate herself from the letter by claiming that she did not have a definite recollection of writing it, but if she did write it, she probably used the wording of the psychological diagnosis made by the psychologist involved in the case. There is, however, no reference to any other psychologist in the letter.
- A letter dated 29 January 2010 to the Parramatta office of the NSW Department of Immigration and Citizenship in support of an application for a protection visa, in which the writer was identified as “Dr Eman Sharobeem, Manager”. The letter concerned a female victim of domestic violence. The letter stated that the person’s “psychological status was assessed and certain levels of stress and anxiety were identified, as a result of suppressed personal issues and violence”.

Ms Sharobeem agreed that she assessed the person and identified the person as suffering from stress and anxiety. She said that, although she was not a qualified psychologist, stress and anxiety were easy to detect.

- A letter dated 20 November 2010 to the Tribunal of the Catholic Church in which the writer was identified as “Dr Eman Sharobeem”. The letter stated that the person referred to in the letter presented with “stress, anxiety and depression symptoms”. Ms Sharobeem claimed the person came to see her after having been previously psychologically assessed as suffering from those symptoms, and she merely acknowledged in the letter what she was told by the person.
- A letter dated 17 September 2011 to a caseworker at the Australian Red Cross, in which the writer was identified as “Dr Eman Sharobeem, Service Manager, Psychologist”. The letter confirmed that the person in question had suffered from the effects of torture and trauma and was therefore unfit to work. Ms Sharobeem told the Commission the word “psychologist” should not have been used. She claimed that she expressed her opinion as a caseworker, not a psychologist.
- A GP Mental Health Treatment Plan dated 5 February 2014 by a referring general practitioner, which included a history of the patient’s mental health diagnoses, and identified Ms Sharobeem as a psychologist and a mental health professional involved in the patient’s care. Ms Sharobeem accepted that she had no experience in diagnosing psychotic disorders, but denied having done so. She said she may have talked with the client in this case, who was Egyptian, “briefly about the culture at home”, and claimed the client then saw a qualified psychologist.

Ms Sharobeem sought to distance herself from direct responsibility for the letters by raising the possibility that she had signed and sent letters out without checking their contents were correct. The Commission rejects that evidence.

All of the above documents were associated with issues relating to mental health. Ms Sharobeem frequently purported to be a doctor and a psychologist in her correspondence when she was neither, expressed views of a medical nature, and made diagnoses. Ms Sharobeem took no steps to correct documents in which she was incorrectly identified as a psychologist by medical practitioners. She did not qualify her status in any of the relevant documents by explaining that she was a counsellor providing services as a caseworker only and not as a psychologist.

The Commission is satisfied that Ms Sharobeem held herself out as a qualified psychologist, and practiced as such, without any formal qualifications or training. Her conduct involved her accepting referrals from health professionals and other community organisations, making psychological diagnoses, and treating people as patients in the capacity of a psychologist.

Parolee X

There was evidence that a parolee (“Mr X”), whose name is subject to a non-publication direction under s 112 of the *Independent Commission Against Corruption Act 1988* (“the ICAC Act”), came to see Ms Sharobeem in 2011 after obtaining a referral from a general practitioner to see a psychologist.

Ms Sharobeem told the Commission that Mr X was a young man whose family was well-known to her, and trusted her to care for and help him. She denied providing him with psychological care or treatment, or representing herself to anyone as his treating psychologist. She claimed that, after she saw Mr X, she made an appointment for him to see a psychologist, whose details however she was unable to provide to the Commission.

Department of Corrective Services (DCS) records identified Ms Sharobeem as Mr X’s psychologist. His DCS breach of parole report, dated 6 July 2011, stated that Mr X “scheduled an appointment with a psychologist on 7 July 2011” and also referred to “Contact with [Mr X’s] treating psychologist on 8 July 2011”. Ms Sharobeem did not deny that she was seeing Mr X at that time, but maintained that she did not provide psychological treatment to him but merely offered him counselling.

In a further breach of parole report of 15 August 2011, Ms Sharobeem was referred to several times as “the offender’s treating psychologist” or “the offender’s psychologist”. There was a note by DCS staff that “Contact with the offender’s treating psychologist on 10 August 2011 confirmed the offender has continued attending weekly psychological and gambling counselling. [Mr X’s] psychologist stated that she continues to work closely with both the offender and his family...”.

Ms Sharobeem told the Commission that she did not recall having a conversation with the report writer about working closely with Mr X in relation to his problems. She said that she had worked with Mr X and his family. She claimed not to remember telling anyone from DCS that she was a psychologist, although she did recall receiving calls from DCS about Mr X, and suggested that Mr X may have told the DCS officers that she was his treating psychologist.

The Commission rejects Ms Sharobeem’s evidence that she did not tell DCS officers she was Mr X’s psychologist.

The Commission also rejects the possibility that it may have been Mr X, and not Ms Sharobeem, who told the DCS officers that she was his treating psychologist, and that the DCS officers mistook her as such when communicating with her about Mr X. That is because the relevant DCS records demonstrate Ms Sharobeem was providing information about Mr X to the DCS officers in the capacity of a psychologist treating Mr X, and not just as someone offering Mr X counselling and support as she claimed.

For example, it is stated in the DCS case note report dated 20 July 2011 that “Dr Eman Sharobeem” advised that she will “continue to counsel offender weekly but unsure if this is the most appropriate treatment for offender”. It is not clear whether by “treatment” she was referring to her weekly counselling sessions or the rehabilitation program that was being considered for Mr X at the time. In any event, it is clear that she was expressing an opinion on the appropriateness or otherwise of a treatment for Mr X. A further case note report dated 1 September 2011 recorded that, “Dr Sharobeem (offender’s psychologist) ... stated she would no longer be offering psychological counselling or gambling counselling to the offender”. By the express use of the words “psychological counselling”, the DCS officers would reasonably assume that Ms Sharobeem was providing Mr X with not just support counselling but counselling as a psychologist.

There is nothing to suggest in the DCS documents that any doubt had ever been raised in the minds of the DCS officers as to whether or not Ms Sharobeem was, in fact, Mr X’s treating psychologist or that, when she was contacted by them in relation to Mr X, she communicated to any of them that she was not Mr X’s psychologist.

It is unlikely that DCS officers would have identified Ms Sharobeem in DCS records as being Mr X’s treating psychologist, and made references in their breach of parole reports and case notes to Ms Sharobeem having that role, if she never told them or confirmed to them that she was Mr X’s psychologist.

That Ms Sharobeem represented herself to DCS as a qualified psychologist is consistent with her history of falsely representing herself as a qualified psychologist to others over a period of years.

The Commission is satisfied that Ms Sharobeem falsely represented herself to DCS officers to be Mr X’s treating psychologist and that she saw Mr X in that capacity.

Further remarks

From the evidence available to the Commission, it is not possible to establish with certainty exactly when Ms Sharobeem first started to use the title “Dr”, purport

to be a qualified psychologist or provide treatment as a psychologist. However, given her 2006 CV, and in the absence of any evidence showing that her practice of misrepresenting herself as a qualified psychologist ceased at any point before IWHS was closed in 2016, it can be reasonably inferred that this conduct occurred between at least 2006 and 2016.

Evidence obtained by the Commission shows that Ms Sharobeem sometimes held herself out to hold just one PhD, and on other occasions claimed to have two PhDs. For example, in her 2011 application to the NSW Community Relations Commission to become a part-time commissioner, and in a 2014 email to an officer at the Anti-Discrimination Board NSW (both of which are discussed in chapter 11 of this report), she claimed to have a PhD in psychology from the American University, and a second PhD in management in organisational leadership from UTS. The available evidence shows that she consistently represented herself as a psychologist with at least one PhD in psychology. She also often claimed to have a masters degree in community management or social science.

Ms Sharobeem’s false pretences created significant risks to the community in that she saw vulnerable people who required psychological treatment from a qualified professional.

Corrupt conduct

The Commission finds that, between at least 2006 and 2016, Ms Sharobeem improperly exercised her official functions by falsely claiming to be a qualified psychologist with a PhD in psychology, and providing psychological treatment to IWHS clients and patients referred to her.

Ms Sharobeem’s conduct was corrupt conduct for the purpose of s 8 of the the ICAC Act. This is because her conduct constituted or involved the dishonest exercise of her official functions and therefore comes within s 8(1)(b) of the ICAC Act. Her conduct also constituted or involved a breach of public trust and therefore comes within s 8(1)(c) of the ICAC Act.

The Commission is satisfied, for the purpose of s 9(1)(a) of the ICAC Act, that, if the facts it has found were proved on admissible evidence to the criminal standard of beyond reasonable doubt and accepted by an appropriate tribunal, they would be grounds on which such a tribunal would find that Ms Sharobeem committed an offence of using a protected title under s 113 of the *Health Practitioner Regulation National Law (NSW)*. That section provides it is unlawful for a person to knowingly or recklessly take or use a title that could be reasonably expected to induce a belief that the person is registered in the health profession listed in one of the health professions

in the table to the section. The table includes “psychology” under the category of professions and “psychologist” under the category of titles.

The Commission is also satisfied, for the purpose of s 9(1)(b) of the ICAC Act, that, if the facts as found were to be proved on admissible evidence to the requisite standard of on the balance of probabilities and accepted by an appropriate tribunal, they would be grounds on which such a tribunal would find that Ms Sharobeem committed a disciplinary offence of misconduct.

Accordingly, the Commission is satisfied that the jurisdictional requirements of s 13(3A) of the ICAC Act are satisfied.

The Commission is also satisfied, for the purpose of s 74BA of the ICAC Act, that Ms Sharobeem engaged in serious corrupt conduct. This is because her conduct:

- involved serious dishonesty in falsely representing herself as a qualified psychologist to her clients, government authorities, community organisations and the community at large
- involved providing psychological treatment to a number of people over a period of years without having the requisite professional qualifications or training, thereby creating a risk to the health of members of the public at large
- involved an extreme departure from the objects and purpose of IWHS to promote good health, including mental health, among people from a culturally and linguistically diverse background
- occurred over a significant period of time
- involved a substantial breach of public trust motivated by her own self-aggrandisement, which may have affected the official functions of a number of public sector agencies
- could constitute a criminal offence under s 113 of the *Health Practitioner Regulation National Law*

(NSW), which carries a maximum penalty of \$30,000.

The Commission finds that, between at least 2006 and 2016, Ms Sharobeem engaged in serious corrupt conduct by improperly exercising her official functions by falsely representing herself to be a qualified psychologist with a PhD in psychology and providing psychological treatment to IWHS clients and patients referred to her.

Section 74A(2) statement

The Commission is satisfied that Ms Sharobeem is an “affected” person with respect to the matters dealt with in this chapter.

The Commission is not of the opinion that consideration should be given to obtaining the advice of the Director of Public Prosecutions (DPP) with respect to the prosecution of Ms Sharobeem for the criminal offence of using a protected title under s 113 of the *Health Practitioner Regulation National Law* (NSW) in relation to her use of the title of psychologist. This is because proceedings for this offence must be commenced within six months from the date on which the offence was alleged to have been committed, and this period has now expired.

The Commission is of the opinion that consideration should be given to obtaining the advice of the DPP with respect to the prosecution of Ms Sharobeem for offences under s 87 of the ICAC Act in relation to her evidence that:

- she was awarded an honorary doctorate from the American University
- she did not claim to be a psychologist when providing care to Mr X.

Given that Ms Sharobeem no longer works for IWHS, which itself is no longer in existence, the issue of whether consideration should be given to the taking of action against her for a disciplinary offence or with a view to her dismissal does not arise.

Chapter 11: Ms Sharobeem's employment with NSW government boards

This chapter examines whether Ms Sharobeem used false academic qualifications to obtain appointment to the NSW Community Relations Commission (now Multicultural NSW) and the Anti-Discrimination Board NSW (now part of the Department of Justice).

Community Relations Commission

On 2 March 2011, Ms Sharobeem was appointed for a three-year term as a part-time commissioner for the Community Relations Commission (CRC). On 14 October 2014, she was appointed for a three-year term as a part-time member of the CRC Advisory Board. She resigned from the CRC on 14 November 2016. The appointments were both paid positions. Between 2011 and 2016, Ms Sharobeem was paid \$15,031.44 by the CRC.

On 7 February 2011, the CRC received Ms Sharobeem's expression of interest for appointment as a part-time CRC commissioner. Her application, as contained in the CRC file, included a Curriculum Vitae (CV), a brief biography and written responses to the selection criteria.

The CV referred to Ms Sharobeem having two PhDs and a masters degree among other qualifications. The brief biography referred to her as having attained a PhD in psychology/management and a masters degree in community management, both from the University of Technology, Sydney. As discussed in chapter 10 of this report, Ms Sharobeem did not have a masters degree or a PhD of any kind.

At the public inquiry, Ms Sharobeem denied that she provided false qualifications to the CRC, or that any representations she made to the CRC with respect to her application were false or misleading. With respect to the documents showing false qualifications, Ms Sharobeem told the Commission "[t]his wasn't the application or the CV sent at that time ... This is not associated with my appointment, no". She agreed, however, that, as part of

her application for the position, she had sent a cover letter, which she signed as "Dr Eman Sharobeem". It is also relevant to note that, in the cover letter, she had written: "Enclosed with this letter is a brief summary [sic] of my CV along with copies of some recent appreciation certificates from various events related to my application". That indicates that a CV was submitted as part of her application.

The Commission is satisfied that the application, CV and brief biography in the CRC file were submitted to the CRC by Ms Sharobeem as part of her expression of interest to be appointed as a part-time commissioner. There is no other plausible explanation for those documents being in the CRC file. In reaching this conclusion, the Commission has also taken into account the evidence, discussed in chapter 10 of this report, that, by early 2011, Ms Sharobeem had, on a number of occasions, provided other false CVs to various government agencies. That conduct is consistent with her providing false information to the CRC.

Ms Sharobeem's written responses to the selection criteria identified her as "Eman Sharobeem PhD", and claimed that she was "a highly qualified practicing [sic] psychologist with Honors PhD". She accepted she wrote that as part of her application, but told the Commission that she understood the reference to her having a PhD was correct because she had an honorary PhD. In any event, as discussed in chapter 10 of this report, Ms Sharobeem never held an honorary PhD.

Ms Sharobeem claimed that her appointment was not based on her qualifications but on her "engagement with the community". She described herself as someone who had worked tirelessly, nationally and internationally, engaging communities and highlighting human rights violations. She claimed that she was therefore "highly qualified". The Commission does not accept that argument. If she really believed that qualifications were not relevant to her application she would not have gone

to the trouble of providing false information as to her qualifications. It is disingenuous on her part to suggest that a government agency, such as the CRC, would appoint her to a public official position, particularly to a high-level position such as a part-time commissioner, without having regard to her academic qualifications. The Commission is satisfied that she intended the CRC to rely on her false academic qualifications when appointing her as a part-time commissioner.

The Commission is satisfied that Ms Sharobeem fraudulently obtained and retained her appointment as a part-time commissioner of the CRC by submitting false academic qualifications.

There is insufficient evidence to ascertain whether Ms Sharobeem submitted a written application for the position of a CRC Advisory Board member.

Anti-Discrimination Board NSW

From 19 December 2012 to 18 December 2015, Ms Sharobeem was a member of the Anti-Discrimination Board (ADB). She was paid \$9,662.22 in sitting fees during that period.

Ms Sharobeem's CV, located in a Department of Justice file, referred to her having a PhD with a "Thesis Major in Psychology" and a "Minor in Community Management", as well as a masters degree in social science, both from the American University in Cairo, Egypt.

In her evidence to the Commission, Ms Sharobeem did not dispute that the CV contained false claims of academic qualifications to the ADB. She agreed that anyone reading it would assume she had studied for, and been awarded, a PhD. She claimed, however, that her engagement with the community was what was important, and educational qualifications or credentials in the relevant field were not required for an appointment to an ADB position.

Her evidence, that educational qualifications were not relevant to her position at the ADB, is in conflict with the exchange of emails in 2014 between her and ADB officer, Carley Tucker. Those emails concerned a proposed media article about Ms Sharobeem that Ms Tucker was preparing. On 15 April 2014, Ms Tucker emailed Ms Sharobeem a draft of the proposed article. The draft referred to Ms Sharobeem in the following terms:

She has since undertaken several more degrees: a Graduate Diploma in Community Management, a Masters in Social Science, and PhDs in Management and Organisational Leadership and Psychology.

Later that day, Ms Sharobeem sent an email to Ms Tucker attaching her changes to the draft. The draft then read as follows:

She has since undertaken several more degrees: a Graduate Diploma in Community Management, a Masters in Social Science, PhD in Management and Organisational Leadership and another PhD in Psychology.

That exchange demonstrates that Ms Sharobeem considered her qualifications were directly relevant to her position at the ADB.

For the same reasons as given above, the Commission rejects her evidence that her qualifications were not relevant to her appointment. The Commission is satisfied that she intended the ADB to rely on her false academic qualifications when appointing her as a member of the ADB.

Corrupt conduct

The Commission finds that Ms Sharobeem knowingly submitted false academic qualifications to the CRC and ADB for the purpose of obtaining paid employment with those bodies.

In each case, Ms Sharobeem's conduct was corrupt conduct for the purpose of s 8 of *Independent Commission Against Corruption Act 1988* ("the ICAC Act"). This is because her conduct impaired, or could impair, public confidence in public administration and involved fraudulently obtaining or retaining employment or appointment as a public official, and therefore comes within s 8(2A)(e) of the ICAC Act.

The Commission is satisfied, for the purpose of s 9(1)(a) of the ICAC Act, that, if the facts it has found were proved on admissible evidence to the criminal standard of beyond reasonable doubt and accepted by an appropriate tribunal, they would be grounds on which such a tribunal would find that Ms Sharobeem committed offences of fraud contrary to section 192E of the *Crimes Act 1900* ("the Crimes Act").

Accordingly, the Commission is satisfied that the jurisdictional requirements of s 13(3A) of the ICAC Act are satisfied.

The Commission is also satisfied, for the purpose of s 74BA of the ICAC Act, that Ms Sharobeem engaged in serious corrupt conduct on the following grounds.

- The CRC was established to foster cultural diversity in NSW with a view to building and maintaining a cohesive and harmonious multicultural society in NSW. The ADB was set up to prevent discrimination, promote equal opportunity policies and practices and administer relevant legislation. Both organisations drew upon the collective skills and experience of its

members to achieve these important goals, and Ms Sharobeem obtained her appointments on false pretences.

- Her motivation was self-aggrandisement, involving a degree of sophistication and planning, as evidenced by the false CVs submitted, false submission in response to the relevant selection criteria, and false feedback on the proposed ADB media article that was to be written and published about her in her official capacity.
- She received a significant amount of money by virtue of her appointments, which was paid to her over a number of years.
- Her conduct also affected the official functions of two important government agencies, involved a substantial breach of public trust and could impair public confidence in public administration.

The Commission finds that Ms Sharobeem engaged in serious corrupt conduct by:

- in March 2011, knowingly submitting false academic qualifications to the CRC for the purpose of obtaining financial advantage by being appointed to the paid position of part-time commissioner of the CRC
- in about December 2012, knowingly submitting false academic qualifications to the ADB for the purpose of obtaining financial advantage by being appointed to the paid position of a board member of the ADB.

Section 74A(2) statement

The Commission is satisfied that Ms Sharobeem is an “affected” person with respect to the matters dealt with in this chapter.

Ms Sharobeem gave evidence under an s 38 declaration, which means that her evidence is not admissible against her in criminal proceedings other than proceedings for an offence under the ICAC Act. However, there is other evidence that would be admissible, including relevant documentary evidence.

The Commission is of the opinion that consideration should be given to obtaining the advice of the Director of Public Prosecutions with respect to the prosecution of Ms Sharobeem for criminal offences of fraud contrary to s 192E of the Crimes Act.

Given that Ms Sharobeem no longer works for the Immigrant Women’s Health Service, which itself is no longer in existence, and no longer works for the CRC or the ADB, the issue of whether consideration should be

given to the taking of action against her for a disciplinary offence or with a view to her dismissal does not arise.

Chapter 12: Corruption prevention

Several reforms have been made in recent years to the human services funding regime in NSW, which have improved the oversight of publicly funded non-government organisations (NGOs).² Had these measures been in place at the time of Eman Sharobeem's corrupt conduct, her activities may have been detected earlier.

Nevertheless, from the Commission's experience, not all corruption risks can be addressed. Accordingly, funding agencies and NGOs could benefit from insights this chapter provides. It examines the conduct that occurred in the Immigrant Women's Health Service (IWHS) and the Non-English Speaking Housing Women's Scheme Inc (NESH), and examines whether weaknesses in the oversight and controls of their funding bodies provided opportunities for the corrupt conduct.

The chapter also gives an outline of the role NGOs play in the delivery of human services, including the roles and responsibilities of staff and board members, and the corruption risks that NGOs, particularly small NGOs, can face.

While there are large NGOs in NSW that receive substantial funding, the majority are small and provide specific services to the community in which they are located. IWHS and NESH were such organisations.

IWHS received annual funding from the South Western Sydney Local Health District (SWSLHD), and occasional grants from other sources, including the Smith Family and Fairfield City Council, for specific projects. For the 2014–15 period, IWHS received \$349,600 from the SWSLHD.³

During the time relevant to the investigation, NESH was located temporarily at IWHS's Fairfield office and then later at the nearby suburb of Guildford. For 2013–14, its last fully

funded year, NESH received \$362,447 from the NSW Department of Family and Community Services (FACS).

Government agencies can face challenges in overseeing funded NGOs. A major difficulty with monitoring their performance is the need to balance effective regulation and the compliance burdens associated with reporting regimes.

Many NGOs in NSW are subject to statutory obligations set out in the *Associations Incorporations Act 2009* (NSW), including annual reporting obligations, maintaining minutes, and ensuring proper financial and membership records.

Moreover, NGOs are also subject to oversight by the Australian Charities and Not-for-Profit Commission (ACNC) and the NSW Office of Fair Trading. It would be inefficient for government funding agencies to seek to replicate these external oversight regimes, which prompts the question of where to draw the line in terms of monitoring NGO governance arrangements.

The Commission believes that this report, and the corruption prevention recommendations it makes within it, provide a timely prompt for NGOs and their government funding agencies to assess whether the financial, administrative and governance controls they have in place effectively address the corruption risks in their operations.

The report makes 12 corruption prevention recommendations; eight to the SWSLHD and four to FACS.

Overview of NGOs

NGOs play a valuable role in the delivery of human services in NSW, and other Australian states and territories. The advantages for government are that NGOs, particularly smaller NGOs:

² See Appendix 3.

³ The SWSLHD funded the IWHS for the periods from 2010–11 to 2014–15. Prior to this, IWHS had received funding from the SWSLHD's predecessor agencies.

- can be better placed to identify and respond promptly to local and emerging needs than bureaucratic government agencies
- know their client base and are visible in the community
- may appeal because they are easier to access and less intimidating to deal with than government bureaucracies
- can assist, and advocate for, people seeking government services
- are often staffed by people from the clients' cultural or gender demographic (for example, culturally and linguistically diverse (CALD) communities, women, Aboriginal and Torres Strait Islanders)
- are often able to deliver diverse services, including face-to-face services, group activities, telephone inquiries, and social activities on what is often modest funding, with more flexibility than large bureaucracies
- can often respond quickly to clients in crisis, such as victims of domestic violence and people who are homeless, providing both practical and emotional support
- often engage with other NGOs through local inter-agencies and can refer clients to appropriate agencies in the same community.

The disadvantages for government, however, are that smaller NGOs generally do not have the level of governance controls that are taken for granted in the public sector and, further, NGO staff and board members may not understand the importance of these controls. The reasons for this include that:

- small NGOs have limited staff numbers and other resources (this necessitates staff taking on several

responsibilities that can cloud accountabilities and lines of responsibility, and limit the ability to impose standard corruption controls such as segregation of duties)

- a culture of “cutting corners” can arise (for example, pre-signing cheques, sharing bank tokens and passwords, and purchasing and procurement procedures)
- personal relationships are integral to the smooth functioning of NGOs both within the organisation and in the wider community (the closeness of these relationships, however, can make it difficult for conflicts of interests to be identified and managed)
- related to the above, NGOs tend to operate in an environment of high trust, with relatively few strictly enforced policy requirements
- boards of small NGOs, such as the boards of IWHS and NESH, are usually voluntary (members generally volunteer out of a sense of altruism or a strong commitment to the objectives of the NGO but may not understand the governance responsibilities that come with this role)
- NGOs often rely on volunteers to assist paid staff in the day-to-day activities (both volunteers and staff need to be adequately trained to carry out their duties in accordance with good governance principles and procedures, and NGOs are also less likely to have comprehensive staff/volunteer induction systems)
- NGOs generally do not have the funds to invest in sophisticated electronic accounting and finance systems or large internal audit programs
- the operations of some NGOs are dominated by a single individual, who may be the founder or key personality associated with the organisation.

Therefore, while there are advantages to government outsourcing of human services, there are also risks that funds could be poorly managed, services may not be provided to the required standard (or at all), staff and board members may lack competence or, as happened in this investigation, serious corrupt conduct could occur.

Despite the opportunities that exist for NGOs to engage in corrupt conduct, the Commission receives relatively few allegations about NGOs. This is the Commission's first major investigation report into an NGO. For this reason, the Commission has not recommended substantial changes to the way that NGOs are funded and monitored.

Overview of IWHS

The majority of the conduct examined during the investigation occurred at IWHS's office at 92 Smart Street in Fairfield. To illustrate how the Fairfield office was run, it is useful to describe the activities, staff and layout of the building. There was a reception area where the two part-time administration officers worked, a small room used by the bookkeeper and legal advisor, who each worked five hours per week, and by volunteers and occasional project officers and service providers. Ms Sharobeem, as service manager or CEO, had her own office, which was locked, or otherwise seen as "out of bounds", when she was not there.

There were two rooms, one large and one smaller, in which IWHS held groups for its clients. Groups typically focused on a theme, a target group, or activity. For example, IWHS conducted yoga classes, healthy lifestyle groups, language- and age-specific discussion/support groups (such as the Arabic Speaking Women's Group and seniors groups), plus support groups for women surviving domestic violence. The rest of the centre comprised a small area near the kitchen used for childcare, and the kitchen, bathroom and toilets.

IWHS also conducted, or co-conducted, groups in outside locations, which provided a further opportunity for Ms Sharobeem to obfuscate the real number of activities and clients.

Working at the Fairfield office were Ms Sharobeem, two part-time administration officers, the bookkeeper, a child-care worker and, over the years, varying numbers of facilitators. Ms Sharobeem was the only full-time employee.

Opening hours were general office hours. It was not open on the weekend. The majority of groups were only held during school terms and the centre itself closed for two weeks during the Christmas period.

IWHS's Cabramatta office had similar opening hours, but with less staff and only one room for group activities. The coordinator of the Cabramatta office advised that eight groups were held there each week.

Clearly, the opening hours and dimensions of both the Fairfield and Cabramatta offices could only allow for a certain amount of activity. Despite this, for the years examined by the Commission, the IWHS annual reports and annual activity reports recorded extremely high numbers of clients against all the categories, including groups, "drop-ins", telephone and face-to-face counselling. For example, the IWHS annual activity report for 2012–13 included:

- number of clients attending groups = 18,850
- number of telephone incidental counselling = 8,240
- number of face-to-face counselling = 2,852.

The last figure is noteworthy, given that Ms Sharobeem told the SWSLHD officers that she was the only IWHS employee at the Fairfield office who provided face-to-face counselling.

Funding bodies need to be sceptical about whether the data reported by NGOs is realistic given the number of staff, the physical layout of the premises, and the hours of operation. It is concerning that the SWSLHD apparently accepted these inflated figures for several years without question; although, it did ultimately query the accuracy of the key performance indicators (KPIs) that IWHS reported in its 2013–14 quarterly report, which indicated that it ran 3.4 groups per day.

IWHS responded:

IWHS location in Cabramatta has one meeting room only, thus the capacity allows for maximum 2 groups per day following each other. While Fairfield location has two meeting rooms, yet the kitchen space is utilised due to the demand. The number 3-4 [sic] groups are a reflection of the service as whole. Yet, IWHS run outreach program from other locations in Guildford, Fairfield, and Bossley park community centres.

The SWSLHD appears to have accepted this explanation, but made more sustained enquiries after IWHS's 2015–16 target KPIs indicated that it would be running a remarkable 7.6 groups and 12 counselling assessments per day. During the investigation, a SWSLHD spokesperson advised the Commission:

The projected and reported KPIs can raise an alarm with us ... For example, in the case of IWHS, the KPIs for 2015/2016 indicated that it would be running 7.6 groups per day in the first quarter of the funding period. This raised an alarm in part because the IWHS only had approximately 4.5 FTE staff. In addition, the KPIs for counselling were very high...

Between January and September 2015, the SWSLHD did make several attempts to arrange a meeting with Ms Sharobeem to review the target 2015–16 KPIs, and to seek the 2014–15 annual activity report, which was outstanding at that time.

On 19 August 2015, for example, the SWSLHD's contract manager emailed Ms Sharobeem: "Hi Eman ... The annual activity report was due on the 30 May. The template is attached." Ms Sharobeem responded shortly afterwards:

Thanks Christine for the kind reminder. I am driving back from Canberra now. Last night in parliament IWHS was announced as a finalist in the migration and settlement award, empowering women's category.

On 2 September 2015, the contract manager was still chasing the report:

Dear Eman,

I hope you are well. The annual report is still outstanding can you let me know when it will be available please.

Eventually, in October 2015, SWSLHD staff met with Ms Sharobeem to discuss data collection, staffing levels, her roles and responsibilities as well as IWHS reporting.

The SWSLHD's NGO monitoring framework

For most of the period examined by the Commission, the SWSLHD required the NGOs it funded, including IWHS, to submit Annual Activity Reports as per their contract conditions. From July 2010 to June 2014, the IWHS reports were largely focused on meeting various KPIs for specified activities that were included in the funding agreements.

In 2014–15, NSW Health developed a new Annual Activity Report template for the NGOs it funded. The SWSLHD now required its NGOs to:

- report on KPIs where annual end-of-year reporting was specified in a funding agreement and the information had not been provided, via quarterly reports, throughout the year
- note any new key policies, procedures or service data collection systems and reporting arrangements that are in place
- note any governance and business process issues and accreditation in quality improvement or service standards that are maintained, commenced or achieved.

While there were some outcomes-based KPIs in IWHS, the measurement of these KPIs was limited and, in most cases, only based on pre- and post-workshop evaluations. Even so, the SWSLHD's practice was to rely on IWHS's word that such evaluations had been conducted and that the collated results were accurate.

The IWHS 2013–14 annual report was strongly focused on inputs (such as women attending workshops) and outputs (such as workshops undertaken).

Data about inputs and outputs can, however, be easily manipulated and, as set out in chapter 7, Ms Sharobeem falsified statistics reported to the SWSLHD.

As a benchmark, the SWSLHD could have compared IWHS's activities and data with that of similar organisations, with comparable staffing and funding arrangements, in other local health districts (LHDs) and queried significant differences in client and group numbers.

While outcomes-based performance measures can play a key role in effective NGO performance management frameworks by providing a more meaningful measure of performance, the drafting of these types of measures can present many challenges, including:

- factors beyond the control of NGOs influencing the attainment of outcomes
- drafting meaningful, measurable and achievable outcomes is difficult (outcomes-based KPIs that are unclear or unobtainable may also place too heavy a burden on NGOs and create pressure for them to "game" the system)
- ensuring KPIs provide a coherent view of an NGO's performance while also limiting the number of outcomes that are measured (attempts to define every deliverable, no matter how minor, will create an endless pit of measurement and stifle opportunities for innovation)
- avoiding the potential to create perverse incentives (the design of KPIs requires an appreciation of the impact that performance measures will have on a service provider's conduct, and the relationship between measuring and reporting on certain outcomes will create incentives that may encourage the wrong type of behaviour)
- ensuring sufficient time is allowed for achieving outcomes-based KPIs (short-term contracts can undermine the ability of an NGO to plan to achieve outcomes and retain talented staff needed to obtain objectives)
- appreciating the costs involved in verifying the delivery of outcomes.

Despite the above challenges, governments have increasingly started to implement outcomes measurements that are more meaningful than simply measuring inputs and outputs (see Appendix 3).

While NGOs may require some individualised KPIs, which reflect the service they provide, there are common KPIs that all NGOs should be required to report on. The SWSLHD advised that an advantage of NGOs entering partnership arrangements is that they are able to develop common KPIs.

Ideally, the SWSLHD should have fewer but more meaningful KPIs for its funded service providers, reflecting the size and magnitude of funded programs. The adoption of fewer KPIs will reduce the regulatory burden associated with performance reporting and monitoring while at the same time focusing on the effective measurement of meaningful outcomes.

Important considerations include the need to consult with NGOs about the framing of outcomes given that on-the-ground expertise will reside with them.

Recommendation 1

That the SWSLHD, in conjunction with relevant NGOs, develops additional outcomes-based KPIs that reflect the critical objectives of the services that it funds. Where possible, measurement of these KPIs should not be based solely on information self-reported by NGOs.

The SWSLHD has advised that it supports this recommendation in principle. NSW Health, which is the system manager for the NGO grants program, advised that the standard NSW grant agreement supports performance measurement through setting indicators and targets that align with program objectives, and that the activities delivered by NGOs achieve these objectives. Further, opportunities to strengthen outcome-based performance measurement will be included in NSW Health's revision of the NGO grants policy.

At the time of the conduct, the SWSLHD did not have in place a system that was capable of providing a holistic view of its funded NGOs. A framework that integrated the disparate elements of the SWSLHD's NGO monitoring system may have alerted it to the problems at IWHS prior to 2015.

Recommendation 2

That the SWSLHD adopts a coordinated and holistic framework for monitoring its funded NGOs that incorporates and links NGO governance capability, performance measures and financial reporting. This should entail less reliance on self-reported information.

The SWSLHD has advised that it supports the above recommendation. NSW Health advised that the grants program policy provides guidance to agencies monitoring NGO grants, including financial monitoring. NSW Health further advised that this recommendation will be included in its revision of the NGO grants program policy through specific advice on governance and performance management, and managing funding relationships with NGOs.

In addition to the limitations in its NGO monitoring systems, the SWSLHD did not allocate sufficient staff to oversee its funded organisations. At the time of the corrupt conduct, the SWSLHD funded 20 NGOs, yet only a 0.6 full-time equivalent position was responsible for overseeing these organisations. In the Commission's view, it would have been difficult for this individual to be completely effective in assessing NGO performance and to respond promptly to emerging concerns.

Recommendation 3

That the SWSLHD considers allocating additional staff to manage the NGOs it funds. Considerations for setting adequate staffing levels could include the nature of the service, the vulnerability of the client groups, and the potential governance and financial risks that could arise.

The SWSLHD has advised that it supports the above recommendation and is reviewing its staffing arrangements and capability levels.

Audited financial reports

IWHS's funding agreements required it to provide externally-audited financial reports to the SWSLHD after the end of each financial year.

Under the requirements of the *Associations Incorporation Act 2009*, IWHS was required to prepare special-purpose financial statements. Special-purpose audits require a lower level of disclosure than general purpose audited financial statements. IWHS had used the same auditor from the 2008–09 to 2012–13 financial years, after which this person resigned. A SWSLHD spokesperson advised that the IWHS audited financial statements for those years did not raise any anomalies.

During the 2013–14 financial year, IWHS engaged Nathan Boyd as its auditor. Mr Boyd was already auditing NESH and was thus in a position to note the unusual transfers of money from NESH to IWHS that Ms Sharobeem had arranged for her own benefit, and which ultimately prompted Mr Boyd's closer examination of IWHS's financial matters.

While his 2013–14 audit report was not a qualified report, Mr Boyd did raise several concerns and his 22 September 2014 management letter to the IWHS Management Committee outlined various anomalies. In particular, Mr Boyd noted that:

- The majority of facilitator invoices were incomplete because they did not state the ABN and GST amount. If the facilitator had not supplied an ABN, IWHS was required to withhold 46.5% tax from all payments made.
- Invoices should have been provided and paid soon after the services had been provided. Mr Boyd noted a number of facilitators were issuing invoices in June 2014 for services provided in July–October 2013.
- Some facilitators were paid twice for the same period of time.

As set out in chapter 5, Ms Sharobeem misused her position to improperly obtain facilitator payments of \$141,485 for herself and her two sons, Charlie Sharobeem and Richard Sharobeem. It is interesting to note that the hourly rates that Ms Sharobeem claimed on these false invoices were significantly above the modest rates that the bona fide IWHS facilitators received. Facilitators told the Commission that, if they broached the idea of an increase in pay, Ms Sharobeem would say that IWHS could not afford it.

Ms Sharobeem sought to justify creating false facilitator invoices in various ways, including that she deserved the additional money because of how hard she worked, and also, somewhat bizarrely, that there were no job distinctions at IWHS and so “everyone was described as a facilitator”. Further, to explain why she saved up her personal and work invoices to give to the bookkeeper, Ms Sharobeem said that “sloppy practices” were common in the NGO sector.

At the time, Mr Boyd had commented that IWHS management should review these invoice payments, ensure that the overpayments were refunded and that greater controls around invoices be implemented. He also expressed concern that:

- the documentation supporting the reimbursements was inadequate in some instances
- not all reimbursement forms were accurately completed
- a number of operating expense reimbursements were not allocated to the correct account
- there was an underpayment of GST on income (totalling \$4,423)

- there was over-claiming of GST on expenses (totalling \$1,294)
- some invoices were not processed with GST
- some assets greater than \$1,000 in cost were expensed.

Audrey Lai, IWHS’s chairperson, told the Commission that Mr Boyd’s letter did not come to the attention of the IWHS board at the time and they only found out about these issues in 2015. Ms Lai told the Commission: “I mean the board would have acted had we known but we were assured by Ms Sharobeem that everything was, was going well”.

That is, because of the board’s trust in Ms Sharobeem, and lack of understanding of their responsibilities, they did not themselves check the veracity of the information provided to the auditor nor request to see a copy of the audit report and related correspondence.

Mr Boyd gave a qualified audit opinion in IWHS’s 2014–15 audit. Specifically, he was unable to obtain sufficient documentation in relation to significant amounts of expenditure, including reimbursement to Ms Sharobeem, that lacked information and explanation.

It was only at the meeting of 8 October 2015 that Mr Boyd learned that his 2013–14 audit management letter had not been brought to the board’s attention.

On 9 October 2015, Mr Boyd emailed the board and Ms Sharobeem, requesting the information he needed to complete his audit, including details of the tax file numbers and ABNs of the unexplained facilitators whose names appeared on the invoices.

Ms Sharobeem prepared the response to Mr Boyd’s enquiry in which, among various obfuscations and falsehoods, she claimed that she worked as a group facilitator at IWHS on Saturdays “under my name as Emma Adly”.

On 19 October 2015, the three core board members – Ms Lai, Julie Watton, and Nada Damcevaska-Stamenkowska – met to discuss the findings that Mr Boyd had presented to them. The minutes of this meeting record that “Eman Sharobeem has admitted that Emma Adly is herself” and that she used this name when she worked as a group facilitator on Saturdays because many people could not pronounce Eman, and “Adly” was her maiden surname.

The board resolved to ask Ms Sharobeem to pay the money back and, from records compiled by Mr Boyd of clothing and accessories expenditures, including hair and beauty appointments, Ms Sharobeem did repay \$44,757.36 between September and November 2015. The SWSLHD was not advised of Ms Sharobeem’s

conduct until 4 November 2015, which is when Mr Boyd contacted the SWSLHD chief financial officer (CFO).

Unfortunately, it is indicative of the board's misplaced trust in Ms Sharobeem that they did not seek advice from their funding body immediately upon learning of her conduct but allowed her to continue in her role as CEO. Ms Lai told the Commission that board members had initially believed Ms Sharobeem's claims that Nevine Ghaly, NESH coordinator, had created the false documents in an effort to "frame" her.

On 4 November 2015, the IWHS board and Ms Sharobeem met. The minutes record that the meeting addressed Ms Sharobeem's "alleged" fraudulent conduct, and that she offered the following explanation for her conduct:

Eman explained that due to her commitments she was not able to allocate time to check what was claimed as expenditure, some of the personal receipts were reimbursed; and due to the insufficient/lack of good financial processes, the previous bookkeeper was taking the receipts directly from ... Eman's desk. Further to that the bookkeeper was not able to code the items correctly even after the auditor last year specifically developed a spread sheet for the service.

On 4 November 2015, Mr Boyd contacted the SWSLHD's CFO regarding suspected fraudulent activity by Ms Sharobeem. The CFO then reported the matter to the NSW Police and, on 6 November 2015, SWSLHD quarantined funds to IWHS.

This sequence of events demonstrated prompt and decisive practice by the SWSLHD and the IWHS auditor. Nonetheless, it is concerning that Ms Sharobeem's alleged fraudulent conduct had been sustained over many years without being detected by the SWSLHD. Although NGOs are required to provide externally audited financial reports to the SWSLHD as a condition of funding, they are not required to provide the SWSLHD with audit management letters.

In July 2017, the SWSLHD advised that the 2017–18 service agreement stipulates that auditors should notify it directly and proactively if they have concerns.

Recommendation 4

That the SWSLHD requires funded NGOs to provide it with copies of audit management letters from external auditors.

On 31 October 2017, the SWSLHD advised that it supports this recommendation in principle. NSW Health advised that it is reviewing the grants program policy and supports this recommendation in principle, particularly

for larger grant funding arrangements. The current policy requires that recipients of recurrent funding under the grants program submit audited financial statements. The requirement for provision of audit management letters by external auditors will be incorporated into the policy review and, further, this requirement will be applied with reference to the size and relative risk of the grant to ensure it does not impose undue administrative burdens on small- and low-risk NGOs.

In the Commission's view, however, it is not an onerous administrative requirement that NGOs, small or large, provide a copy of management letters to their funding body as doing so forms part of their accountability for receiving taxpayers' money.

Governance in NGOs

NGO boards

Hundreds of people in NSW volunteer as board members of NGOs. They are motivated to do so by altruism and a commitment to their community, and aim to perform their responsibilities to the best of their ability. While these motivations are admirable, there are significant responsibilities that come with being a board member. These include financial oversight and accountability, recruitment and management of senior and other staff, dispute resolution, and understanding the legislative and funding regime of the NGO.

While board members cannot know the minutiae of what happens on a day-to-day level at their NGO, it is incumbent upon them to know the:

- NGO's annual funding from government, and money it receives from other sources
- annual budget and running costs and how this is acquitted throughout the year
- objectives of the organisation
- KPIs and outcomes
- numbers of staff, their roles, and associated salary costs
- governance policies and procedures, including corruption risk assessment
- activity and program costs and how they are acquitted in the budget
- potential administrative and governance risks in the NGO's operations
- reporting regime to the funding body.

The IWHS board did not have this level of information and, according to Ms Lai, did not seek it. From the

IWHS board meeting minutes and evidence given to the Commission, board meetings were held irregularly and largely comprised a summary provided by Ms Sharobeem of her activities or plans for future events. Most notably, Ms Sharobeem did not present financial reports throughout the year, which should have been a standard item.

Board members who gave evidence at the public inquiry conceded that they neither had the appropriate skills to properly oversee IWHS nor fully understood the governance measures that should have been in place.

Ms Lai, who was the chairperson of both IWHS and NESH during relevant periods, was asked what, in hindsight, she thought the board members needed throughout those years to properly govern the organisations. She said, in part:

A lot of things ... Mainly we needed to have more of those financial reports, you know, at each board meeting instead of just at the end of the financial year ... so we could keep track of actual expenditures and then we would have a better idea of whether it was ... being misused ... I would also ... have more to do with the bookkeeper ... and more involvement in the reporting back to the funding body.

Ms Lai went on to say:

...we trusted Eman Sharobeem very much, you know, and we thought she had such a good reputation and high profile in the community that we didn't check so whenever we did a performance appraisal it was very, like a cursory thing ... you know, you're, you're doing well and things like that. So I suppose in future that we need to have proper performance appraisals and document, like similar to what my manager ... would do for me. It would be quite a formal document that is required every six months so in hindsight, yes, we should have had a more formal appraisal for the manager [Ms Sharobeem] rather than just oh, yeah, everything is good and everything is going well and well done, Eman, you know.

Policies and procedures

There were very few policies and procedures in place at IWHS or NESH to guide staff, and board members, in regard to:

- reimbursements for personal expenditure
- use of work credit card/s
- approvals for expenditures over a certain amount
- engagement of facilitators and personnel data
- personal use of resources
- use of motor vehicles

- acquittal of purchases against budget items
- regular oversight of expenditures.

This lack of guidance and controls gave Ms Sharobeem the opportunity to engage in corrupt conduct. As a general comment, the Commission recommends that NGOs have systems and policies in place to address the following:

Personnel files

Every employee should have a personnel file with their name, address, contact numbers, skills/experience and qualifications, tax file number and (where relevant) ABN, all of which should be verified by the NGO. Employees should know that this information (with the possible exception of their home addresses) will be made available to the funding bodies if required.

Reimbursements

While there was a practice in place for facilitators to be reimbursed for refreshments they purchased for their groups, IWHS did not have a formal reimbursement policy. Therefore, over a significant length of time, Ms Sharobeem established her practice of placing her personal and IWHS receipts into the in-tray for the bookkeeper to process and reimburse. The bookkeeper's instinct that something was wrong was correct, but she told the Commission it was difficult for her to refuse to process the invoices as Ms Sharobeem would get "angry" with her, and she feared being dismissed from her job.

Credit cards

A credit card policy should include, at least, the conditions of use, including that personal use is not permitted, circumstances in which the card can be used, limit/s on the card and on expenditure amounts, and the approvals process.

Motor vehicle/s

Conditions concerning work motor vehicles should be set out in a policy and include whether, and in what circumstances, personal use is permitted, and that the driver is responsible for traffic infringements and for any damages they may cause to the vehicle.

Cost codes

IWHS had no costs codes until Mr Boyd implemented a system in 2014–15. There were about 12 cost codes including for wages, repairs and maintenance, group expenses and conferences. As set out in the earlier chapters of the report, Ms Sharobeem was, however, able to circumvent the coding system in part by bullying the bookkeeper. The absence of codes also made oversight by the board more difficult.

The MYOB program, which IWHS used, and similar accounting programs, are commonly used by small NGOs, as the financial transactions undertaken by these organisations are usually routine and straightforward.

These accounting systems, however, do not generally have sophisticated controls to prevent or detect fraud. In addition, smaller NGOs may not have sufficient staff numbers to allow for segregation of duties in financial transactions, and ensure there is robust oversight and scrutiny.

Ms Sharobeem claimed that she did not have any responsibility for the financial management of IWHS. Despite this claim, when she was first engaged at IWHS in 2004, her position description included responsibility for overseeing the day-to-day financial and administrative management of IWHS, including preparing annual budgets and monitoring income and expenditure.

Oversight of IWHS governance arrangements

Of further concern was the fact that the SWSLHD's monitoring arrangements did not verify the governance capacity of its funded NGOs. Instead, as discussed above, this was largely based on self-assessments by the NGOs. While it is acknowledged that there can be an issue of where to draw the line in relation to broad NGO governance issues, the SWSLHD still required assurance that IWHS had the governance capacity to ensure probity around its funded programs. As a minimum, an active examination of governance arrangements ought to have included whether adequate records were maintained, board meetings were held regularly, and clear roles and accountabilities were assigned to board members.

The SWSLHD has advised that, in the 2017–18 financial year, it implemented occasional audits as part of its site visits; although, it would give advance notice of the items to be reviewed. The SWSLHD further advised that implementing such a scheme will depend on the SWSLHD's resources and it will need to be strategic about the NGOs it chooses.

The Commission agrees with these proposed additional audits and Recommendation 3 concerns increasing staff levels to help facilitate the oversight of NGOs.

A risk-based approach to NGO monitoring

In *Guidelines for engagement with NSW human services* (May 2016), the NSW Government advised agencies that NGO engagement processes should be proportional to the size and risk of a project or service.

During the investigation, the Commission asked the SWSLHD to outline any procedures it had for categorising NGOs according to a risk-based approach.

The SWSLHD's reply included:

No uniform method is conducted. Each NGO provides various services in drug and alcohol, women's health, mental health, community health and transport services.

Risk is determined on individual performance i.e. NGOs not meeting reporting deadlines; the quality of reports; NGO meeting targets; financial accountability (organisational and funding management); deficits and surplus in funding at the end of year.

Risk is also determined by a complaint.

If the issue is financial the NGO may be requested to conduct an independent forensic review and, dependent on the review, further risk analysis is conducted.

In the Commission's view, a uniform system to categorise risks would allow the SWSLHD to more readily identify, and respond to, NGOs experiencing problems.

The adoption of a risk-based NGO monitoring approach by the SWSLHD should maximise the impact of limited resources by prioritising problem organisations. A risk-based approach aims to prevent non-compliance by continuously analysing and treating risks before they become problems, but at the same time aims to minimise regulatory interference in well-functioning organisations.

There is merit in the SWSLHD identifying significant non-compliance with either legislative or funding requirements, along with any unrealistic reporting against KPIs as "red flags", which could indicate that corrupt conduct is occurring.

Red flag areas could specifically include failure to make statutory payments, financial anomalies raised in audit management letters and the provision of unrealistic performance target data. Any highlighted concern should be closely scrutinised by the SWSLHD.

Oversight activities are more effective if they respond to the risk created by an organisation's non-compliance. An effective response also requires a mix of solutions, extending from persuasion, performance improvement plans and close monitoring, with the withdrawal of funding as a last resort. The SWSLHD advised that it takes a number of steps to encourage and assist NGOs to improve their performance prior to recommending that funding be withdrawn.

As an initial step, the SWSLHD should review the financial and governance capacity of its funded NGOs, which will help enable it to categorise NGOs according to those that are functioning poorly and those that are

performing well. Decisions about NGO categorisation ought to be based on formal and periodic NGO reviews as well as informal feedback from on-the-ground SWSLHD staff working with NGOs. Any complaints about NGOs should also inform risk assessments.

Recommendation 5

That the SWSLHD conducts an initial, thorough review of its funded NGOs, focusing on financial competence and whether adequate governance arrangements are in place to ensure probity around funding arrangements.

The SWSLHD has advised that it supports this recommendation in principle. NSW Health has advised the SWSLHD that the NSW Health grant agreement stipulates how funds can and cannot be used, as well as annual financial governance requirements.

Recommendation 6

That the SWSLHD develops risk metrics and conducts regular risk assessments of funded NGOs. The risk metrics should have regard to the risks that small NGOs can be prone to, including:

- **limited staff numbers**
- **perverse incentives to falsify client data, either to enhance reputation or to lobby for increased funding**
- **volunteer boards with limited time and skills to properly oversee the financial and administrative practices of the NGO and that members of these boards may not be aware of their responsibilities as managers of the CEO and/or other senior staff**
- **poorly segregated financial practices and controls**
- **CEO/coordinators with limited skills in managing staff, and in overseeing financial practices and systems.**

The SWSLHD has advised that it supports this recommendation in principle. NSW Health has advised the SWSLHD that undertaking risk assessments at strategic points in the agreement cycle (such as when agreements are entered into or renewed) will be included as part of the review of the NGO grants program policy. The mechanisms to address risk will take into account the nature and type of activities being funded and the amount of funding to the NGO.

Training and qualifications

In February 2018, the Commission released its report, *Strengthening employment screening practices in the NSW public sector*. The report notes:

Employment application fraud is both costly and common. Typically, between 20% to 30% of job applications contain some form of false information ranging from minor omissions to serious falsehoods. Undetected employment application fraud can undermine merit-based selection and result in hiring an employee who lacks integrity or requisite expertise for the role. This can have a range of detrimental effects for an agency, including health and safety risks, poor provision of public services, and impairment of public trust and confidence. Moreover, employees who engage in employment application fraud sometimes commit other acts of corrupt conduct once afforded access to an agency's assets.

As demonstrated in chapter 10, Ms Sharobeem lied about her qualifications from the very beginning of her involvement with IWHS and, as the years progressed, she claimed to hold significant qualifications without providing any evidence. These were a doctorate in psychology, a doctorate in management and organisational leadership, a masters degree in social science, and a bachelor in business administration.

Of more concern is that she purported to be a psychologist and made this claim widely known. In addition to seeing IWHS clients, she accepted client referrals from general practitioners and from government agencies and NGOs.

Ms Sharobeem was not a qualified psychologist, nor did she hold any tertiary qualifications other than the bachelor of arts degree.

Qualification checks help verify that a candidate has the knowledge, skills and abilities they have claimed. Importantly, they also assist the agency to assess the candidate's honesty. Better practice sources recommend that issuing institutions be contacted to verify qualifications. The issuing institution is both capable and motivated to help verify qualifications, as its reputation may be adversely affected by qualifications fraud.

However, according to the interviews the Commission conducted for its employment screening report, most public sector agencies do not regularly contact the issuing institution because they do not know how qualifications should be verified.

Under the Service/Funding Agreement, NSW Health does not require NGOs to check the qualifications of their employees. The SWSLHD has advised, however, that from the beginning of the 2016–17 financial year, it has

been asking its NGOs to provide a list of staff members. The SWSLHD further advised that, in 2017–18, it would request that NGOs inform it of their staff members' qualifications, and confirm continued registration if relevant to the qualification.

Recommendation 7

That the SWSLHD checks and, wherever possible, verifies the qualifications, and continued registration (where relevant), of NGO employees. This should adopt a risk-based approach by focusing on qualifications that are:

- **mandatory to perform the service**
- **required for the provision of medical, psychological and allied health services or**
- **linked to the provision of any other services that could bring risks to the NGOs' clients, and to the NGOs themselves.**

These checks could take the form of spot checks, risk-based checks or randomised checks on NGO staff members.

Training for board members

IWHS board members told the Commission that they were not required to undergo governance or other related training when they commenced as board members. The only training they did undergo at IWHS was arranged by the acting CEO after Ms Sharobeem's conduct had been discovered and she had gone on sick leave; later to resign.

During the public inquiry, Ms Watton, one of the board members, was asked some questions about this training.

[Counsel Assisting]: And what did you learn at the training?

[Ms Watton]: Well, I think we learned the legal responsibilities of the board. We learnt that the practices that we were doing – there was a lot more to being on the board than what we assumed that there was and our obligations to like the, to the service, to the funding body, to like accountability for the whole of the services.

Q: What do you think are the skills you need to be a board member of a non-government organisation such as the Immigrant Women's Health Service?

A: Well, now I believe that there should be a diverse range of skills.

So I believe that there should be, like, a mix of community members. There should be a mix of people, like, with financial backgrounds. There should be a mix of – if it's the Health Department, people that may work for the Health Department. Community members, community workers as well. Like, yeah, a very diverse mix of people all with specialised skills that can go towards governing the organisation.

Q: And what do you think a manager or a chief executive officer should report to a board?

A: Well, I think that the manager should look after the day-to-day running of the service, but I think that all financial things should go to the board. So I believe that, like, we did – we now have, like, a financial document which says that, you know, how much money can be spent that otherwise needs approval from the board. To my knowledge, we didn't have anything like that before. That the manager – any conflict of interest from staff would need to go to the board. That any – yeah, like, a whole lot more needed to go to the board than what actually did.

Ms Watton's comments are illuminating. While the Commission considered recommending that funding bodies mandate governance training for boards, it would be administratively onerous to implement and monitor. In addition, while NGOs may receive the bulk of their funding from one source, they often also receive grants from other sources. As such, it would be unreasonable for one funding body to bear the cost of training.

It advantages an NGO to have its board members and staff understand the principles of good governance, and to recognise and manage risks. Accordingly, it is reasonable that NGOs bear the cost of governance training, which can be done as part of the professional development of staff and board members.

Funding bodies could, however, provide a checklist of the skills that would be of value to board members and recommend, although not mandate, that they undertake appropriate training by a registered training organisation. Boards from NGOs in geographic proximity could share the cost of the training. At the least, this would include

how to read and understand financial statements, how to create realistic and measurable KPIs, and how to undertake an assessment of the corruption risks in the operations of the organisation.

The SWSLHD has recently implemented two new resources for NGOs to enhance their skills and accountability. One is a biannual forum for NGOs and the topics have included:

- governance – accountability
- a perspective on risk management
- accounting issues, balance sheets
- planning – steps to defining the community and needs.

The SWSLHD has also developed a “Non-Government Organisation Grant Information Package”, which includes information about the NGO funding scheme, a profile of local NGOs, NSW Health policies applicable to NGOs, and a sample agenda for an NGO meeting.

The Commission supports the above initiatives and suggests that the SWSLHD considers using lessons from the Commission’s investigation to further develop these resources, including providing further sample templates in the Non-Government Organisation Grant Information Package.

Whistleblowing provisions for NGOs

IWHS employees gave evidence that they followed Ms Sharobeem’s instructions about the payment of invoices and other actions, even though they had misgivings, because they were afraid of Ms Sharobeem and feared being dismissed. In addition, they followed her directions because “she was the boss” and required all matters to come to her for approval.

In the Commission’s view, staff members, management committee/board members and volunteers of government-funded NGOs should be informed, through induction and on-going training, about where and how to report, without reprisal, concerns about improper financial and other practices. This should include the ability to make reports to the relevant funding body or bodies.

Although staff/volunteers of government-funded NGOs are unlikely to be covered by the provisions of the *Public Interest Disclosures Act 1994*, whistleblowing practices could be implemented in accordance with better practice guidance such as the Australian Standard AS 8004-2003 “Whistleblower protection programs for entities” and/or guidance issued by the NSW Ombudsman.

Recommendation 8

That SWSLHD considers requiring funded NGOs to maintain an internal reporting or whistleblowing program that aligns to better practice (such as AS 8004-2003), and/or guidance issued by the NSW Ombudsman. Among other things, this should facilitate reporting directly to the SWSLHD or a similar representative body.

The SWSLHD has advised that it supports this recommendation. NSW Health advised the SWSLHD that the grant agreement includes requirements for NGOs to comply with its policies, including reporting of misconduct. The review of the NGO grants program policy will consider this recommendation.

Background to FACS involvement with NESH

FACS funds hundreds of organisations across NSW, many of which have been in the FACS funding system for 20 years or more. NESH provided accommodation and support services for women and children affected by domestic violence. It was funded by FACS for many years through the Specialist Homelessness Services program, which aimed to help people navigate organisations by providing support for the homeless as well as offering short-term accommodation options.

In 2013–14, FACS implemented the Going Home Staying Home reform package, which made significant changes to the funding regime for NGOs that provided services for the homeless. A main aim of the package was to streamline homelessness services by consolidating individual service contracts into large contracts.

NESH was one of the agencies affected by these reforms. In 2013, it participated in a competitive tender process hoping to secure funding for its services. According to FACS, NESH’s tender was uncompetitive and the services it offered were considered niche and better suited to be in a subcontracting arrangement with another NGO. In addition, even prior to the 2013 tender, FACS had become increasingly concerned with the adequacy of NESH’s operations and the quality of its services.

Following the competitive tender process, NESH and other unsuccessful service providers faced a period of funding uncertainty. To assist these agencies wind down their services, FACS funded them under a new transitional program called the Service Support Fund (SSF). NESH gained funding (conditional on adherence to financial and other reporting requirements) under the SSF for the period from February 2015 to January 2016.

Ms Sharobeem became a member of the NESH board in 2006 and was chairperson from about 2010 until she resigned on 12 December 2014. For about 12 months prior to her resignation, Ms Sharobeem was also effectively the CEO of NESH. Even after resigning as chairperson, Ms Sharobeem remained actively involved in financial and administrative matters. She also remained a signatory on the NESH bank account with access to the tokens and knowledge of the password needed for online banking, only removing herself as a signatory in July 2015 – and only after FACS began paying closer attention to NESH's financial transactions.

Nonetheless, Ms Sharobeem continued to be generally regarded as NESH's CEO. For example, on 11 August 2015, in preparation for a NESH board meeting, Ms Lai sent an email to board members saying:

As we will all be travelling together to the meeting after work hours, and Eman is still the CEO of both NESH and IWHS, it will be preferable to have the Board meeting at [the IWHS premises] so we can discuss NESH and IWHS business together.

Ms Ghaly commenced as NESH project coordinator in June or July 2014. She understood that it was only for a short period until the service could be handed over to another provider. Ms Ghaly held the position until FACS withdrew the NESH funding in early 2016. During the public inquiry, Counsel Assisting the Commission asked Ms Ghaly: "Do you know when Ms Sharobeem resigned as CEO of NESH or did you ever know her as the CEO of NESH?". She replied:

To tell you the truth I ... no. I struggled keeping up with titles so whenever she asked me to do something I'd just do it. I didn't bother looking at the title.

In addition, Ms Ghaly said that the NESH board told her to follow Ms Sharobeem's directions.

One of the things Ms Sharobeem asked Ms Ghaly to do was employ a "young man" as a project officer. The young man was Richard Sharobeem, who was employed without a recruitment process or submitting a curriculum vitae. He was employed under the name of Richard Shawky.

It was only after FACS began to examine NESH's recordkeeping practices, some months after "Mr Shawky" commenced employment, that he provided a curriculum vitae to Ms Ghaly in which he claimed, falsely, to hold a bachelor degree in business. Not surprisingly, he declined Ms Ghaly's request for a copy of his testamur.

As set out in chapter 8, Ms Sharobeem used her formal or informal involvement in NESH to misappropriate NESH funds.

Despite NESH's reprieve under the SSF, FACS continued to be concerned about its ability to deliver services and be accountable.

In March 2015, after reviewing NESH's 2013–14 financial acquittals, FACS wrote to NESH advising that it had noticed various financial anomalies that necessitated a closer examination.

One example was that NESH had not renewed its public liability insurance. When a storm damaged NESH assets, it used some \$61,000 of FACS funds to undertake repairs to the building, even though it was leased, and \$23,000 to replace assets.

FACS then determined that a deeper analysis of NESH's operations was required and accountants from its Prudential Oversight unit became involved in reviewing NESH's 2013–14 financial information.

The review prompted a number of concerns and, in March 2015, FACS wrote to NESH – addressed to Ms Sharobeem as Chairperson – to advise that it had a number of queries regarding income and expenditure, and that it required a monitoring and review meeting with NESH representatives. FACS also requested that NESH provide a written explanation to several issues raised by FACS accountants.

FACS's March 2015 letter also advised that it had received an anonymous complaint on 11 February 2015, which included an allegation of fraud and misconduct involving staff and a member of the NESH management board. As the allegations were against a NESH board member, FACS determined to undertake a preliminary investigation rather than direct the NESH board to do so.

FACS's request for an explanation of various expenditures had prompted Ms Lai's concerns. In May 2015, she emailed the NESH board members advising that she had some reservations about the reply the board had sent to FACS and believed that they had been "kept in the dark" about expenditures.

FACS held various meetings with the NESH board in mid-2015 to discuss its concerns and subsequently issued the board with a performance improvement plan. FACS also commenced a preliminary financial investigation, which revealed a number of problems with NESH's internal processes and additional financial anomalies. FACS ceased these enquiries when the Commission commenced its investigation.

In the lead up to NESH being defunded, FACS arranged to meet with the board. Ms Ghaly told the Commission:

Eman never did any training herself for NESH and even when FACS called a meeting, she would avoid it. I recall one day when FACS called a meeting and

came out to NESH, they asked her to meet them and Elizabeth Gallagher, the Contract Manager was also coming out. I was to meet them along with Eman and when I attended, Eman sent me a text saying, 'You can handle it. I'm not coming. I have full faith in you' or something along those lines. Her persona was that she wanted to be seen as a high profile VIP or something. She wouldn't meet in little on the ground meetings.

In late 2015, both NESH and IWHS were unravelling, to the ultimate detriment of their clients.

FACS's NGO monitoring system recognises that financial and performance issues are often intertwined with poor governance arrangements. Consequently, as a result of the anomalies raised by the 2013–14 financial acquittal process, FACS requested the minutes of NESH's board meetings.

From the minutes, it was apparent that there were no budget items for consideration, meeting attendance was poor and also not properly minuted. Further enquiries by the NESH district contract officer revealed that NESH's policies were incomplete, its filing system was inadequate and documentation, such as required policies, was incomplete or missing.

In December 2015, NESH was informed that FACS had decided to cease its funding because of the outcomes of the annual performance reviews for the periods 2013–14 and 2014–15 and concerns "continuing throughout the years" with its performance. The funding deed was terminated on 21 March 2016, after 90 days' notice.

FACS's NGO monitoring system

The FACS NGO monitoring framework represents an integrated approach to evaluating the performance of NGOs. Importantly, the FACS monitoring system creates a devolved environment, allowing frontline district staff with local knowledge to work with NGOs. At the same time, assistance is available from head office; for example, in relation to the analysis of financial information provided by NGOs. The consistent and streamlined annual acquittal process also creates an environment where the performance of NGOs can be measured on an objective basis.

FACS attempts to maintain regular contact with NGOs throughout a funding cycle. NGO contact can be monthly, quarterly, half-yearly or yearly depending on an NGO's size, risk rating and the nature of their work.

In addition, FACS has in place a process that allows for a rapid response to an event that may have a significant impact on a contract or key risk areas. Some events may require escalation to senior management.

A key feature of the FACS monitoring system is the linking, which is used to provide an overview of an NGO's performance. This acknowledges that a problem in one of these areas is often indicative of problems in other areas. For example, FACS requested a copy of the NESH board minutes in 2015, after an analysis of NESH's acquittal information raised concerns.

In the Commission's view, the FACS monitoring framework would be strengthened if NGOs were required to include external audit management letters as part of the financial information provided to FACS during the acquittal process. This would help flag potential problems with the financial operation of an NGO.

Recommendation 9

That FACS considers requiring funded NGOs to provide it with copies of audit management letters from external auditors.

Recommendation 10

That FACS, in conjunction with relevant NGOs, develops additional outcomes-based KPIs that reflect the critical objectives of the services that it funds. Where possible, measurement of these KPIs should not be based solely on information self-reported by NGOs.

FACS has advised that it agrees with this recommendation.

FACS's NGO risk assessment

After desktop reviews of the information provided via the online portal are complete, risk assessments are then conducted by FACS at the corporate and program level. An online centralised risk assessment system has been in place since February 2016, allowing for access by both head office and district staff. Prior to this, risk assessments were performed locally and the information held in each district.

The risk assessment domains correspond with the governance, finance and service delivery categories used during the self-assessment acquittal process. The sources of guidance (that is, relevant documents) used to inform risk assessments are, however, far more extensive compared to what is provided by NGOs during the annual acquittal process (with the exception of the service delivery area at a program level).

The sources of guidance are not intended to be exhaustive, as contract managers may draw on other sources of evidence to demonstrate an NGO's ability to manage any risks to the contract.

FACS advised that the risk assessment process supports contract managers in identifying and analysing risks and,

consequently, how they will engage with the NGO to address any issues and actions.

Each NGO and funded program is assigned a risk rating. A decision is consequently made about how each NGO will be contract managed in the future, whether their contract will be renewed based on the risk rating and whether quarterly payments should be released. A FACS spokesperson further advised that:

Sometimes the assessment of service provider performance can involve subjective interpretations of data. The development of key performance indicators for service providers will help address this problem.

In June 2017, a FACS spokesperson advised:

We now have one full year of reporting on our FACS risk assessment (for community services, homelessness and disability contracted services) which we do on a corporate and service delivery level. Some organisations have several PLAs [Program Level Agreements] in place which are all different. We assess service delivery from what the organisations tell us and what else we know about their financial records at the PLA level and corporate level. As a result, we can tell that, based on our risk assessments that 93% of the NGOs we fund are low (87%) or medium risk (5.6%).

Red flags

In FACS's view, while all agencies go through difficult times, on occasion, organisations with a low liquidity raise a red flag. If an NGO has a low liquidity ratio when receiving regular quarterly funding, that is a problem. If an organisation has both low liquidity and poor governance, this is a strong indicator that there are also problems with service delivery. FACS further advised that, since implementing the risk assessment process in 2016, it has a better understanding of its high-risk areas, which included:

- inadequate or no financial policies and procedures, including delegations and their oversight by the board
- failure to properly monitor or train staff
- no or inadequate conflicts of interest policy
- no or inadequate board training
- no or inadequate budget.

Skills and training of NGO staff and boards

FACS's funding agreements state that the NGOs are responsible for engaging staff, which is reasonable and practical. Nonetheless, FACS's periodic review of NGO policies and procedures, as part of the acquittal process, could be extended to ensure that due diligence has been

followed in the NGO's recruitment of staff, including that qualification and reference checks have been performed.

Recommendation 11

That FACS considers, as part of its ongoing review of its contract governance framework, implementing checks and (wherever possible) verifying qualifications, and continued registration (where necessary) of NGO employees.

Dealing with complaints

FACS commissioned a consultant to undertake an internal audit review of its processes for handling complaints/allegations against community services service providers as part of the approved FY17 Internal Audit Plan. The objective of the internal audit was to assess the adequacy and effectiveness of its then processes for handling complaints and allegations.

The review looked at various steps in the complaint-handling process and developed a risk rating against different criteria, including whether the complaint data was centrally captured and whether staff were adequately trained to respond to complaints. The scope and focus of the audit allowed FACS to recognise areas that needed clarification and strengthening.

Recommendation 12

That FACS considers requiring funded NGOs to maintain an internal reporting or whistleblowing program that aligns to better practice (such as AS 8004-2003) and/or guidance issued by the NSW Ombudsman. Among other things, this should facilitate reporting directly to FACS or a similar representative body.

FACS has advised the Commission that it agrees with the above recommendation. It will review the current annual accountability process and consider the impact of specifically requiring service providers to maintain an internal reporting or whistleblowing program. It will also review the resource impacts to FACS to facilitate reporting and monitor compliance. While FACS does not currently require funded NGOs to maintain an internal reporting or whistleblowing program, it has noted relevant aspects of the current contract governance framework, including that FACS requires service providers to have:

- sufficient fraud and corruption controls and that these are checked as part of the annual accountability process
- a complaints handling policy.

The funding deed provides that the service provider must encourage and enable clients to whom the services

are provided (and where appropriate their guardians or advocates) to exercise their rights, including the right to “have access, without fear, to an effective complaints mechanism”.

These recommendations are made pursuant to s 13(3)(b) of the ICAC Act and, as required by s 111E of the ICAC Act, will be furnished to the South Western Sydney Local Health District, the NSW Department of Family and Community Services and the ministers responsible for those agencies.

As required by s 111E(2) of the *Independent Commission Against Corruption Act 1988* (“the ICAC Act”), the South Western Sydney Local Health District and the Department of Family and Community Services must inform the Commission, in writing, within three months (or such longer period as the Commission may agree in writing) after receiving the recommendations, whether they propose to implement any plan of action in response to the recommendations and, if so, of the plan of action.

In the event that a plan of action is prepared, the agency is required to provide a written report to the Commission of its progress in implementing the plan 12 months after informing the Commission of the plan. If it has not been fully implemented by then, a further written report must be provided 12 months after the first report.

The Commission will publish the response to its recommendations, any plan of action and progress reports in its implementation on the Commission’s website, www.icac.gov.au.

Appendix 1: The role of the Commission

The Commission was created in response to community and Parliamentary concerns about corruption that had been revealed in, inter alia, various parts of the public sector, causing a consequent downturn in community confidence in the integrity of the public sector. It is recognised that corruption in the public sector not only undermines confidence in the bureaucracy but also has a detrimental effect on the confidence of the community in the processes of democratic government, at least at the level of government in which that corruption occurs. It is also recognised that corruption commonly indicates and promotes inefficiency, produces waste and could lead to loss of revenue.

The Commission's functions are set out in s 13, s 13A and s 14 of the ICAC Act. One of the Commission's principal functions is to investigate any allegation or complaint that, or any circumstances which in the Commission's opinion imply that:

- i. corrupt conduct (as defined by the ICAC Act), or
- ii. conduct liable to allow, encourage or cause the occurrence of corrupt conduct, or
- iii. conduct connected with corrupt conduct, may have occurred, may be occurring or may be about to occur.

The Commission may also investigate conduct that may possibly involve certain criminal offences under the *Parliamentary Electorates and Elections Act 1912*, the *Election Funding, Expenditure and Disclosures Act 1981* or the *Lobbying of Government Officials Act 2011*, where such conduct has been referred by the NSW Electoral Commission to the Commission for investigation.

The Commission may report on its investigations and, where appropriate, make recommendations as to any action it believes should be taken or considered.

The Commission may make findings of fact and form opinions based on those facts as to whether any particular person has engaged in serious corrupt conduct.

The role of the Commission is to act as an agent for changing the situation that has been revealed. Through its work, the Commission can prompt the relevant public authority to recognise the need for reform or change, and then assist that public authority (and others with similar vulnerabilities) to bring about the necessary changes or reforms in procedures and systems, and, importantly, promote an ethical culture, an ethos of probity.

The Commission may form and express an opinion as to whether consideration should or should not be given to obtaining the advice of the Director of Public Prosecutions with respect to the prosecution of a person for a specified criminal offence. It may also state whether it is of the opinion that consideration should be given to the taking of action against a person for a specified disciplinary offence or the taking of action against a public official on specified grounds with a view to dismissing, dispensing with the services of, or otherwise terminating the services of the public official.

Appendix 2: Making corrupt conduct findings

Corrupt conduct is defined in s 7 of the ICAC Act as any conduct which falls within the description of corrupt conduct in s 8 of the ICAC Act and which is not excluded by s 9 of the ICAC Act.

Section 8 defines the general nature of corrupt conduct. Subsection 8(1) provides that corrupt conduct is:

- (a) any conduct of any person (whether or not a public official) that adversely affects, or that could adversely affect, either directly or indirectly, the honest or impartial exercise of official functions by any public official, any group or body of public officials or any public authority, or
- (b) any conduct of a public official that constitutes or involves the dishonest or partial exercise of any of his or her official functions, or
- (c) any conduct of a public official or former public official that constitutes or involves a breach of public trust, or
- (d) any conduct of a public official or former public official that involves the misuse of information or material that he or she has acquired in the course of his or her official functions, whether or not for his or her benefit or for the benefit of any other person.

Subsection 8(2) specifies conduct, including the conduct of any person (whether or not a public official), that adversely affects, or that could adversely affect, either directly or indirectly, the exercise of official functions by any public official, any group or body of public officials or any public authority, and which, in addition, could involve a number of specific offences which are set out in that subsection.

Subsection 8(2A) provides that corrupt conduct is also any conduct of any person (whether or not a public official) that impairs, or that could impair, public confidence in public administration and which could involve any of the following matters:

- (a) collusive tendering,
- (b) fraud in relation to applications for licences, permits or other authorities under legislation designed to protect health and safety or the environment or designed to facilitate the management and commercial exploitation of resources,
- (c) dishonestly obtaining or assisting in obtaining, or dishonestly benefitting from, the payment or application of public funds for private advantage or the disposition of public assets for private advantage,
- (d) defrauding the public revenue,
- (e) fraudulently obtaining or retaining employment or appointment as a public official.

Subsection 9(1) provides that, despite s 8, conduct does not amount to corrupt conduct unless it could constitute or involve:

- (a) a criminal offence, or
- (b) a disciplinary offence, or
- (c) reasonable grounds for dismissing, dispensing with the services of or otherwise terminating the services of a public official, or
- (d) in the case of conduct of a Minister of the Crown or a Member of a House of Parliament – a substantial breach of an applicable code of conduct.

Section 13(3A) of the ICAC Act provides that the Commission may make a finding that a person has engaged or is engaged in corrupt conduct of a kind described in paragraphs (a), (b), (c), or (d) of s 9(1) only if satisfied that a person has engaged or is engaging in conduct that constitutes or involves an offence or thing of the kind described in that paragraph.

Subsection 9(4) of the ICAC Act provides that, subject to subsection 9(5), the conduct of a Minister of the Crown or a member of a House of Parliament which falls within the description of corrupt conduct in s 8 is not excluded

by s 9 from being corrupt if it is conduct that would cause a reasonable person to believe that it would bring the integrity of the office concerned or of Parliament into serious disrepute.

Subsection 9(5) of the ICAC Act provides that the Commission is not authorised to include in a report a finding or opinion that a specified person has, by engaging in conduct of a kind referred to in subsection 9(4), engaged in corrupt conduct, unless the Commission is satisfied that the conduct constitutes a breach of a law (apart from the ICAC Act) and the Commission identifies that law in the report.

Section 74BA of the ICAC Act provides that the Commission is not authorised to include in a report under s 74 a finding or opinion that any conduct of a specified person is corrupt conduct unless the conduct is serious corrupt conduct.

The Commission adopts the following approach in determining findings of corrupt conduct.

First, the Commission makes findings of relevant facts on the balance of probabilities. The Commission then determines whether those facts come within the terms of subsections 8(1), 8(2) or 8(2A) of the ICAC Act. If they do, the Commission then considers s 9 and the jurisdictional requirement of s 13(3A) and, in the case of a Minister of the Crown or a member of a House of Parliament, the jurisdictional requirements of subsection 9(5). In the case of subsection 9(1)(a) and subsection 9(5) the Commission considers whether, if the facts as found were to be proved on admissible evidence to the criminal standard of beyond reasonable doubt and accepted by an appropriate tribunal, they would be grounds on which such a tribunal would find that the person has committed a particular criminal offence. In the case of subsections 9(1)(b), 9(1)(c) and 9(1)(d) the Commission considers whether, if the facts as found were to be proved on admissible evidence to the requisite

standard of on the balance of probabilities and accepted by an appropriate tribunal, they would be grounds on which such a tribunal would find that the person has engaged in conduct that constitutes or involves a thing of the kind described in those sections.

The Commission then considers whether, for the purpose of s 74BA of the ICAC Act, the conduct is sufficiently serious to warrant a finding of corrupt conduct.

A finding of corrupt conduct against an individual is a serious matter. It may affect the individual personally, professionally or in employment, as well as in family and social relationships. In addition, there are limited instances where judicial review will be available. These are generally limited to grounds for prerogative relief based upon jurisdictional error, denial of procedural fairness, failing to take into account a relevant consideration or taking into account an irrelevant consideration and acting in breach of the ordinary principles governing the exercise of discretion. This situation highlights the need to exercise care in making findings of corrupt conduct.

In Australia there are only two standards of proof: one relating to criminal matters, the other to civil matters. Commission investigations, including hearings, are not criminal in their nature. Hearings are neither trials nor committals. Rather, the Commission is similar in standing to a Royal Commission and its investigations and hearings have most of the characteristics associated with a Royal Commission. The standard of proof in Royal Commissions is the civil standard, that is, on the balance of probabilities. This requires only reasonable satisfaction as opposed to satisfaction beyond reasonable doubt, as is required in criminal matters. The civil standard is the standard which has been applied consistently in the Commission when making factual findings. However, because of the seriousness of the findings which may be made, it is important to bear in mind what was said by Dixon J in *Briginshaw v Briginshaw* (1938) 60 CLR 336 at 362:

...reasonable satisfaction is not a state of mind that is attained or established independently of the nature and consequence of the fact or fact to be proved. The seriousness of an allegation made, the inherent unlikelihood of an occurrence of a given description, or the gravity of the consequences flowing from a particular finding are considerations which must affect the answer to the question whether the issue has been proved to the reasonable satisfaction of the tribunal. In such matters 'reasonable satisfaction' should not be produced by inexact proofs, indefinite testimony, or indirect inferences.

This formulation is, as the High Court pointed out in *Neat Holdings Pty Ltd v Karajan Holdings Pty Ltd* (1992) 67 ALJR 170 at 171, to be understood:

...as merely reflecting a conventional perception that members of our society do not ordinarily engage in fraudulent or criminal conduct and a judicial approach that a court should not lightly make a finding that, on the balance of probabilities, a party to civil litigation has been guilty of such conduct.

See also *Rejék v McElroy* (1965) 112 CLR 517, the *Report of the Royal Commission of inquiry into matters in relation to electoral redistribution, Queensland, 1977* (McGregor J) and the *Report of the Royal Commission into An Attempt to Bribe a Member of the House of Assembly, and Other Matters* (Hon W Carter QC, Tasmania, 1991).

Findings of fact and corrupt conduct set out in this report have been made applying the principles detailed in this Appendix.

Appendix 3: Summary of reforms to the human services funding regime

There have been a number of reforms in recent years that affect the non-government organisation (NGO) sector and its relationship with government. The overarching aim of the reforms is to streamline funding arrangements and improve outcomes for clients. The new regimes recognise that one size does not fit all and that negotiated contracts can be more efficient and accountable for clients and funding bodies. The reforms also recognise that, while NGOs may receive the bulk of their funding from a particular government agency, they also receive funds from other state and local government sources, and have thus been required to report to these bodies on different criteria.

The objective underpinning the reforms is to design and deliver services that have measurable outcomes for clients rather than focus on numerical inputs and outputs.

On the face of it, the different reforms to the NGO sector should be complementary and reduce the administrative burden on NGOs and the government. Streamlining the funding regimes also recognises that the tendering and partnership model in place requires both stringent internal processes within NGOs and monitoring by funding bodies. The key reforms are as follows.

NSW Human Services Outcomes Framework

This framework, which is being implemented by FACS, provides a common set of population-level wellbeing outcomes and indicators for NSW government and non-government agencies.

The seven wellbeing domains were designed by agencies and NGOs and informed by a review of national and international research on what determines a person's wellbeing. The seven outcome domains are safety, home, health, education and skills, economics, social and community, and empowerment.

NSW ProcurePoint: procuring human services from NGO

From 1 August 2017, the NSW Procurement Board has required all government agencies to use a prescribed template when procuring human services from NGOs. In brief, the prescribed template is designed to make it easier for NGOs to do business with NSW government agencies by streamlining contracting arrangements, and to promote consistency across NSW government.

There are standard terms in the funding agreements, which clearly set out the obligations of the funding body and of the NGO. The obligations of the NGO include meeting (or exceeding) the required performance and outcome measures, having a complaints policy in place and informing clients and other relevant parties of this, dealing with conflicts of interest, and payment, and using and managing funds

NSW Department of Finance, Services & Innovation (DFS&I)

The DFS&I has developed *Guidelines for engagement with NSW human services non-government organisations* (June 2016). The guidelines state, in part, that the NSW Government is committed to effective engagement with NGOs to achieve better human services outcomes. Strong working relationships are critical for productive and meaningful engagement; both parties must respect the diverse knowledge and expertise needed to deal with complex issues and change.

Further, the guidelines recognise that complex social challenges are best tackled through cross-government and cross-sector effort and that productive and meaningful engagement will drive the best outcomes regardless of the purpose for which it is being undertaken.



NSW Treasury and NSW Finance Services & Innovation

The NSW Government has adopted a number of principles to guide commissioning of services, some of which are outlined in *NSW Government Commissioning and Contestability Practice Guide* (November 2016). These include that commissioning of services should focus on improving outcomes and delivering quality services and that commissioning will encourage innovation and an openness to more diverse service delivery models in the public, private and not-for-profit sectors.



Appendix 4: Summary of responses to adverse findings

Counsel Assisting the Commission made written submissions setting out, inter alia, what adverse findings it was contended were open to the Commission to make against Eman Sharobeem and Richard Sharobeem. These were provided to their legal representatives on 11 September 2017.

Written submissions in response, on behalf of Ms Sharobeem and Richard Sharobeem, were received by the Commission on 10 November 2017. Neither requested that a summary of the substance of their responses be included in this report. However, the submissions made on Ms Sharobeem's behalf, which deal mainly with jurisdictional issues, are discussed in chapter 1 of this report.

The Commission considers that all affected parties had a reasonable opportunity to respond to proposed adverse findings.



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