

I·C·A·C

INDEPENDENT COMMISSION
AGAINST CORRUPTION

ANNUAL REPORT

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AGAINST CORRUPTION

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Legislative Council
Parliament House
Sydney NSW 2000

The Hon Shelley Hancock MLA
Speaker
Legislative Assembly
Parliament House
Sydney NSW 2000

Mr President
Madam Speaker

I am pleased to furnish to you the ICAC Annual Report for the year ended 30 June 2012. The report has been prepared in accordance with the requirements of the *Independent Commission Against Corruption Act 1988* and the *Annual Reports (Departments) Act 1985*.

Pursuant to section 78(2) of the ICAC Act, I recommend that this report be made public immediately.

Yours sincerely,



The Hon David Ipp AO QC
Commissioner

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Commissioner's foreword

The Independent Commission Against Corruption's 2011–12 year has been one of high-profile public inquiries and corruption prevention activity. The number of complaints received by the Commission again increased, with close to 3,000 at the close of June. Yet our Assessments Section continued to reduce the time taken to deal with a matter. The Investigation Division almost doubled the percentage of preliminary investigations completed within our target of 120 days compared to the previous year. The Commission also commenced 73 new preliminary investigations and 19 new operations. At the education end of the spectrum, the Corruption Prevention Division delivered more than triple the target number of training sessions.

The Commission worked solidly throughout the year, not only on the tasks at hand for 2011–12, but also those for the coming financial year, which will herald what will probably be the largest investigation and public inquiry we have ever undertaken. It is a testament to the dedication of our staff who have worked so diligently to keep the Commission's work on track as we prepare for this upcoming public inquiry, which will focus on issues relating to mining exploration licences and other matters.

Due to this increased workload, we have taken on extra staff to deal with these matters and have received some much-appreciated additional funding from the NSW Government to help carry out this work. A number of Commission officers have devoted their time and energy to this, and are helping at various levels. Others are doing extra work to compensate for those working on the major operation as other investigation and corruption prevention work must continue. A number of officers from outside agencies have joined us to assist with the extra work. I am particularly grateful to the Auditor General and the Director General of the Department of Attorney General and Justice for their cooperation in seconding these officers to us.

I believe that the continued dedication of our staff is evident in some of the achievements from this year. We held 10 public inquiries over 70 days. These resulted in findings of corrupt conduct against 14 people, including a government minister, the head of a NSW government authority, and a local councillor.



The Hon David Ipp AO QC

On the corruption prevention side, in 2011–12 the Commission undertook a major project into a high corruption-risk area that often features in our investigations and public inquiries – government procurement. The Corruption Prevention Division researched, identified and recommended a range of approaches to corruption control in government procurement. It also tackled another area vulnerable to corruption risk, recommending key anti-corruption safeguards to underpin the NSW planning system.

I hope that readers will find the Commission's *Annual Report 2011–2012* informative and useful as it navigates through the year and looks to our future aims. The Commission will forge ahead into 2012–13, continuing to serve the NSW community through exposing, investigating and preventing corruption in our quest to improve the integrity of those agencies and individuals who serve our state.

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

The Hon David Ipp AO QC
Commissioner

Chapter 1: Overview



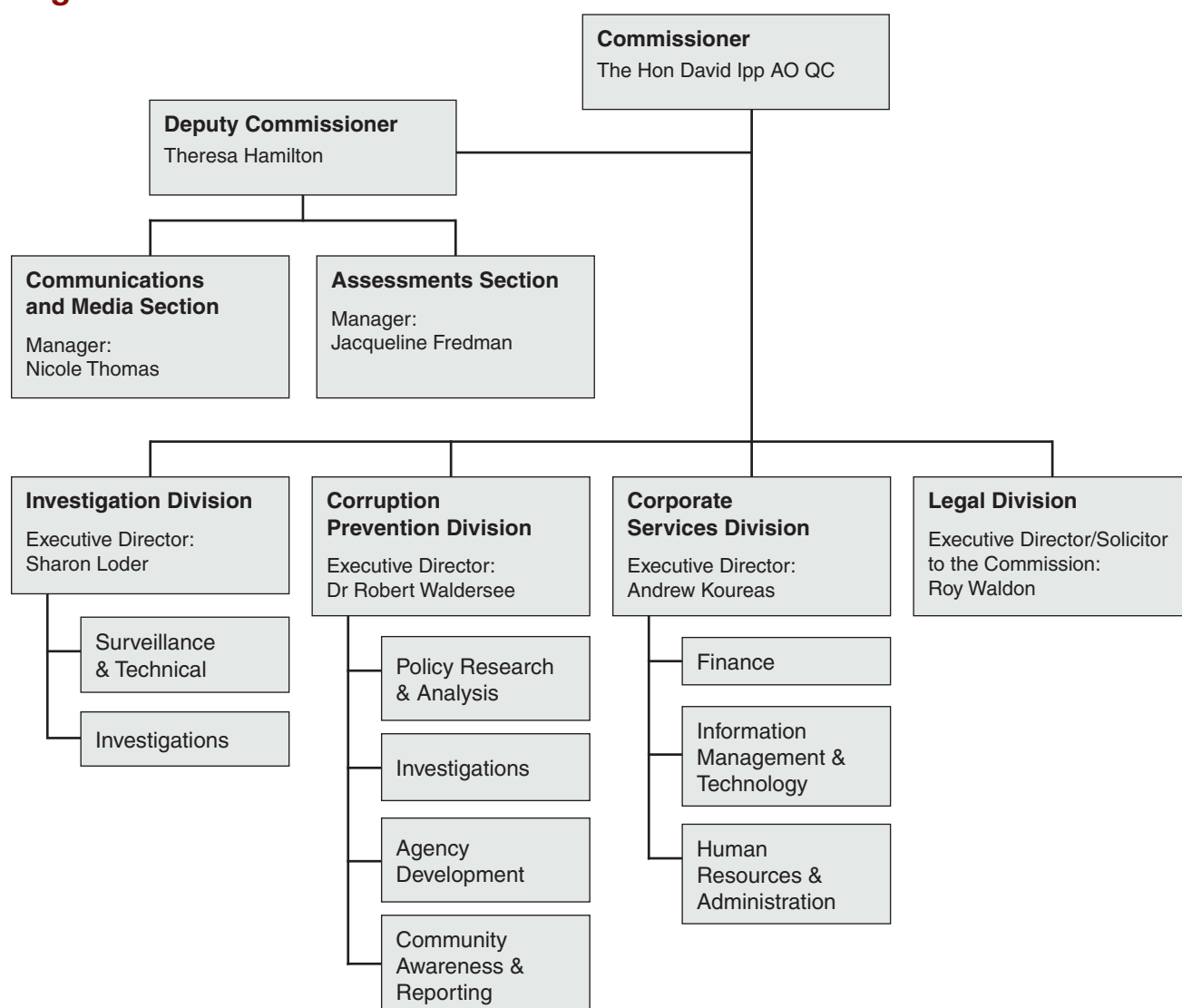
**Our mission is to
combat corruption
and improve the
integrity of the NSW
public sector.**

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

The principal objectives of the Commission are:

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

Organisational chart



The executive



The Hon David Ipp AO QC

Commissioner

Appointed for a statutory five-year term in November 2009.

Judge of the Court of Appeal of NSW from 2002 to 2009, having been an acting judge of that court in 2001. From 1989 to 2001, judge of the Supreme Court of Western Australia (WA). From 1993 to 2001, judge in charge of the civil list of that court. From 2006 to 2009, part-time appointment as judge of the Supreme Court of Fiji. In 2002, chairman of a panel convened to review the law of negligence. Arbitrator of the International Court of Sport. Admitted to practice in South Africa in 1963. Migrated to WA in 1981. Appointed Queen's Counsel in 1985. In 2007, was conferred the Order of Australia.



Theresa Hamilton LLB

Deputy Commissioner

Appointed for an additional two-year term, which concludes in January 2014.

In 1995, appointed general counsel to the Queensland Crime and Misconduct Commission. From 1990 to 1995, held a number of senior positions in Queensland's Criminal Justice Commission. In 1982, commenced work at the Aboriginal and Torres Strait Islander Legal Service, and was appointed the service's principal solicitor in 1984. From 1979 to 1982, worked as a Crown prosecutor in the Commonwealth Crown Solicitor's office in Brisbane. Admitted as a barrister in Queensland in 1978.



Roy Waldon LLB Hons

Executive Director, Legal Division and Solicitor to the Commission

Appointed to this position in June 2005.

Commenced employment with the Commission in late 1989 as a senior lawyer. Appointed to position of principal lawyer in 1994.

Previously practised law in NSW and Tasmania before joining the Commission.

Graduated from the University of Tasmania in 1982 with an honours degree in law.



Andrew Koureas *MCom*
(Accounting), *BCom, LLB, FCPA*

**Executive Director,
Corporate Services Division**

Appointed to this position in October 2008.

Extended cost centre budgeting while director of financial services at Bankstown Hospital from 2006 to 2008. From 2002 to 2006, as deputy director of area finance at the South Western Sydney Area Health Service, enhanced project-based budgeting and reporting. From 1999 to 2002, set up a new shared services unit while manager of the finance service centre at the Department of Housing. Fellow member of the Australian Society of Certified Practising Accountants (2011).



Sharon Loder *LLB, BBus*
(HR Management), *LLM*

**Executive Director,
Investigation Division**

Appointed to this position in July 2011.

From 2003, held senior management positions within the misconduct function of the Queensland Crime and Misconduct Commission. After a number of years with the Queensland Director of Public Prosecutions, in 1996 commenced as a legal officer, then later the manager of the Legal Unit, within the Queensland Police Service, State Crime Operations Command. Admitted as a solicitor in Queensland in 1992 and as a barrister of the Supreme Court of Queensland in 2000. Holds Bachelors of Law and Business (HRM) degrees from the Queensland Institute of Technology and a Master of Laws from the University of Queensland.



Dr Robert Waldersee *PhD, MA*
(Clinical Psychology), *MA, BA*

**Executive Director,
Corruption Prevention Division**

Appointed to this position in June 2008.

Previous positions include professor of management at Queensland University of Technology and director of the Australian Centre in Strategic Management (1998–2007), visiting professor at Southern Cross University (2003) and senior research fellow at the Australian Graduate School of Management (1990–1998). Research and consultancy work in the US and Australia has focused on strategy, knowledge management, service management and organisational change. Holds a PhD in Management from the University of Nebraska, and a Master of Arts from the University of Sydney.

2011–12 at a glance



Exposing corruption

A core function of the Commission's work concerns investigating and exposing corrupt conduct in the NSW public sector. In 2011–12, the Commission's Assessments Section received and managed close to 3,000 matters, yet continued to reduce the time taken on average to deal with a matter. The Investigation Division almost doubled the percentage of preliminary investigations completed within 120 days, compared to 2010–11, and completed 90% of operations within 12 months.

Major achievements:

- receiving 2,978 matters and taking on average 44 days to deal with a matter, compared to the average of 48 days it took to deal with the 2,867 matters received in 2010–11
- presenting a "straightforward" matter to the Assessment Panel within 16 days on average, compared with the target 21 days
- commencing 73 new preliminary investigations and 19 new operations
- conducting 10 public inquiries over 70 days
- making corrupt conduct findings against 14 people and recommending that the advice of the Director of Public Prosecutions be sought with respect to the prosecution of nine people for various offences
- completing 77% of preliminary investigations undertaken by the Investigation Division within the target 120 days, compared to 41% in 2010–11
- completing a total of 64 preliminary investigations and 20 operations by the Investigation Division.



Preventing corruption

The Commission's Corruption Prevention Division educates public officials and the wider community in NSW about corruption and how to report it.

The division also works to raise awareness and minimise corrupt conduct through research, policy recommendations, training and advice. In 2011–12, the division delivered 116 training sessions, compared to 89 sessions delivered in 2010–11. A total of 98% of corruption prevention recommendations in investigation reports had been fully or partially implemented as at 30 June 2012.

Major achievements:

- recommending key anti-corruption safeguards to underpin the NSW planning system
- researching, identifying and recommending a range of approaches to corruption control in government procurement
- producing a range of publications, including a series of flyers for members of Local Aboriginal Land Councils
- undertaking 79 speaking engagements attended by over 3,220 people, compared to 50 speaking engagements in 2010–11
- receiving 133 telephone/email advice requests, compared with 97 in 2010–11.



Accountability

In addition to internal accountability mechanisms to ensure that the Commission abides by a comprehensive accountability framework, there are also external bodies to which it is accountable; specifically, the Parliamentary Committee on the ICAC and the Inspector of the ICAC.

As part of this framework, the Commission provides timely, accurate and relevant reporting to both the committee and the Inspector of the ICAC. The Commission also reports publicly about its work, and works to ensure that its business activity complies with all regulatory and required standards.

Major achievements:

- completing and furnishing six investigation reports to Parliament
- conducting 135 compulsory examinations over 59 days, compared to 130 compulsory examinations over 67 days in 2010–11
- responding promptly and accurately to 35 questions on notice from the Parliamentary Committee on the ICAC
- strengthening and clarifying the ambit of certain powers of the Commission and the Inspector of the ICAC by supporting a number of amendments to the *Independent Commission Against Corruption Act 1988*
- cooperating fully with two audits conducted by the Inspector of the ICAC, and seven inspections of records by the NSW Ombudsman.



Our organisation

The Commission embraces a culture of continuous improvement and strives to be a lead agency in its governance and corporate infrastructure. In 2011–12, the Commission employed an average of 120 full-time equivalent staff (excluding contractors) across its six functional areas (see organisational chart on page 5).

Major achievements:

- conducting security vetting on 70 applicants (an unprecedented number in one year) who were under consideration for employment at the Commission
- producing a human resources payroll procedures manual, detailing 42 separate internal procedures
- recording 540 staff attendances at training sessions (this equates to an average of 4.3 sessions per staff member)
- completing the information and communications technology infrastructure architecture design
- enhancing the Compliance Monitoring Register, which identifies the target date for a systematic review and update of the Commission's 102 policies, to ensure continued compliance with legislative requirements and alignment with the conditions of employment contained in the ICAC Award
- carrying out further enhancements to the Management of Cases, Complaints and Assessments (MOCCA) system.

What we do

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

The Commission receives and analyses complaints from members of the public and public officials, and reports made by the principal officers of public sector agencies and ministers of the Crown. It has extensive powers of investigation and may conduct hearings to obtain evidence of corruption.

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

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

The Commission’s Strategic Plan 2011–2015 sets out four key result areas for 2011–12:

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

Each division develops and works to an individual annual business plan aligned with the Commission’s strategic plan. During the year, each division reported quarterly to the Executive Management Group against its business plan.

The following sections specify the Commission’s objectives for each result area. More detailed information and results for each key result area are provided in the chapters that follow.

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



Exposing corruption

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

The objectives in the Strategic Plan 2011–2015 for exposing corruption are to:

- detect and investigate corrupt conduct
- encourage public authorities to revise any methods of work, practices or procedures that

allow, encourage or cause the occurrence of corrupt conduct

- ensure a best practice approach for all investigations
- enhance complaint-handling processes
- maintain strategic alliances to optimise investigative and preventative outcomes.

Detailed descriptions of Commission activities and results relating to this key results area are outlined in chapter 2 (Assessing matters) and chapter 3 (Investigating corruption). Table 1 sets out the key quantitative results for workload, work activity and performance for this key result area in 2011–12.

Table 1: Key quantitative results for corruption exposure activities

Measure	Target*	2011–12	2010–11	2009–10
Matters received	n/a	2,978	2,867	2,710
Average time to deal with matters (days) in Assessments Section	68	44	48	63
Preliminary investigations commenced	n/a	73**	66	138
Full investigations commenced	n/a	19	15	20
Percentage of full investigations completed within 12 months	>90	90	93	90
Number of public inquiries	n/a	10	9	12
Number of public inquiry days	n/a	70	65	70
Number of compulsory examinations	n/a	135	130	124
Number of persons subject to corrupt conduct findings	n/a	14	26	28
Number of investigation reports to Parliament	n/a	6	12	9
Percentage of investigation reports completed within the ICAC's target***	80	17****	50	89
Number of persons prosecuted arising from investigations	n/a	16	18	16
Number of persons against whom disciplinary action commenced arising from investigations	n/a	2	9	1

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

** Of this total, 67 matters were referred to the Investigation Division, four to the Assessments Section, one to both the Investigation Division and the Assessments Section, and one to the Corruption Prevention Division.

*** Since 2009–10, the target has been 60 days where the public inquiry was five days or less, and 90 days otherwise.

**** The decrease in the percentage of reports completed within the target times was due to a combination of factors, including the complexity of some reports that required more time to complete, staff changes and competing work priorities. The five reports that exceeded target times did so by an average of 28 days.

Preventing corruption

The Commission's corruption prevention functions under the ICAC Act are carried out by providing advice, education and guidance to public sector agencies and by educating public officials and the wider community about corruption and how to report it.

The objectives in the Strategic Plan 2011–2015 for preventing corruption are to:

- encourage government to address corruption risks of statewide significance and public concern

- ensure public authorities revise practices or procedures to reduce the risk of corrupt conduct occurring
- raise awareness in identified communities of inappropriate behaviour and encourage reporting of corrupt conduct.

A detailed description of Commission activities and results for this key result area is outlined in chapter 4 (Preventing corruption). Table 2 sets out the key quantitative results for workload, work activity and performance for this key performance area in 2011–12.

Table 2: Key quantitative results for corruption prevention activities

Measure	Target	2011–12	2010–11	2009–10
Telephone/email enquiries for corruption prevention advice	n/a	133	97	155
Written requests for corruption prevention advice	n/a	20	28	22
Corruption prevention advice relating to complaints and reports of corrupt conduct	n/a	3	10	8
Rural and regional outreach visits	2	2	2	2
Training sessions delivered	40	116	89	76
Corruption prevention recommendations in investigation reports published during the period	n/a	29	93	45
Percentage of corruption prevention recommendations in investigation reports addressed as at 30 June 2012	80	98	100	98
Percentage of public inquiries that resulted in the making of corruption prevention recommendations	90	67	83	67
Number of external visitor sessions on the ICAC website	n/a	190,914	264,232	317,341
Number of editions of <i>Corruption Matters</i> newsletter published	2	2	2	2
Number of prevention or research reports published	3	2	6	8
Number of advice tip sheets published	n/a	3	1	47

Accountability

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

The objectives in the Strategic Plan 2011–2015 for accountability are to:

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

A detailed description of Commission activities and results for this key result area is outlined in chapter 5 (Compliance and accountability). Table 3 sets out the key quantitative results for accountability activities in 2011–12.

Our organisation

The Commission recognises that its greatest asset is its staff. It works to provide a safe and satisfying workplace, while encouraging staff development through training and other workplace activities, including opportunities to work in other divisions.

The objectives in the Strategic Plan 2011–2015 for our organisation are to:

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

A detailed description of Commission activities and results for this key result area is outlined in chapter 6 (Our organisation).

Table 3: Key quantitative results for accountability activities

Measure	2011–12	2010–11	2009–10
Parliamentary Committee on the ICAC meetings	1	2	1
NSW Ombudsman inspections of telephone intercept and controlled operation records	7	2	4
Number of reports provided to the Inspector of the ICAC	5	5	0
Number of audits conducted by the Inspector of the ICAC	2	2	3
Number of assumed identity audits	1	1	1

Financial overview

Statement of Comprehensive Income

The Commission's unfavourable net result was due to higher than forecast costs associated with Operation Jasper and related investigations, and additional costs being incurred following an actuarial review of long service leave conducted by NSW Treasury. Also, expenditure for the proposed office relocation project did not occur, as the leasing proposal was withdrawn.

Table 4: Operating result 2011–12

	\$'000
Expenses	23,817
Revenue	23,187
Net result	(630)

Table 5: Financial position 2011–12

	\$'000
Assets	4,237
Liabilities	2,913
Net Assets	1,324

Revenue

The main source of revenue is recurrent appropriations (\$20.496 million compared to \$19.186 million in 2010–11). Other revenue includes fees from the provision of shared services, interest from investments and acceptance by the Crown Entity of employee benefits and other liabilities.

Expenses

Total expenses were \$23.817 million, an increase of \$2.839 million or 13.7%. Employee-related expenses were \$16.91 million (71%), other operating expenses \$5.94 million (25%) and depreciation \$0.967 million (4%).

Assets

Assets increased by \$0.383 million due largely to the construction of a new server room, purchase of information technology equipment and office fit-outs.

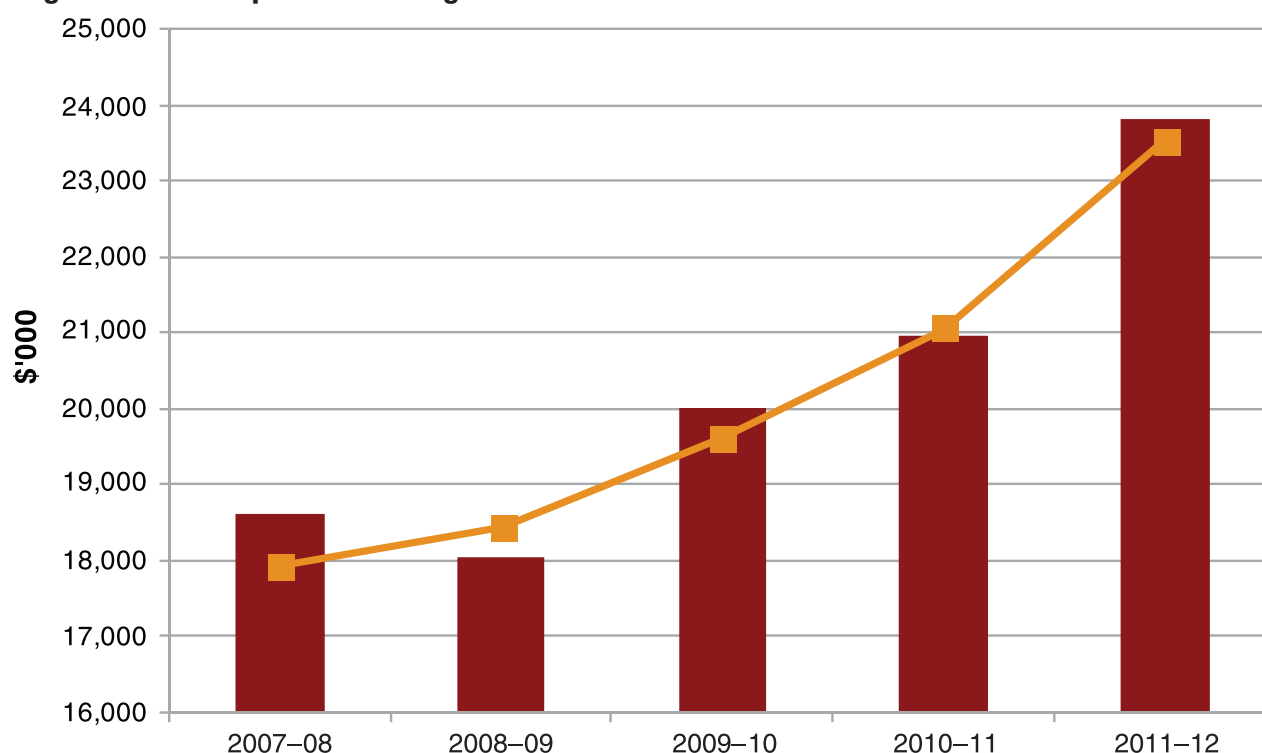
Liabilities

Liabilities increased by \$1.01 million due to increased accrued other operating expenses and salaries. The Commission also created a make good provision (\$0.385 million) arising out of its office accommodation lease.

Net Equity

Equity decreased by \$0.629 million (32.2%) due mainly to an increase in liabilities being tapered with a smaller increase in assets.

Figure 1: Total expenditure budget and actuals*



* Includes budget supplementation.

■ actual expenses —■— budget

Chapter 2: Assessing matters



About the Assessments Section

The Assessments Section is the first point of contact for complaints and reports to the Commission. The section receives and registers all complaints, reports, general enquiries and feedback.

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

The section manages and reviews matters that are the subject of referred investigations by public sector agencies under sections 53 and 54 of the ICAC Act.

All complaints and reports within the Commission’s jurisdiction are reported by the Assessments Section to the Assessment Panel, which is made up of senior executives of the Commission. The panel’s role is to make a decision about how each matter should proceed. A matter is not reported to the Assessment Panel if it is assessed as an enquiry or feedback, or if it is outside jurisdiction, in that it involves only private entities or non-NSW public authorities. Such matters are managed within the section.

Jacqueline Fredman is the manager of the Assessments Section. At the end of the reporting period, the section had 13 permanent and three temporary staff members. The budget during 2011–12 was \$1,410,923.

Section’s performance in 2011–12

Achieving turnaround targets

In 2011–12, the average time taken to deal with a matter was 44 days; a reduction from the previous year’s average of 48 days. The Assessments Section has targets for turnaround times at key stages of a matter’s life cycle. Examples of these targets, and achievements in dealing with matters in less time than the targets during the reporting period, are presented in table 6.

Surveying complainants

In 2011, the Assessments Section instigated a survey of complainants from the general public and of public officials who had made public interest disclosures (PIDs). The purpose of the survey was to gauge the effectiveness of the Commission’s written and electronic (website) materials, and the professionalism of staff. Surveys were distributed several weeks after complainants and disclosers had received a letter advising them of the Commission’s decision not to pursue allegations they had made. Some of the results of the survey are as follows:

- 57% of respondents found Assessments fact sheets “somewhat informative” and 25% found them “very informative”
- 21% of respondents rated the professionalism of staff in telephone discussions as “fair”, with 35% believing it to be “good” and 26% believing it to be “excellent”

Table 6: Some internal targets and achievements of the Assessments Section in 2011–12

Measure	Target	Achievement
Average days to present a “straightforward” matter to the Assessment Panel from date of receipt	21	16
Average days to present a “moderate-complex” matter to the Assessment Panel from date of receipt	42	38
Average days to re-report a matter to the Assessment Panel upon receipt of a section 54 report	28	25

- 60% of respondents said that they would report another matter to the Commission, which is a favourable result given that the Commission was surveying people who had been told that it was not going to pursue the allegations they had made.

As to qualitative matters, respondents provided constructive feedback about the need for plain-English communication and reminded the Assessments Section that approaching the Commission can be a daunting task. Some criticisms suggested improvements to procedures that are not feasible, such as respondents wishing to have face-to-face meetings (which does not occur as a matter of course due to the volume of matters received), and querying why supporting documentation was not requested (which does not happen if the allegations on their face do not suggest corrupt conduct). Positive feedback included opinions that the Commission was more “approachable” than in previous years, that the fact sheets were “informative”, and that responses from staff were “helpful”.

Continuing to develop skills

In 2011–12, some Assessments staff underwent intensive training over a number of days in interviewing techniques and all staff received training by the manager on making formal enquiries of agencies. The deputy manager conducted refresher training in the use of the complaints database for Assessments staff and other Commission staff, and the Deputy Commissioner ran training sessions on new legislation relating to the handling of PIDs.

In addition to the manager and deputy manager, several staff within the section participated in the Commission’s biannual Rural and Regional Outreach Program (see page 49) in order to develop their skills in agency liaison.

As the section’s team leader was on extended leave during the reporting period, this presented several staff with higher duties opportunities, which enabled them to develop their leadership skills.

“...respondents provided constructive feedback about the need for plain-English communication and reminded the Assessments Section that approaching the Commission can be a daunting task.”



As manager of the Assessments Section, Jacqueline Fredman provides advice to agencies about their reporting obligations under the ICAC Act.

Assisting agencies with their reporting obligations

The manager of the Assessments Section regularly provides advice to agencies about their reporting obligations under section 11 of the ICAC Act by telephone, in writing and through liaison visits.

A template form for reporting suspected corrupt conduct was produced in 2011–12 and made available through the Commission’s website. All NSW Government “super departments” as well as the majority of cluster agencies, state-owned corporations, all universities and all local councils were notified in writing of the availability of this form. While its use is not mandatory, many agencies use the form as it provides guidance on the sort of information that helps the Commission to conduct a meaningful and timely assessment of reported allegations.

Profile of matters received

In the reporting period, the Assessments Section received and managed 2,978 matters. The number of matters dealt with has continued to increase in recent years and the latest figure represents an almost 40% increase on the 2,149 matters received and managed in 2006–07.

The majority of the 2,978 matters came from three sources:

- members of the public lodging complaints under section 10 of the ICAC Act (section 10 complaints), representing 31% of all matters
- principal officers of NSW public sector agencies and ministers who have a duty to report suspected corrupt conduct under section 11 of the ICAC Act (section 11 reports), representing 27% of all matters
- public sector employees lodging complaints under the *Public Interest Disclosures Act 1994* (“the PID Act”), comprising 9% of all matters received.

As well as section 10 complaints, section 11 reports and PIDs, the Commission receives information about other matters from other sources. This includes dissemination of information from federal and state law enforcement bodies and “own initiative” investigations by the Commission. Table 7 shows all matters received by category in 2011–12, compared with the previous two years.

In 2011–12, the Commission received 917 section 10 complaints, which is similar to the 923 received in the previous year.

The Commission also received 812 section 11 reports, compared with 638 in the previous year. This represents a 27% increase. It must be noted, however, that for agencies that report by schedule during the 2011–12 year Assessments commenced registering each set of allegations separately, instead of registering a schedule of allegations as one matter. This procedural change has contributed to the increase in section 11 matters. This change means that the Assessments Section can better track matters and provides a more accurate indicator of the section’s workload.

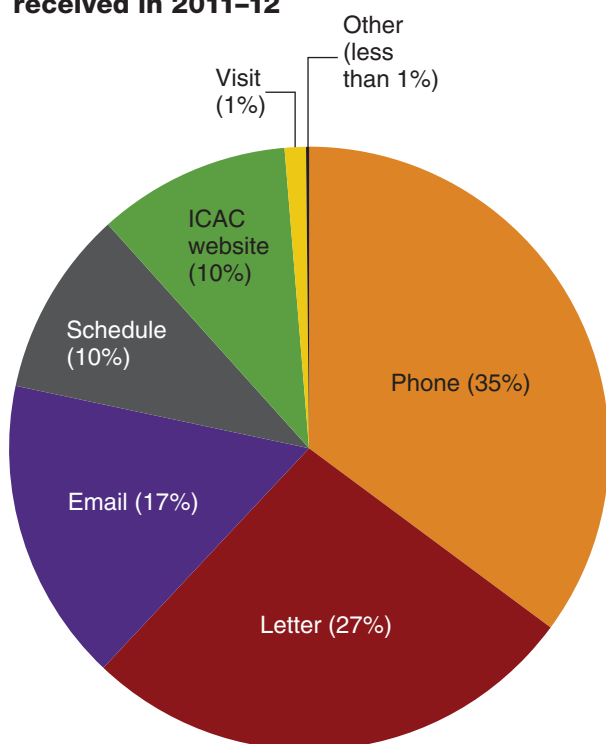
Table 7: Matters received by category in 2011–12, compared to the previous two years

Category	2011–12		2010–11		2009–10	
Complaints from the public (section 10 complaints)	917	31%	923	32%	980	36.2%
Reports from public sector agencies (section 11 reports)	812	27%	638	22%	586	21.6%
Enquiry	405	14%	303	11%	217	8.0%
Outside jurisdiction	299	10%	329	11%	282	10.4%
Public interest disclosure	269	9%	289	10%	253	9.3%
Information	217	7%	300	10%	322	11.9%
Feedback	32	1%	63	2%	23	1%
Dissemination	20	1%	18	1%	21	1%
Own initiative	5	<1%	3	<1%	24	1%
Intelligence report	1	<1%	1	<1%	2	<1%
Referrals from Parliament	1	<1%	0	0%	0	0%
Total	2,978		2,867		2,710	

The Commission strives to be accessible to those who submit complaints and reports. It receives information in a number of ways. Members of the public and public sector employees in NSW can report their matters to the Commission in writing, by telephone or email, in person or online via a complaints form on the Commission's website at www.icac.nsw.gov.au. Principal officers generally submit section 11 reports in writing, either by letter or by using the template introduced in this reporting period. If there is some urgency attached to the matter, a principal officer can report a section 11 matter by telephone.

In 2011–12, the most frequent mode of contacting the Commission was by telephone (35%), followed by letter (27%), as shown below.

Figure 2: Mode of initial contact for all matters received in 2011–12



The number of schedule matters (10%) increased considerably in the reporting period, from 3% of matters received in that form in 2010–11. As noted above, this is due to the commencement during the 2011–12 year of the Assessments Section registering separately sets of allegations received under one schedule.

Where matters are not within jurisdiction or constitute “enquiries”, that is, somebody seeking information or advice about an issue, Assessments Section staff refer those people to an appropriate complaint-handling, regulatory, advisory and oversight body, where possible.

Anonymous complaints

The Commission accepts anonymous complaints. It appreciates that in some instances people are fearful of reprisal action if they put their name to an allegation. Assessments Section staff provide advice to telephone callers about the various protections available to them under the ICAC Act and, if they are a current NSW public official or individual contracted to a NSW public authority, under the PID Act.

In 2011–12, 20% of complaints from members of the public (185 matters) were made anonymously, similar to the 19% received in this way in the previous year. Of the matters classified as public interest disclosures (PIDs), 32% were made anonymously, similar to the 33% made this way in 2010–11.

The two primary challenges in accepting anonymous information are that Commission staff cannot clarify information and cannot notify the complainant directly of the outcome, including the result of any enquiries undertaken. Further, if a matter is a PID, there is the risk that any action taken by the Commission may inadvertently reveal the identity of the person who made the PID. Where a matter is an anonymous PID, any action, such as the making of assessment enquiries or conducting a preliminary investigation, will occur only with the approval of the Deputy Commissioner. The risks of exposing the discloser's identity are always weighed against the public interest in the Commission taking a particular course of action.

“The Commission accepts anonymous complaints. It appreciates that in some instances people are fearful of reprisal action if they put their name to an allegation.”

Complaints from the public

Under section 10 of the ICAC Act, any person can make a complaint to the Commission about a matter that concerns or may concern corrupt conduct as defined in the ICAC Act. Complaints made by public sector employees and individual contractors to public authorities that do not meet the criteria set out in the PID Act, and thus cannot be classified as PIDs, are also classified as section 10 complaints.

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

The Commission may refer allegations to an agency that is the subject of a complaint for its information, often where there is a perception on the part of the complainant of unfairness or wrongdoing. It is the Commission's experience that perceptions of wrongdoing are often borne of poor communication or consultation, or a lack of consistency or transparency on the part of agencies.

In some matters, the Assessments Section will undertake enquiries to examine the circumstances surrounding a complaint and then make further recommendations to the Assessment Panel.

The case study at right is an example of a matter where a complainant believed that systemic wrongdoing was occurring within their local council.



Case study: Money for nothing?

A member of the public complained that their local council was charging money to dispose of residents' unwanted television sets, but failing to do so. According to the complainant, the council claimed that the fee was to cover recycling costs, but all that was happening was that the TVs were being dumped in landfill.

Staff of the Assessments Section made written enquiries to the council in question, and were advised that the council announced at a public meeting its decision to charge a nominal fee to residents who wished to leave unwanted TVs at the council's depot. Council wished to encourage centralising of electronic waste to avoid illegal dumping. Once at the depot, contracted recycling firms collected the sets.

The council acknowledged, however, that parts not removed by the contracted recyclers were, indeed, ultimately placed in landfill. This had created the perception that recycling was not actually occurring and had led to speculation on the complainant's part that the fee was a sham. The council resolved to choose a contractor who specialised in handling e-waste to deal with the unwanted TVs more appropriately.

Figure 3: Complaints from the public in 2011–12, showing allegations in the top five government sectors

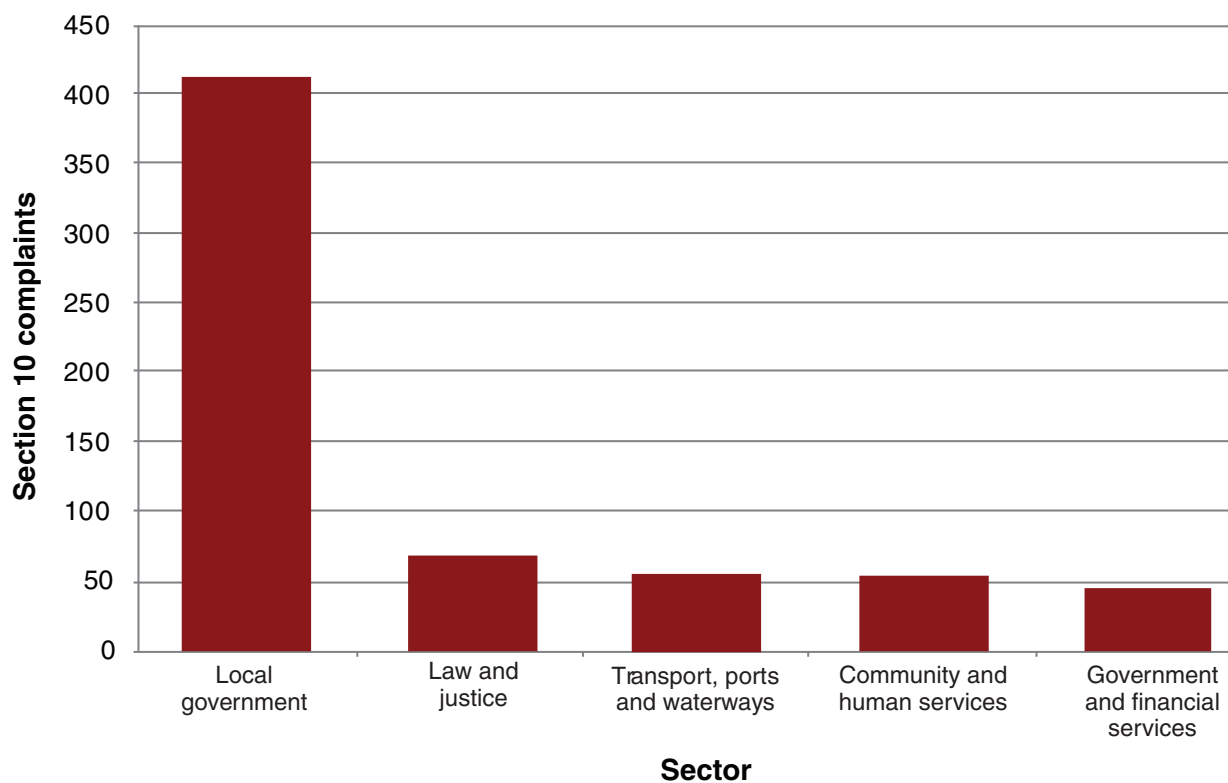
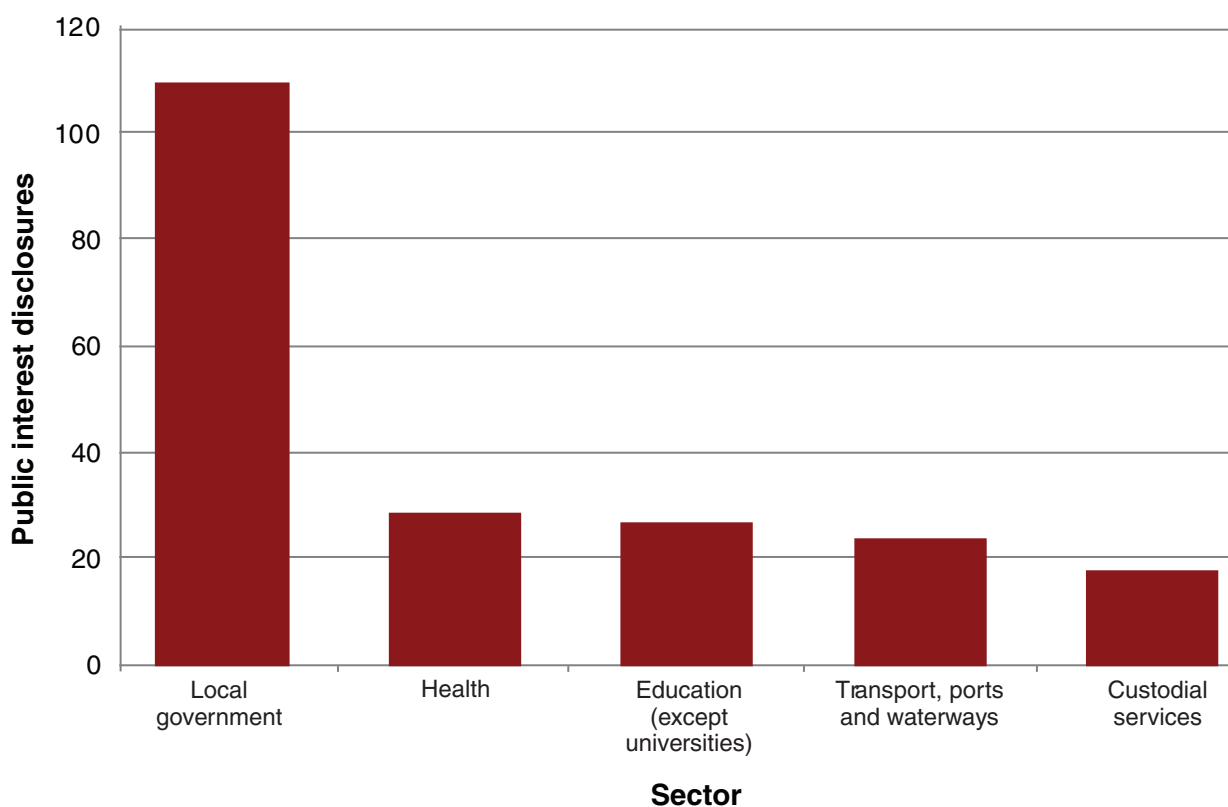


Figure 4: Public interest disclosure allegations by government sector in 2011–12



As in previous years, the sector most frequently complained about in 2011–12 was local government, with section 10 complaints relating to this sector accounting for 45% of the total received. The Commission notes, however, that there are over 150 local councils in NSW, and that over-representation of local government in the complaints statistics is due to the high level of people's interaction with local government and the personal interest many take in the decisions of their local council.

The most frequent workplace function about which the Commission received complaints from the public was "development applications and land rezoning", accounting for 26% of allegations, closely followed by "reporting, investigation, sentencing and enforcement" at 25%.

The most frequent conduct type that featured in complaints from members of the public was "partiality", accounting for 37% of allegations, followed by "failure to perform required actions" at 19%, and "improper use of records or information" at 17%.

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

Public interest disclosures

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

In 2011–12, the Commission classified 269 matters as PIDs, a similar number to the 289 received in the previous year. Figure 4 shows the number of allegations in the top five categories by government sector for PIDs received during the year. As with section 10 complaints, the largest number of allegations in this category concerned local government (40% in 2011–12, up from 33% in 2010–11 and 23% in 2009–10).

Prior to making any enquiries about PID allegations, the Assessments Section seeks written authority from the complainant for his or her identity to be disclosed during any such enquiries. When consent is not given, the Commission may, under section 22 of the PID Act, disclose confidential information if it is considered



Case study: Creditworthy

A university employee complained to the Commission that a professor had been rorting meal, accommodation and travel allowances. The employee specified a particular work trip where the professor's spouse had been in attendance without apparent justification. The Commission directed the university to conduct an investigation and report on its findings, pursuant to sections 53 and 54 of the ICAC Act.

The allegations of corrupt conduct on the professor's part were not substantiated and there was a legitimate explanation for the spouse's attendance. The investigation did disclose, however, that the professor had little understanding of what information and documentation needed to be retained and submitted for reconciliation purposes. Further, there were inadequate credit card reconciliation processes in place.

The university undertook to tighten up its procedures and to ensure that staff who held credit cards and staff who conducted reconciliations understood what was required of them.

necessary to investigate a matter effectively or if it is in the public interest to do so. This step will occur only with the approval of the Deputy Commissioner.

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

Even if the allegations made are not substantiated upon the making of enquiries or upon investigation, systemic deficiencies or process failings can be highlighted, which the agency concerned can address. If an agency acknowledges and addresses procedural deficiencies, this can minimise corruption risks and alleviate perceptions of corruption.

As shown in the case study on page 23, even though one agency's investigation (resulting from a PID to the Commission) found no corrupt conduct had taken place, processes relating to credit card reconciliations were shown to be flawed.

The most frequent workplace function reported by way of PIDs was "human resources and staff administration", comprising 44% of allegations, followed by "reporting, investigation, sentencing and enforcement" with 20% and "procurement, disposal and partnerships" at 18%.

The most frequent conduct type that featured in PID matters was "partiality", accounting for 41% of allegations made, followed by "personal interests" at 21%.

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

Commencement of the Public Interest Disclosures Committee

This committee was established on 1 July 2011 and comprises senior staff from across the Assessments Section as well as the Investigation, Corruption Prevention and Legal divisions. Its members provide guidance and assistance to those who have made PIDs to the Commission and who wish to discuss general welfare concerns. The committee also provides guidance and support to Commission staff who handle PID matters and ensures that staff receive appropriate training in that regard. The committee's convenor, the manager of the Assessments Section, liaises regularly with other oversight agencies, including members of the NSW Ombudsman's PID unit, to discuss policy and legislative issues.



Assessments Section staff receive regular training, both from external trainers as well as in-house experts.

Reports from public sector agencies and ministers

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

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

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

It is helpful for the Commission to be advised whether an agency is treating the matter as a PID. If the matter is a PID and the Commission does take action, PID responsibilities, such as confidentiality and keeping the discloser notified, are passed on to the Commission.

The case study at right is an example of a matter where the head of an agency reported a matter received as a PID and undertook to commence disciplinary proceedings in relation to the subject employee.

“Section 11 of the ICAC Act requires principal officers of NSW public sector agencies to report matters to the Commission where they hold a reasonable suspicion that corrupt conduct has occurred or may occur.”



Case study: Fitness at work

An emergency services agency reported a matter it had classified as a public interest disclosure. The allegations concerned the conduct of an employee who had been leaving work premises during work shifts to teach spin cycle classes at a gym.

Further, the employee had been using an agency vehicle to attend this unauthorised, secondary employment. The reporting principal officer was concerned that not only had the employee been falsifying time sheets, using a vehicle for unauthorised purposes and absenting themselves from work but also, given the team environment, this employee had put the safety and wellbeing of colleagues at risk.

The agency instigated a disciplinary process and will advise the Commission of the outcome in due course.

Figure 5 shows the number of times allegations were linked to a particular sector. Custodial services ranked the highest at 34%. However, as noted earlier, in 2011–12, the Commission commenced registering separately each set of allegations for those agencies that report by schedule and this has resulted in the apparent spike in section 11 reports for custodial services, relative to previous years. Local government

has previously been the subject of most section 11 reports. In this reporting period, the sector accounted for 23% of all allegations received, down from 31% in the previous year.

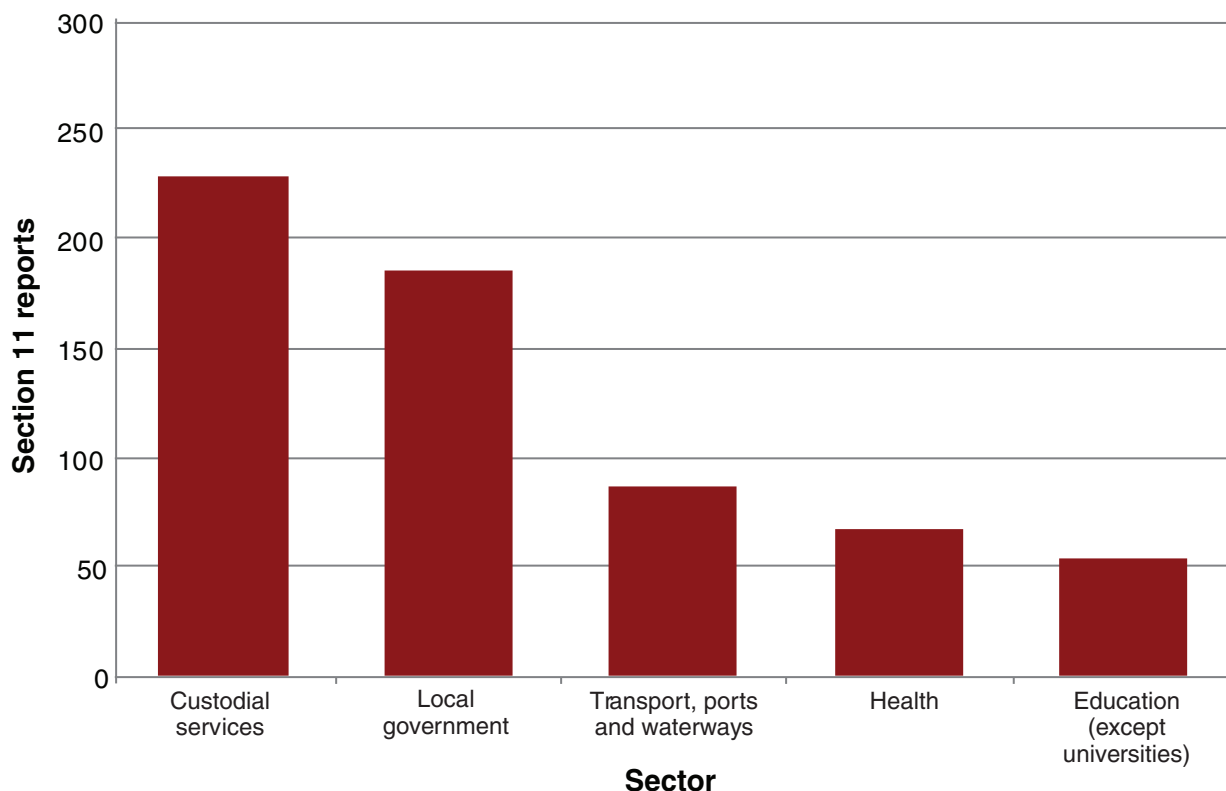
In relation to the workplace functions involved in the allegations reported, most section 11 reports concerned “human resources and staff administration”, comprising 34% of section 11 reports received. This was followed by “reporting, investigation, sentencing and enforcement”, which featured in 19% of reports.

With regard to conduct types, “improper use of records or information” was the most frequent, with 27% of reports, followed by “improper use or acquisition of funds or resources” at 24%. “Partiality” formed the basis of 15% of allegations reported.

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

“The assessment process is a crucial first step in determining whether the Commission should act in a matter or whether other action is warranted.”

Figure 5: Section 11 reports received in 2011–12, showing the five most frequently complained about government sectors



The assessment process

The assessment process is a crucial first step in determining whether the Commission should act in a matter or whether other action is warranted. Many complainants approaching the Commission have expectations that their concerns will be investigated and managing those expectations is a key part of the Assessments Section's role. Where the Commission decision is not to investigate a matter, staff of the Assessments Section endeavour to explain the reason or reasons for this decision to the complainant in order to retain confidence in the Commission.

As is often explained by staff to those who bring matters to the Commission's attention, the Commission is required under section 12A of the ICAC Act to focus attention and resources on serious and systemic corrupt conduct, as far as practicable.

Staff of the Assessments Section analyse all matters received, taking into account:

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

Staff also consider whether there are trends across a particular sector or within a particular agency. Regard is also given to whether there are appropriate systems in place for the agency involved to minimise opportunities for corruption. Complaints and reports that highlight corruption risk areas and trends are drawn to the attention of the Corruption Prevention Division to enable the Commission to target its work in this area (see chapter 4).

All matters received are entered into the Commission's database. All, except those outside the Commission's jurisdiction, such as complaints involving the conduct of members of the NSW Police Force, a federal authority or private enterprise, are reported to the Assessment Panel.

The Assessment Panel comprises the manager of the Assessments Section (who acts as the panel convenor), the Commissioner, Deputy Commissioner and all executive directors (except the Executive Director, Corporate Services). The panel is governed by a charter, which provides that it meets electronically twice a week and is responsible for determining what action, if any, should be taken on every matter received. If a matter is complex or needs further enquiries before an appropriate course of action can be determined, it may be reported to the Assessment Panel on several occasions.

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

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

1. Refer to another agency or take no action

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

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

In 2011–12, there were 2,255 decisions made by the Assessment Panel to either close a matter or refer it elsewhere after closure. This represented 84% of all decisions.

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

If an allegation of corrupt conduct is made about an agency, the Commission has the power under section 53 and section 54 of the ICAC Act to require either that agency or an appropriate oversight body to conduct an investigation and report its findings to the Commission. This power is usually used for relatively serious matters and allows the Commission to oversee the investigation by the agency. The Commission can determine the scope of the investigation and will agree upon a timeframe for completion of the investigation with the agency. The Commission obtains investigation plans and progress reports from the agency.

The Commission refers matters under section 53 and section 54 only if it considers that the agency will be able to investigate the matter, and consults with the

agency before making a referral. The Commission will not make a referral if it considers the agency might be compromised or lacks the capacity to conduct the investigation and adequately report on it. Under the ICAC Act, the Commission has powers to deal with investigations or reports by agencies that it considers unsatisfactory.

In 2011–12, 23 matters were the subject of section 53 and section 54 ICAC Act referrals. This is a reduction on the 36 referrals made in the previous year. In the past few years, however, there has been an increase in the number of matters where the Commission has requested an investigation report from an agency. This will occur either when the agency has reported a matter under section 11 and has either already commenced an investigation or is preparing to embark on one. In 2011–12, there were 111 such matters, a marked increase from 76 matters two years ago, in 2009–10. This affords the Commission a similar degree of oversight to that obtained through section 53/54 reports, in that the Assessments Section will analyse the report obtained and re-report to the Assessment Panel.

ICAC
INDEPENDENT COMMISSION
AGAINST CORRUPTION

Reporting survey

The Independent Commission Against Corruption is keen to receive feedback from those who have reported allegations of suspected corrupt conduct to us, in order to assess the quality of information we have provided to you. Your feedback will also assist us in determining whether there is a need to improve our processes and procedures. We anticipate that completing this survey will take no more than 5-10 minutes. We have included a pre-paid envelope for you to be able to return the completed survey to us. The information received will be used for ICAC purposes only.

1. Was this the first time you made a report to the ICAC?
☐ Yes ☐ No
2. How would you rate your knowledge of the ICAC's role and assessment processes prior to contacting us?
☐ Poor ☐ Fair ☐ Good ☐ Excellent
3. Did you look at the ICAC website before contacting us on this occasion?
☐ Yes (Go to 4) ☐ No (Go to 5)
4. (a) How informative did you find the ICAC website?
☐ Not informative ☐ Somewhat informative ☐ Very informative
(b) Please provide any comments you have regarding the ICAC website.
5. Did you have any telephone, email or in-person discussions with ICAC staff?
☐ Yes (Go to 6) ☐ No (Go to 7)
6. (a) How would you rate the professionalism of ICAC staff in relation to these discussions?
☐ Poor ☐ Fair ☐ Good ☐ Excellent
(b) Please provide any comments you have regarding your discussions with ICAC staff.
7. (a) How informative did you find our letters to you?
☐ Not informative ☐ Somewhat informative ☐ Very informative

(b) Please provide any comments you have regarding the letters to you.

8. (a) How informative did you find the fact sheets we sent to you?
☐ Not informative ☐ Somewhat informative
(b) Please provide any comments you have regarding the fact sheets.

9. (a) To what extent has your knowledge of the ICAC improved as a result of making a report?
☐ No improvement ☐ Slight improvement ☐ Significant improvement
(b) Please provide any comments you have regarding the ICAC's assessment processes has changed as a result of making a report.

10. (a) Would you report a matter to the ICAC?
☐ Yes ☐ No
(b) In relation to your answer to (a), please provide any comments you have regarding the ICAC's assessment processes.

Name (optional) _____
If you are a NSW public official, please provide your name and position.

In the reporting period, the Assessments Section instigated a survey of complainants to gauge the effectiveness of the Commission's written and electronic materials and the professionalism of staff. The survey elicited constructive feedback and will be repeated in 2012–13 (see page 17).

3. Conduct assessment enquiries

If the Assessment Panel decides that a matter should be considered further – but may not yet warrant investigation – assessment enquiries will be conducted by the Assessments Section and the matter re-reported to the panel. In 2011–12, there were 226 matters in which assessment enquiries were undertaken. There has been a marked rise in the number of matters in which such enquiries are undertaken (in 2008–09, enquiries were undertaken in 137 matters).

Assessment enquiries may involve contacting parties for more information, carrying out research, property or business searches, and obtaining and considering relevant policy and/or procedural documents to determine whether there are procedural deficiencies.

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

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

The case study at right is an example of enquiries undertaken by the Assessments Section that led to the head of an agency reactivating an internal investigation, which led, in turn, to disciplinary outcomes, including for the employee who had undertaken the initial investigation.

“If an allegation of corrupt conduct is made about an agency, the Commission has the power ... to require either that agency or an appropriate oversight body to conduct an investigation and report its findings to the Commission.”

Case study: Leading light

Two members of the public complained separately to the Commission about the conduct of an internal investigation by an energy provider. It was alleged that complaints of theft of materials by a team leader had not been properly dealt with by the agency and that the team leader who was believed to have stolen goods from the agency's depot had been protected, due to a half-hearted investigation having been conducted by his manager.

Staff of the Assessments Section made enquiries with the agency's managing director, who offered to reactivate the investigation and ensure that it was carried out at arm's length.

This time, the allegations were substantiated. The employment of the team leader was terminated and the manager was disciplined for unsatisfactory performance in failing to conduct the investigation appropriately in the first instance.

4. Provide corruption prevention analysis and/or advice

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

In 2011–12, three matters were referred by the Assessment Panel to corruption prevention officers for analysis and/or advice. The number of referrals has been declining for several years, down from the 44 referrals made in 2008–09. This is because of the increased emphasis of the Corruption Prevention Division in focusing on broader, sector-wide issues, rather than on individual matters.

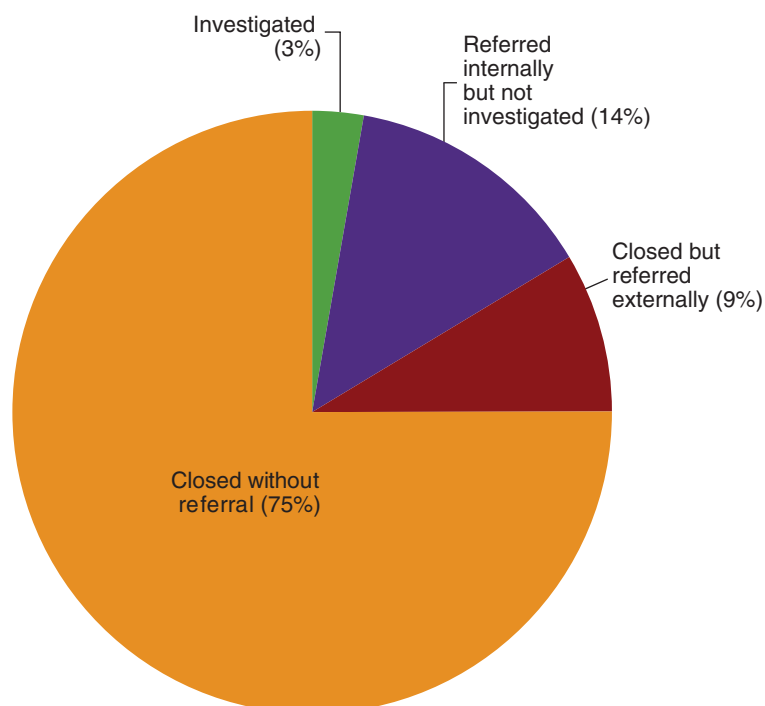
5. Undertake an investigation

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

Only a small number of matters with the potential to expose significant or systemic corrupt conduct will meet the criteria for a full investigation. Once a decision to investigate has been made, the matter is overseen by the Strategic Investigation Group (SIG), which also gives direction on each investigation. The SIG also oversees matters referred to agencies under section 53 and section 54 of the ICAC Act.

In 2011–12, 68 matters were referred to the Investigation Division for preliminary investigation, compared to 62 in 2010–11. In addition, five matters remained in the Assessments Section for preliminary investigation and one matter went to the Corruption Prevention Division. These preliminary investigations involved issuing notices to produce documents under section 21 and section 22 of the ICAC Act. These additional matters were re-reported to the Assessment Panel, with further recommendations upon receipt and analysis of the produced materials.

Figure 6: Decisions made by the Assessment Panel in 2011–12



Decisions made by the Assessment Panel in 2011–12 are shown in figure 6.

The figure above shows that in 84% of matters the Commission determined to close the matter, including 10% of these matters being referred to other appropriate agencies. The Commission decided to conduct a preliminary investigation in 3% of matters (74 decisions). This figure includes five decisions that a preliminary investigation be undertaken while the matter remained within the Assessments Section, namely for the issuing of notices for production of documents, and one decision that a preliminary investigation be conducted by staff of the Corruption Prevention Division.

In 14% of all matters, there was an internal referral for further, non-investigative action. This included the conducting of assessment enquiries (226 decisions), the requesting of a report (111 decisions), the directing of an agency to investigate and report back (23 decisions) and referring a matter to the Corruption Prevention Division for analysis and advice (three decisions).

The year ahead

In 2012–13, the Assessments Section will:

- continue to develop the skills of staff and provide opportunities for career development, including through internal secondments to other operational divisions
- meet internal targets for timely completion of key stages of a matter's life cycle
- develop (and build on existing) liaison relationships with similar integrity and oversight agencies both within NSW and in other jurisdictions, including international agencies
- conduct another survey of complainants and those who made public interest disclosures. The survey conducted in 2011–12 was a useful exercise, and allowed those directly affected by Commission decisions to comment on their experiences.

Chapter 3: Investigating corruption



About the Investigation Division

One of the primary functions of the Commission is to investigate and publicly expose serious and systemic corruption to enable corrective action to be taken and to reduce corruption in the NSW public sector. The Investigation Division deploys overt and covert investigation techniques to uncover corruption, including using the coercive powers available to the Commission under the ICAC Act.

Sharon Loder is the Executive Director of the Investigation Division. In the reporting period, the division had an approved establishment of 51.2 full-time equivalent employees and a total budget of \$6,787,400. The Commission has a multidisciplinary approach to its investigation function. The division is made up of two areas: the investigation section and the surveillance and technical unit.

The investigation section comprises a preliminary investigation team and three operational investigation teams. Personnel within this section includes investigators, forensic accountants, analysts and support staff. The division's surveillance and technical unit supports the Commission's investigations with surveillance, electronic evidence and technical personnel. Investigations are also assisted by lawyers and corruption prevention officers from other divisions.

Division's challenges in 2011–12

In the reporting period, the division investigated a number of large and complex matters that will proceed to public inquiry in 2012–13. These investigations required considerable expertise and resources, which made it necessary, from time to time, to recruit additional personnel and seek assistance from state and federal agencies and the private sector. In this regard, it is appropriate to acknowledge the cooperation and assistance the Commission received from the Police Integrity Commission, NSW Audit Office, NSW Crime Commission, NSW Police Force, Crime and Misconduct Commission and the Australian Crime Commission.

The size and complexity of investigations the Commission undertakes is a continuing challenge. The facts investigated by the Commission are increasingly

complex, involving interrelated activities by multiple parties in highly specialised fields. Additionally, the explosion of digital communications and the increasing complexity of records capture continue to test the Commission's investigative capability; that is, to find relevant evidence efficiently, maintain the investigator's skills and knowledge, and have the technological facility to capture and interpret evidence. The Commission needs to ensure its management, systems and processes support continuous improvement and effective forward planning.

For these reasons, in 2011–12, the Investigation Division focused on:

- enhancing its investigation procedures by reviewing its standards to improve on efficiency, consistency and investigative practice
- enhancing its electronic forensic capacity and methods of analysis to enable the Commission to better capture electronic evidence, and deal with and understand increasingly large volumes of digital data
- improving its focus on the suitability of matters the Commission investigates and on key performance targets to improve timeliness and efficiency.

How we investigate

Generally, Commission investigations are undertaken by the Commission's Investigation Division but may be undertaken by another division of the Commission.

All matters referred to the Investigation Division commence as preliminary investigations. A preliminary investigation may, for example, be conducted for the purpose of (1) assisting the Commission to discover or identify conduct that might be made the subject of a more complete investigation or (2) deciding whether to make particular conduct the subject of a more complete

“The Investigation Division deploys overt and covert investigation techniques to uncover corruption, including using the coercive powers available to the Commission...”

investigation. If appropriate, a matter may then be escalated to a full investigation (known as an “operation”). If it is in the public interest to do so, the Commission may also decide to hold a public inquiry into a matter it is investigating.

Investigations may focus on both historic and current activities, and investigation methods used may vary from overt to covert, depending on the nature of the allegations. Detailed investigation plans are prepared at the commencement of all matters and each investigation is regularly assessed to determine the most appropriate investigation strategy.

The conclusion of an investigation may result in no further action or a number of different actions. These actions may include the referral of information to a public authority that is relevant to the exercise of its functions (such as information for disciplinary action), the dissemination of intelligence and information, a brief of evidence for referral to the Director of Public Prosecutions (DPP) and the publication of an investigation report.

Our investigations

In 2011–12, a total of 20 preliminary investigations and nine operations were carried over from 2010–11. The Investigation Division commenced 68¹ new preliminary investigations and 19 new operations. A total of 64² preliminary investigations and 20 operations were completed by the Investigation Division during the reporting period.

The division has key performance targets for the timeliness of its investigations. The division aims to complete 80% of its preliminary investigations within 120 days. The timeframe for this performance measure commences from the date a decision to conduct a preliminary investigation is made by the Assessment Panel to the date the

1 A total of 73 preliminary investigations were commenced during the reporting period. In addition to the 67 matters referred to the Investigation Division, four were referred to the Assessments Section, one to both the Investigation Division and the Assessments Section, and one to the Corruption Prevention Division.

2 An additional one preliminary investigation was completed by the Assessments Section.



The Commission's Investigation Division is made up of the surveillance and technical unit and the investigation section, which comprises one preliminary investigation team and three operational investigation teams.

preliminary investigation is either discontinued or escalated to a full investigation. The division aims to complete 90% of the non-public phase of its operations within 12 months. The timeframe for this performance measure commences from the date a matter is escalated to an operation to the first day of the public inquiry or the date that the matter is otherwise discontinued.

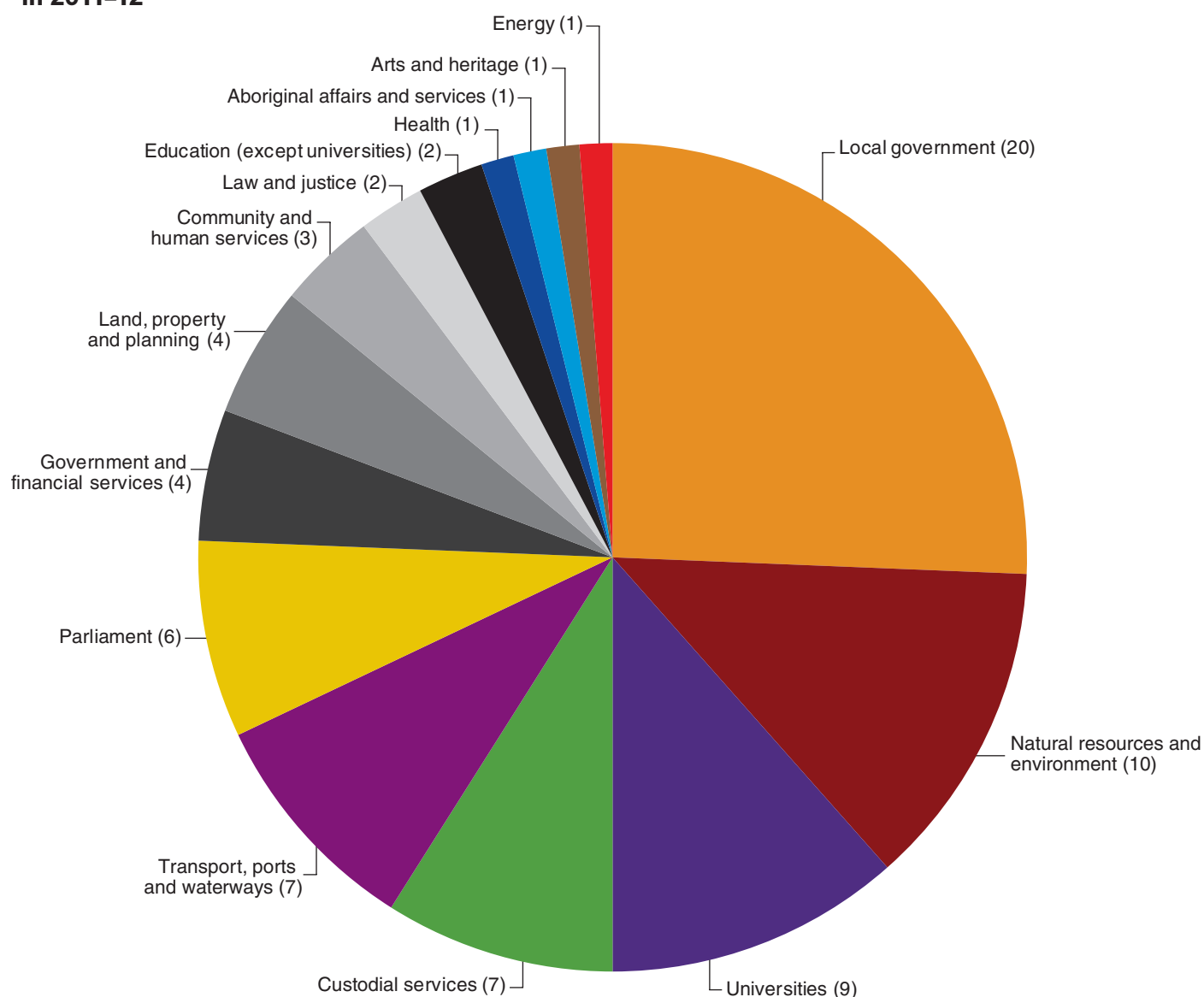
The percentage of preliminary investigations completed by the division within 120 days has increased from 41% in 2010–11 to 77% in 2011–12. The percentage of operations completed within 12 months has decreased from 95% to 90% over the same period.

Table 8: Preliminary investigation statistics for the Investigation Division in 2011–12

Number current as at 1 July 2011	20
Number referred by Assessment Panel	68
Number discontinued	64*
Number current as at 30 June 2012	23
Days on average taken to complete	132
Number completed within 120 days	49
% completed within 120 days	77

* One matter was completed by the Assessments Section.

Figure 7: Source of preliminary investigations completed by the Investigation Division by sector in 2011–12*



* Some preliminary investigations examined allegations against more than one sector.

Table 9: Full investigation (operation) statistics for the Investigation Division in 2011–12

Number current as at 1 July 2011	9
Number escalated from preliminary investigation	19
Number discontinued/concluded	20
Number current as at 30 June 2012	8
Days on average taken to complete	230
Number completed within 12 months	18
% completed within 12 months	90

Use of statutory powers

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

Public inquiries and compulsory examinations

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

The Commission can compel witnesses to answer questions and produce documents or other things when they are summoned to a compulsory examination or to a public inquiry. The witness must comply with this direction regardless of whether the answers or production of the documents or other things might incriminate them. A witness, however, may object to answering the question or to producing the item. The witness must still comply with the direction but, if they object, neither

Table 10: Statutory powers used by the Commission in 2011–12, compared to the two previous years

Power	2011–12	2010–11	2009–10
Summons (section 35)	430	344	329
Arrest warrant (section 36)	2	0	0
Order for prisoner (section 39)	9	0	13
Search warrant (section 40)*	20	20	22
Notice to produce a statement (section 21)**	30	60	101
Notice to produce a document or thing (section 22)**	646	645	651
Notice authorising entry to public premises (section 23)	0	0	1
Surveillance device warrants	9	1	11
Telephone interception warrants	21	12	14
Controlled operations	1	0	2
Assumed identities	3	3	0

* In 2011–12, all were issued by an external authority; none were issued by the Commissioner.

** There were 10 combined section 21 and section 22 notices, which were counted as both section 21 and section 22 notices.

the answer nor the item produced is admissible as evidence against the witness in any subsequent criminal, civil or disciplinary proceedings, other than for an offence under the ICAC Act.

In 2011–12, the Commission conducted 135 compulsory examinations over 59 days, and 10 public inquiries over 70 days.

The time interval between the completion of each public inquiry conducted during the year and the furnishing of the relevant report is shown on page 62.

Investigation outcomes

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

The Commission is not a court or disciplinary tribunal, and does not conduct prosecutions or disciplinary proceedings as a consequence of any of its investigations. There are four areas, however, that highlight the outcomes arising from Commission investigations. These are:

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

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

“The Commission is not a court or disciplinary tribunal, and does not conduct prosecutions or disciplinary proceedings as a consequence of any of its investigations.”



Case study: Private advantage out of public duty

The Commission's investigation into the acceptance of corrupt benefits by a councillor of Auburn City Council demonstrates the problem residents of non-English speaking backgrounds can face when dealing with their local council.

In 2010, the general manager of Auburn City Council notified the Commission of an allegation that a councillor had accepted corrupt payments from a local business owner to secure the councillor's assistance to expedite approval for a development application that the business owner had lodged with the council for a restaurant/ karaoke bar.

The Commission conducted an investigation into the matter, which included compulsory examinations, detailed computer forensic analysis, the review of council records, the review of private business and financial records, and interviews with council staff.

During the investigation, it was identified that the business owner had sought assistance from the councillor to navigate the development application process through the council. Both the business owner and the councillor were of non-English speaking backgrounds. It became evident that the business owner spoke limited English and struggled to fully understand the development application process, which resulted in her relying on the councillor for assistance.

In its report on the investigation, the Commission made corrupt conduct findings against both the councillor and the business owner. The Commission recommended that the advice of the DPP should be sought with respect to the prosecution of the councillor for specified offences. The Commission also recommended that the council consider suspending him from civic office as a councillor of Auburn City Council with a view to his dismissal for serious corrupt conduct. The councillor subsequently resigned from the council.

Table 11: Public inquiries conducted in 2011–12*

Operation name	Summary
Barcoo	Investigation into alleged fraud on the former NSW Department of Education and Training
Barrow	Investigation into the payment of \$4,500 to a councillor of Auburn City Council
Citrus	Investigation into conflicts of interest and recruitment practices involving the IT manager at the University of Sydney
Crusader	Investigation into the conduct of a University of New England (UNE) procurement officer and UNE contractors
Jarek	Investigation into the receipt of gifts and benefits by employees of various local councils and other public authorities in NSW in return for placing orders and continuing favourable business relationships with various private companies and the payment of false invoices by two councils
Jarilo	Investigation into the receipt of corrupt benefits by a NSW Government minister in return for favourable treatment to a prominent businessman
Napier	Investigation into the unauthorised purchase of property at Currawong by the Chief Executive of the Land and Property Management Authority
Petrie	Investigation into alleged bribery involving developers and office holders of the Wagonga Local Aboriginal Land Council
Tilga	Investigation into the provision of corrupt benefits to public officials, alleged fraud and collusive tendering by Kings Security concerning the supply of security services to various NSW public sector authorities
Vesta	Investigation into the undisclosed conflict of interest of a senior executive of the Sydney Harbour Foreshore Authority

* One of these public inquiries (Operation Napier) commenced in 2010–11 and continued in 2011–12.

Findings of corrupt conduct and recommendations for prosecution/disciplinary action

In 2011–12, the Commission made findings of corrupt conduct against 14 persons.

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

In 2011–12, the Commission recommended that the advice of the DPP be obtained in relation to the prosecution of nine people for various criminal offences. Recommendations were also made to relevant public sector agencies that disciplinary action be taken against one person.

Appendix 4 provides further details on the progress of prosecutions resulting from Commission investigations.

Proceeds of crime referrals/disseminations

In the 2010–11 reporting period, a referral was made to the NSW Crime Commission in relation to a potential proceeds of crime action. This concerned the investigation into an allegation that Hedley Peter Higgs, manager of city services at Canada Bay City Council, accepted payments from contractors engaged to conduct work for the council in return for showing favour to those contractors in the course of his work with the council. In its report on this investigation, which was made public on 15 December 2010, the Commission made findings of corrupt conduct against Mr Higgs and contractor Thomas David Turner. On 2 November 2010, the Commission disseminated material to the NSW Crime Commission arising from the investigation. Proceedings were commenced under the *Criminal Assets Recovery Act 1990* in the NSW Supreme Court, Common Law Division, on 30 November 2010.



Assistant Commissioner Theresa Hamilton presides at the Operation Barrow public inquiry, May 2012.

The matter was finalised on 1 August 2011, with Mr Higgs agreeing to pay a proceeds assessment order in the amount of \$100,000.

In 2011–12, there were no referrals made to the NSW Crime Commission for consideration of asset confiscation action.

During the reporting period, the Commission disseminated intelligence gathered during the course of its investigations to the NSW Police Force, the Australian Federal Police, Roads and Maritime Services, RailCorp, the Office of the DPP, the Division of Local Government, Sydney Water, the Australian Taxation Office, and the Speaker of the Legislative Assembly.

Corruption prevention issues arising from investigations

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

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

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

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

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

“...investigations provide insight into how or why the corrupt practices occurred. In turn, this insight provides the groundwork for improving systems, policies and procedures within the NSW public sector.”

Strategic alliances to optimise investigative outcomes

There is a constant need to monitor and keep up with the ever-changing investigation environment. For this reason, it is important to maintain ongoing liaison with other law enforcement agencies, and to participate in various forums and interagency committees to enhance the currency of the Commission's investigation techniques and processes. The Commission is a member of the following committees and forums.

Interagency Technical Committee

This committee provides an opportunity for intercepting agencies to seek common ground in delivery standards and for monitoring telecommunications interception. Commission officers attended meetings of this committee on 7 and 8 December 2011 and 15 May 2012.



In 2011–12, the Commission furnished six investigation reports to the NSW Parliament.

Interception Consultative Committee

This committee is a source of advice to agencies concerning telecommunications interception. It monitors emerging technologies that impact on lawful interception within Australia. It also interacts with telecommunications providers to ensure their supply interception capability. Commission officers attended meetings of this committee on 7 and 8 December 2011, 6 March 2012 and 16 May 2012.

National Oversight Covert Group (NOCG)

This group is concerned with the sharing of knowledge between the smaller oversight and anti-corruption agencies that have a covert physical and technical capability to improve relevant skills and techniques. The Commission hosted the NOCG conference on 20 and 21 June 2012. The chair of the NOCG represents oversight agencies nationally on the National Counter-Terrorism Committee (surveillance). On 23 and 24 February 2012, a Commission officer (as chair of the NOCG) attended the National Counter-Terrorism Committee (surveillance) meeting in Canberra.

SEDNode User Forum

SEDNode is a secure information system used by law enforcement and anti-corruption agencies to receive telecommunications data from providers. The Commission subscribes to the SEDNode system. The SEDNode User Forum has been established to keep members updated with system enhancements, functionality and new members. No meetings were attended by Commission officers during the reporting period.

Special Networks Committee

This is a forum for intercepting agencies to discuss the capability of telecommunications interception and any related contractual issues. Commission officers attended meetings of this committee on 7 and 8 December 2011.

Australian Anti-Corruption Commission Forum

The purpose of this forum is to facilitate cooperation and collaboration between Australian anti-corruption agencies through the sharing and exchange of information, knowledge and resources to promote priority areas of interest to those agencies. The Deputy Commissioner and Executive Director, Investigation Division attended a meeting of the Executive Co-ordinating Group for this forum on 20 October 2011.

Other alliances

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

Systems and process improvements

In 2011–12, the division reviewed its systems and processes with a view to improving the efficiency and quality of its investigation outcomes. Some of the outcomes of this review are detailed below.

- Reviewed practices for dealing with the preparation of briefs of evidence for referral to the DPP for consideration of criminal proceedings. Closer supervision, management and reporting of
- brief preparation activity improved the timeliness of brief preparation.
- Reviewed the use, structure and data requirements of the Commission's Management of Cases, Complaints and Assessments (MOCCA) system. Recommendations from this review will be implemented in the next reporting period.
- Revised templates for reporting the progress of investigations to the Strategic Investigation Group, a group which oversees the progress and direction of all Commission investigations. The improved templates for reporting progress on preliminary investigations, operations, future public inquiry dates and brief preparation have led to a reduction in preparation times as well as a greater focus on critical information.
- Reviewed and articulated general investigation standards and procedures for the Commission's investigation function. Following this project, the Operations Manual will undergo a substantial review in 2012–13.
- Reviewed forensic computing capability and purchased new systems, equipment and software to enable better capture of electronic evidence and to deal with and understand increasingly large volumes of digital data.

The year ahead

In 2012–13, the Investigation Division will:

- Finalise a project to establish an integrated telecommunications interception capability for the ICAC in partnership with the Police Integrity Commission. The key deliverables for this project are (1) a telecommunications interception capability that is technically efficient, scalable and user friendly, with 24-hour technical assistance, (2) training for system administrators and users, and (3) an operations and user manual. The project is scheduled for completion by 31 October 2012.
- Undertake a project to review the Operations Manual to ensure that it is consistent, comprehensive and supports the maintenance and application of the Commission's general investigation standards and procedures. The key deliverable for this project is an electronic manual. The project is scheduled for completion by 30 June 2013.
- Undertake a project to review the MOCCA system. The key deliverable for this project is an enhanced version of the system that better meets the business requirements of the Commission's investigation function. The project is scheduled for completion by 30 June 2013.

Chapter 4: Preventing corruption



About the Corruption Prevention Division

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

Dr Robert Waldersee is the Executive Director of the Corruption Prevention Division. In the reporting period, the division had an average of 19.15 full-time equivalent staff and a total budget of \$2.7 million. The division is made up of four project clusters: policy research and analysis, investigations, agency development, and community awareness and reporting.

Policy research and analysis

The division identifies and analyses corruption risks of statewide significance and public concern with a view to making corruption prevention recommendations to government. Projects undertaken in this cluster are selected on the basis of the degree of public concern and the extent of corruption risks.

In 2011–12, the division undertook three major projects examining corruption risks of statewide significance.

“...while many public sector agencies have now put in place policies and procedures to reduce corruption risks in procurement, procurement remains an activity vulnerable to corruption.”

Procurement – the management challenge

Over the past two financial years, the Commission has been examining the corruption risks associated with public sector procurement in NSW. This research culminated in the release of four papers on procurement.

The Commission's research has shown that, while many public sector agencies have now put in place policies and procedures to reduce corruption risks in procurement, procurement remains an activity vulnerable to corruption. A key reason for this is that the corruption controls of agencies often do not extend beyond written documents and associated training. These are basic controls that help agencies achieve consistency and quality in procurement by guiding compliance with predictable requirements. The challenge for managers is to maintain control of a situation even when the environment is dynamic. The Commission has found that public sector managers are often not considering the broader set of organisational factors that affect the likelihood of corrupt behaviour.

To assist managers with this problem, in December 2011 the Commission released its fourth report on procurement, *Corruption risks in NSW Government procurement – The management challenge*. The report explains that the one-size-fits-all approach to corruption prevention does not work in the procurement context. Prevention is not achieved only through a set of policies, procedures and checks designed and implemented by a governance group. It involves the very DNA of an agency: the way procurement is structured, the design of processes, the normative behaviour and skills of staff, and how staff are managed. The report describes a range of approaches to corruption control that managers can select to meet the unique challenges of their operating environments.

Following the release of the report, the Commission received a number of requests for speaking engagements on procurement, indicating the depth of concern and interest in this topic.

Anti-corruption safeguards in state planning

In July 2011, the NSW Government announced a major review of the current planning system. Since its inception, the *Environmental Planning and Assessment Act 1979* (the EP&A Act) has been continually revised and updated. A by-product of the constant, and at times significant, amendments to the EP&A Act has been a growing public perception of instability within the NSW planning system. There has also been a simultaneous growing public perception that the current planning system is unwieldy, overly complex and lacking in transparency.

In February 2012, the Commission released *Anti-corruption safeguards and the NSW planning system*. In producing this report, the Commission aimed to communicate its views on the key anti-corruption safeguards that should underpin the NSW planning system. The Commission put forward six key corruption prevention safeguards that would reduce the frequency of corruption, and 16 reform recommendations.

A crucial issue raised in the report is the need to reduce the regulatory complexity of the current system. Complexity encourages manipulation and the establishment of alternative systems. It is also difficult to detect corrupt activities in a complex system, as any lack of clarity in a system provides an opportunity for corrupt actions to proceed. To deal with this issue, the Commission specifically recommended that the NSW Government rationalises the number of control documents applying to a single parcel of land.

The Commission's recommendations also addressed the need to provide certainty in the planning system, to ensure transparency, and to provide meaningful community participation and consultation.

“After an investigation report is made public, the division monitors the implementation of corruption prevention recommendations in accordance with section 111E(2) of the ICAC Act.”

Non-government organisations

Each year, the NSW Government funds thousands of non-government organisations (NGOs) to deliver human services, often to very vulnerable clients. Billions of dollars are provided annually by a variety of different funding agencies. The volume of contracts, the amount of money involved and the complexity of the system indicate that opportunities for corrupt conduct may exist.

The division has been conducting a research project to understand better the corruption risks associated with the provision of such funding. Division staff held a number of meetings with stakeholders, including funding agencies, frontline staff, NGOs, peak bodies, and oversight, law enforcement and regulatory agencies.

This research identified a range of corruption risks and systemic issues that may affect the efficacy and integrity of NGO funding. These systemic issues fall into three categories: the extent to which funding agencies have the capability to manage NGO engagements, the means by which NGOs and funding agencies work together, and features of the funding environment.

A consultation paper seeking submissions will be published early in 2012–13. Once submissions have been analysed, a report to government will be released.

ICT contractors

Information and communications technology (ICT) contractors pose a heightened challenge to public sector management. They are often skilled in highly specific areas that project managers, who may be permanent staff, understand less well. What can be delivered or what is an acceptable final product can be hard for managers to determine. Often the contractors are the only people who understand the software, creating a long-term dependence on the contractor. This can lead to an over-reliance on contractors, and gives contractors an opportunity to manipulate ICT projects to corrupt ends; for example, by way of favouritism, oversupply, overcharging and under-delivery. The Commission has undertaken several investigations relating to allegations involving contractors who have specific ICT skills (see case studies on pages 45 and 48).

Public sector managers who are meant to supervise ICT projects can lack sufficient knowledge to monitor contractors, and to understand what constitutes an appropriate price and whether the product has been



Case study: Contractor in control

In 2008, 80% of staff in the Information Technology Directorate at the Department of Education and Training (DET) were contractors. This created a situation where contractors far outnumbered permanent staff members, meaning contractors were often called on to perform the duties of permanent staff members and, in effect, became de facto permanent employees. One manager was responsible for the supervision of 50 of these contractors, making effective supervision very difficult.

The Commission found that a long-term contractor working within this directorate took advantage of the level of responsibility given to him as a project manager. The contractor was able to award work at inflated prices to companies he had colluded with, in one case netting him \$50,450 out of a \$57,695 payment. He was also able to cloak his company's receipt of other benefits, including the private use by his company of subcontractors paid for by the DET.

delivered to the standard expected. Responsibility for managing contractors often falls between human resources (HR) and procurement areas in an organisation; areas that are likely to adopt different corruption controls.

During the reporting period, the Commission commenced a research project on the corruption risks associated with ICT contractors, and will release a publication in 2012–13 outlining best practice principles drawn from private sector management with respect to ICT contractors.

Investigations

Corruption prevention (CP) officers are assigned to the majority of Commission investigations, and seek to identify processes, structures, human factors, external influences and, in some cases, legislative issues that may allow, or be conducive to, the occurrence of corrupt conduct.

During the course of an investigation, CP officers carry out interviews and obtain statements from witnesses to understand the systemic weaknesses that have allowed corrupt conduct to occur. This diagnostic work is carried out with a view to developing recommendations for change that are compatible with the operations of the agency involved in the investigation. Identifying controls related to agency operations requires understanding of the context in which the organisation functions. Developing such knowledge involves consultation with managers and staff in the workplace and identifying best practice from other organisations that perform similar functions. Of the six investigation reports finalised in 2011–12, CP recommendations were made in four.

After an investigation report is made public, the division monitors the implementation of CP recommendations in accordance with section 111E(2) of the ICAC Act. CP officers negotiate timeframes with agencies for the completion and submission of implementation plans, progress reports and final reports to the Commission. Commission recommendations and reports received from agencies concerning implementation are made available to the public on the Commission's website.

Final reports received by the Commission in 2011–12 indicated that 90% of CP recommendations made to agencies were fully implemented or implemented in an alternative way, and a further 8% were partially implemented.



Staff and students on the final day of the Corruption and Anti-Corruption Executive Program, held 14–21 September 2011 at the Australian National University, Canberra.

Just one CP recommendation was not implemented due to legal proceedings. The matter was concluded and the agency advised it will take steps to implement the recommendation in an alternative way. Appendix 5 contains details of all progress and final reports received in 2011–12.

Agency development

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

Advice

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

In 2011–12, a total of 133 telephone and email advice requests were received by the division, compared with 97 received in 2010–11.

The most common areas on which the division provided advice in 2011–12 were procurement and disposal of goods and property, regulatory functions, sponsorship management and governance issues. These issues represent key agency problems in NSW that are the focus of much of the division's corruption prevention work.

Training

The division develops and delivers workshops for NSW public sector managers and staff. In 2010–11, it was decided that training provided by the Commission would be free of charge to public sector agencies to ensure that smaller agencies with limited budgets and those in remote locations could have the same development opportunities as public sector organisations in metropolitan areas. The Commission continued to offer free workshops in 2011–12.

During the reporting period, the division delivered 116 workshops to over 2,000 people; a 30% increase on the 89 workshops delivered in 2010–11. The procurement workshops continue to be the most frequently requested, and comprised 57% of the training conducted in 2011–12. A total of 91% of participants in the workshops rated the workshops as "useful" or "very

"...activities undertaken by the division target various community groups within NSW, and are aimed at raising community awareness of unacceptable behaviour..."

useful” and 94% of participants “agreed” or “strongly agreed” that the workshops met their training needs.

Workshops are generally delivered to agencies in-house on request or following an investigation. Multiple open workshops are held on occasion during the year in metropolitan Sydney for public officials in state agencies and local councils. Of the total number of workshops delivered in 2011–12, 29% were conducted outside of Sydney. This included workshops in Broken Hill, Murwillumbah, Parkes and Lord Howe Island.

Two workshops were also delivered at the Australian Public Sector Anti-Corruption Conference (APSACC) on probity in procurement and how to conduct an internal investigation.

ANU executive program

In exchange for providing teaching services during the course, the Commission is provided with 10 student placements on the Corruption and Anti-Corruption Executive Course run by the Crawford School of Economics and Government at the Australian National University (ANU). The placements are used to sponsor the attendance

of NSW local government and state agency public sector managers.

In 2011–12, 10 scholarships were awarded for the course, which took place in September 2011.

Community awareness and reporting

The community awareness and reporting project cluster intervenes where the behaviour of a group or community, rather than that of an individual, creates an environment conducive to corruption. As such, activities undertaken by the division target various community groups within NSW, and are aimed at raising community awareness of unacceptable behaviour, increasing reports of corruption, and supporting broader anti-corruption initiatives. Further, when investigations or public inquiries have exposed circumstances where a community plays a role in corrupt behaviour, projects are initiated to raise that community’s awareness of the unacceptable behaviour and enlist their support in reducing its occurrence.

Table 12: Number of workshops and training sessions delivered from 2009–10 to 2011–12

Workshop/session	2011–12	2010–11	2009–10
Corruption prevention for managers (full-day or half-day workshop)	45	33	28
Corruption prevention in procurement*	66	40	6
Fact finder (full-day workshop)	3	5	7
Custom workshops (in 2011–12, custom workshops were delivered to Darkinjung Local Aboriginal Land Council and students of the Lismore TAFE Adult Migrant English Program)	2	4	7
Minimising corruption risks in land dealings (for Local Aboriginal Land Councils)**	0	2	13
Superseded workshops (in 2011–12 this included the “Better management of protected disclosures” workshop)***	n/a	5	15
Total	116	89	76

* Includes “Corruption prevention in procurement for managers” (full-day or half-day workshop), “Corruption prevention for procurement officers” (full-day or half-day workshop) and “Probity in procurement” (1.5–2 hours). The 66 workshops delivered in 2011–12 include the “Probity in procurement” workshop, which was delivered at APSACC 2011.

** The Commission did not deliver any workshops on land dealings in the reporting period. These workshops were replaced by visits to Local Aboriginal Land Councils associated with the Aboriginal governance project.

*** These workshops were not delivered in 2011–12. They have been included here to ensure the total figures for previous financial years are accurate. The “Better management of protected disclosures” workshop is no longer delivered by the Commission. As of 1 July 2011, the Office of the NSW Ombudsman was given responsibility under the *Public Interest Disclosures Act 1994* for oversight of protected disclosures in NSW and now undertakes public sector training on the management of disclosures without the involvement of Commission officers.



Case study: Loss of intellectual property

In 2006, the NSW Valuer General entered into a contract with a private company to provide valuation services. To perform this task, the company's employees were given password-protected access to databases managed by the Land and Property Information (LPI) section of the former Land and Property Management Authority. Between 1 May 2009 and 6 November 2009, the passwords of two of the employees were used to download 74,000 strata plans in a premeditated scheme to avoid the fees payable for this information. The Commission's investigation revealed the passwords belonged to two former employees of the company and had been provided by one of them to ingratiate herself with her new employer. The Commission found that the LPI failed to cancel the former employees' access to the database, as they relied on the company to advise them when staff had left their employment.

The corrupt conduct could occur in this instance because the LPI lost control of its intellectual property. The LPI did not monitor contractor usage of its database, despite the inherent risks associated with this usage. Responsibility for managing these risks was not clearly assigned within the LPI; staff involved in managing contractors from the private company believed that the ICT (information and communications technology) department was responsible for managing these risks, while ICT staff believed that these risks were the responsibility of those who managed the contractors.

Aboriginal governance project

Members play a vital part in their Local Aboriginal Land Councils (LALCs). In addition to electing boards to represent them, members vote on important decisions that affect the future of their LALC, including land dealings and community and business initiatives. This means that members, as well as the elected board and staff, need to understand the corruption risks that LALCs can face, such as being alert to anyone who tries to corruptly influence their decisions.

During the reporting period, the Commission delivered information sessions and presentations at regional forums, reaching representatives from 50 of the 119 LALCs in NSW. These took place in Narrabri, Ulladulla, Dubbo, Narromine, Wagga Wagga, Dorriggo Plateau, Lismore, Moree, Mudgee, Mindaribba, Trangie, Leeton, Bowraville and Tibooburra (via teleconference), among others. The Commission also conducted a corruption prevention workshop for nine regional councillors as part of their induction by the NSW Aboriginal Land Council.

In 2011–12, three flyers were printed and distributed to all the LALCs. These were *Members – Help make your LALC strong* (focuses on the importance of member involvement), *Gifts or bribes? Know the difference* (which uses a scenario to show that gift givers can have a corrupt motive) and *What is corrupt conduct?* (focuses on the meaning of corrupt conduct and, importantly, while poor management may not amount to corrupt conduct, someone can take advantage of it for a corrupt purpose).

In 2012–13, the Commission will continue to visit LALCs and talk with members, and plans to go to LALCs in far western NSW.

Speaking engagements

In 2011–12, the Commission sought opportunities to reach key target groups. Commission officers delivered presentations at 79 speaking engagements to an audience of more than 3,220 people (and a further seven presentations at APSACC). This represents a significant increase on the 50 speaking engagements delivered in 2010–11.

Presentations delivered by Commission staff in 2011–12 included sessions at professional development seminars, conferences and directly to public sector agencies. The topics discussed with audiences included the outcomes of Commission investigations and corruption risks in key areas,

particularly in procurement. These speaking engagements were attended in the main by public sector audiences, with culturally and linguistically diverse groups and community leaders being the main community audiences addressed.

“Commission officers delivered presentations at 79 speaking engagements to an audience of more than 3,220 people...”

Regional visits

As part of its Rural and Regional Outreach Program, in 2011–12, the Commission undertook two regional visits to the Central Coast and the North Coast. The visits showcased current Commission cases and priorities, which involved breakfast addresses to community leaders, training for public officials from local agencies, and agency liaison visits. A total of 318 people participated in events associated with the two visits, and seven agency visits were also conducted.

CALD communities

Efforts to ensure anti-bribery messages reach culturally and linguistically diverse (CALD) communities continued during the reporting period, primarily through contact with peak bodies.

Commission staff attended meetings of the NSW Community Relations Commission's Regional



The Commission conducts two visits to rural and regional communities every year to foster and maintain communication channels with communities across the state. During the reporting period, outreach visits were conducted on the NSW Central Coast and the North Coast.

Advisory Boards in Blacktown, Liverpool, Illawarra and Tamworth to allow board members to advise their constituents about corruption and how to report such conduct to the Commission. Anti-bribery information was also presented at the Community Relations Commission's new induction program for interpreters and translators.

On 16 September 2011, Commission staff attended four round-table presentations at the Migration Institute of Australia Annual Conference to discuss the role of migration agents in communicating anti-bribery messages to their clients.

APSACC

The biennial Australian Public Sector Anti-Corruption Conference (APSACC) was held in Fremantle, Western Australia, in November 2011 to heighten the knowledge and skill levels of public sector leaders and managers in order to effectively counter corrupt conduct within their organisations.

The Corruption and Crime Commission in Western Australia hosted the event, which was organised jointly with the Crime and Misconduct Commission in Queensland and the ICAC.

The conference was attended by 551 people. A total of 88% of delegates who completed the evaluation survey rated the overall conference as good to excellent, and 86% indicated that keynote speakers were good to excellent.

The fourth APSACC will be held in Sydney in 2013.



APSACC is the nation's leading anti-corruption conference. The theme for 2011, *A Global Compass – Navigating Public Sector Corruption*, focused on the international dimension of corruption.

The year ahead

In 2012–13, the Corruption Prevention Division will:

- release a consultation paper on the corruption risks associated with funding human services through non-government organisations
- release a publication aimed at managers outlining best practice from the private sector in relation to the management of ICT contractors
- work with the NSW Ombudsman and the Institute of Public Administration Australia NSW to plan and deliver the ninth National Investigations Symposium in November 2012.

Chapter 5: Compliance and accountability



About our compliance framework

Given its extensive statutory powers, it is important that the Commission has an effective compliance framework to ensure it complies with relevant legislative requirements and does not abuse its powers.

In addition to the powers set out in the ICAC Act, Commission officers can:

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

The Commission's compliance framework includes both internal and external accountability systems. Internal accountability mechanisms include:

- strict procedural requirements for the exercise of all statutory powers
- the Strategic Investigation Group, to oversee investigations
- the Prevention Management Group, to oversee Commission corruption prevention activities
- the Executive Management Group, to oversee corporate governance and budgeting, and provide overall strategic direction

- the Audit and Risk Committee, to provide independent assistance to the Commission by overseeing and monitoring the Commission's governance, and risk and control frameworks
- the Work Health and Safety Committee, to consult on health, safety and risk management within the workplace
- the Access and Equity Committee, to oversee equal employment opportunity issues, plans, policies and procedures.

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

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

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

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

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

Roy Waldon is the Executive Director of the Legal Division and Solicitor to the Commission. In 2011–12, the division had an average of 8.6 full-time equivalent staff, and a budget of \$2,528,788.

“...it is important that the Commission has an effective compliance framework to ensure it complies with relevant legislative requirements and does not abuse its powers.”

Internal governance

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

The Commission has an internal committee system to oversee corporate governance, investigations, prosecution brief preparation, prosecutions and corruption prevention initiatives. These committees are the Executive Management Group, the Strategic Investigation Group, and the Prevention Management Group.

The Audit and Risk Committee, Work Health and Safety Committee, and Access and Equity Committee are discussed in chapter 6.

The Legal Division

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

To achieve this, a lawyer is assigned to the preliminary investigation team and each investigation. All applications for the exercise of statutory powers, whether under the ICAC Act or other legislation, are reviewed by the responsible lawyer to ensure they meet relevant regulatory and Operations Manual requirements. Applications are then reviewed by the Executive Director, Legal.

If approved by the Executive Director, Legal, applications for the exercise of powers under the

ICAC Act and some other statutes are submitted to the Commissioner or Assistant Commissioner for final approval. Applications for surveillance device warrants are considered by judges of the NSW Supreme Court. Applications for telecommunications interception warrants are usually made to members of the Administrative Appeals Tribunal (Commonwealth).

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

The Executive Director, Legal audits the Commission's assumed identity records as required under the *Law Enforcement and National Security (Assumed Identities) Act 1998* and the *Law Enforcement and National Security (Assumed Identities) Act 2010*. In 2011–12, the Commission authorised three new assumed identities and revoked two assumed identity authorities. No assumed identity authorities were varied. Assumed identities were granted and used by Commission officers in surveillance operations on people of interest in Commission investigations and to maintain covert arrangements.

The audit was conducted in November 2011. The audit found the Commission had complied with all aspects of the legislation during the reporting period. No fraudulent or other criminal activity was identified.

As with previous reporting periods, the main challenge faced by the Legal Division in 2011–12 was to maintain high standards of legislative and procedural compliance and meet accountability requirements in the face of a substantial workload.

The Legal Division met this challenge by identifying matters requiring priority, maintaining flexibility in the assignment and reallocation of lawyers to matters, and allocating the division's principal lawyer for prosecutions to operational work, as opposed to work on prosecution brief preparation.

“Lawyers assist in the planning and conduct of all investigations and provide advice, as required, to other sections of the Commission.”

Executive Management Group (EMG)

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

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

Strategic Investigation Group (SIG)

The SIG comprises the Commissioner, Deputy Commissioner and all executive directors, except the Executive Director, Corporate Services. It oversees Commission investigations, preparation of investigation reports, preparation of briefs of evidence

for submission to the DPP, and the progress of criminal prosecutions arising from Commission investigations. The SIG usually meets monthly.

Prevention Management Group (PMG)

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

Operations Manual

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

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



The Strategic Investigation Group is one of three principal internal governance bodies that help the Commission to meet its compliance and accountability obligations.

External governance

Parliamentary Committee on the ICAC

The Parliamentary Committee on the ICAC is the means by which the Commission is accountable to the NSW Parliament. It was established by resolution on 6 April 1989 and was reappointed on 22 June 2011.

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

- to monitor and to review the exercise by the Commission and the Inspector of the ICAC of the Commission's and Inspector's functions
- to report to both Houses of Parliament, with such comments as it thinks fit, on any matter appertaining to the Commission or the Inspector of the ICAC or connected with the exercise of its functions to which, in the opinion of the committee, the attention of Parliament should be directed
- to examine each annual and other report of the Commission and of the Inspector of the ICAC and report to both Houses of Parliament on any matter appearing in, or arising out of, any such report
- to examine trends and changes in corrupt conduct, and practices and methods relating to corrupt conduct, and report to both Houses of Parliament any change that the committee thinks desirable to the functions, structures and procedures of the Commission and the Inspector of the ICAC
- to enquire into any question in connection with its functions referred to it by both Houses of Parliament, and report to both Houses of Parliament on that question.

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

The Parliamentary Committee on the ICAC consists of members of Parliament, selected from both the Legislative Assembly and Legislative Council. As of 30 June 2012, the members of the Parliamentary Committee on the ICAC were:

“The Inspector of the ICAC has extensive powers. These include power to investigate any aspect of the Commission's operations or any conduct of officers of the Commission...”

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

In February 2012, the Commission provided a written response to 35 questions on notice from the committee for the purpose of its review of the Commission's 2009–10 and 2010–11 annual reports. Later that month, eight Commission officers appeared at a public hearing held by the committee as part of its review. The committee published its report on this review on 21 June 2012.

Inspector of the ICAC

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

The Inspector of the ICAC:

- audits the operations of the Commission for the purpose of monitoring compliance with the law of NSW
- deals with (by reports and recommendations) complaints of abuse of power, impropriety and other forms of misconduct on the part of the Commission or officers of the Commission



In February 2012, Commission officers appeared at a public hearing of the Parliamentary Committee on the ICAC to review the 2009–10 and 2010–11 annual reports.

- deals with (by reports and recommendations) conduct amounting to maladministration (including delay in the conduct of investigations and unreasonable invasions of privacy) by the Commission or officers of the Commission
- assesses the effectiveness and appropriateness of the procedures of the Commission relating to the legality or propriety of its activities.

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

- investigate any aspect of the Commission's operations or any conduct of officers of the Commission
- require Commission officers to supply information or produce documents or other things relating to the Commission's operations or conduct of Commission officers

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

In 2011–12, the Inspector of the ICAC conducted two audits on the Commission's exercise of certain statutory powers.

In September 2011, the Inspector commenced an audit of the Commission's exercise of its powers under sections 21, 22, 23 and 35 of the ICAC Act. The audit covered the period from 1 September 2010 to 31 March 2011. The Inspector reported the results of the audit in March 2012.

The Inspector of the ICAC found that each notice and summons was issued only in circumstances where a belief was reasonably formed in the light of information available from other sources that its issue was soundly based and that in all cases it was appropriate to issue and act upon the notice or summons in the light of the information then available. The Inspector also found that there was no evidence of abuse of power, impropriety or other forms of misconduct on the part of the Commission or Commission officers and there was no evidence of maladministration, including unreasonable invasions of privacy, or of any action or inaction of a serious nature that was contrary to law, unreasonable, unjust, oppressive or improperly discriminatory or based wholly or partly on improper motives.

In March 2012, the Inspector commenced an audit of applications for, and execution of, surveillance device warrants and retrieval warrants issued under the *Surveillance Devices Act 2007*. The audit covered the period from 1 January 2011 to 31 December 2011. The Inspector reported the results of the audit in May 2012.

The Inspector of the ICAC found that in all cases it was appropriate to apply for, and execute, the surveillance device warrant in light of the information available to the Commission. The Inspector also found that there was no evidence of abuse of power, impropriety or other forms of misconduct on the part of the Commission or Commission officers and there was no evidence of maladministration, including unreasonable invasions of privacy, or of any action or inaction of a serious

nature that was contrary to law, unreasonable, unjust, oppressive or improperly discriminatory or based wholly or partly on improper motives.

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

The Auditor General

The *Public Finance and Audit Act 1983* requires the Commission to keep books and records in relation to the Commission's operations and to prepare a financial report for each financial year. This act requires the Commission to submit the financial report to the Auditor General and the NSW Premier, as the minister responsible for the Commission. The financial report must:

- be prepared in accordance with Australian Accounting Standards
- comply with any written directions of the Treasurer as to form and content
- exhibit a true and fair view of the Commission's financial position and performance.

The Auditor General is required to audit the Commission's financial report. Details of the Commission's financial report and the Auditor General's audit are contained in this annual report.

The NSW Ombudsman

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

The Ombudsman inspected the Commission's telecommunications interception records in February 2012 and June 2012. It was found that all records were kept in accordance with the relevant legislative requirements.

The Ombudsman inspected the Commission's surveillance device records in July 2011, November 2011, February 2012 and June 2012. It was found that all records were kept in accordance with the *Surveillance Devices Act 2007*.

The Ombudsman inspected the Commission's controlled operations records in November 2011. It was found that all records were kept in accordance with the relevant legislative requirements.

Legal changes

A number of amendments to the ICAC Act came into force in September 2011. The purpose of the amendments was to strengthen and clarify the ambit of certain powers of the Commission and the Inspector of the ICAC. In particular, the amendments:

- clarified that the Commission has power to gather, assemble and furnish evidence to the DPP for use in prosecutions after the discontinuance or completion of its investigations
- permit a person who has been summoned to appear at a compulsory examination or public inquiry for the purpose of producing a document or thing to produce the document or thing without appearing if excused from appearance by the Commissioner and for any document or other thing so produced to be privileged
- made it clear that the Industrial Relations Commission cannot deal with an application under Part 6 (unfair dismissals) of Chapter 2 of the *Industrial Relations Act 1996* by a Commission officer whose employment is terminated by the Commissioner
- broadened the powers of the Inspector of the ICAC by enabling the Inspector to report to Parliament at any time on any matter relating to the exercise of the Inspector's principal functions under section 57B of the ICAC Act if the Inspector considers a report to be in the public interest
- made it clear that the Inspector of the ICAC may provide a report or recommendation (or any relevant part of a report or recommendation) concerning any matter relating to the Inspector's principal functions to the Commission, a Commission officer, a person who made a complaint or any other affected person
- clarified the Inspector of the ICAC's ability to obtain and use surveillance device information obtained by the Commission.

Section 76(2)(c) of the ICAC Act requires the Commission to report any recommendations for changes in the laws of the state, or for administrative action, that the Commission considers should be made as a result of the exercise of its functions.

In June 2012, the Commissioner wrote to the NSW Premier and the Parliamentary Committee on the ICAC recommending consideration be given to amending the ICAC Act to make it clear that the Commissioner and the Commission may conduct a public inquiry and prepare an investigation report in circumstances where adverse findings have previously been made against a person who will be involved in the public inquiry and may be subject to further adverse findings in the investigation report.

At the same time, a request was also made that consideration be given to amending the ICAC Act to extend by two years the maximum period for which a person can be appointed as an Assistant Commissioner.

Litigation

The Commission was involved in three litigation matters in the reporting period.

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

On 29 April 2011, Ms D'Amore's solicitors filed a summons in the NSW Supreme Court seeking a declaration that the Commission had exceeded its powers under the ICAC Act in making corrupt conduct findings against Ms D'Amore.

At the hearing on 2 April 2012, counsel for Ms D'Amore argued that the Commission had exceeded its statutory powers because the findings of corrupt conduct were made without any evidence or any rationally probative evidence that Ms D'Amore knew the conditions of the sitting day relief entitlement had not been met.

Judgment was delivered on 14 May 2012. The Supreme Court found that the Commission's findings were not irrational or illogical and were based on rationally probative evidence. It followed that the challenge, based on there being no evidence to support the findings, also failed. Orders were made dismissing Ms D'Amore's summons and ordering her to pay the Commission's costs.

In June 2012, Ms D'Amore's solicitors filed a notice of intention to appeal, indicating that it was intended to commence appeal proceedings on or before 14 August 2012.

The second matter arose from the findings of corrupt conduct made against John Kite in the Commission's December 2001 report on its investigation into matters concerning Mr Kite and the National Parks and Wildlife Service.

In October 2011, Mr Kite commenced proceedings in the NSW Supreme Court seeking to have the findings of corrupt conduct set aside and to recover his expenses associated with a criminal prosecution that arose from the Commission's investigation.

The proceedings were dismissed on 4 May 2012 and Mr Kite was ordered to pay the Commission's costs.

The third matter arose from a finding of corrupt conduct made against Charif Kazal in the Commission's December 2011 report on its investigation into the undisclosed conflict of interest of a senior executive of the Sydney Harbour Foreshore Authority.

On 26 March 2012, Mr Kazal's solicitors filed a summons in the NSW Supreme Court seeking an order or declaration setting aside or declaring invalid or unlawful the Commission's report, a declaration that the report was made without jurisdiction or in excess of jurisdiction, a declaration that on the facts as found in the report the determinations or findings were wrong in law, and an order or injunction preventing the Commission from acting on or taking any further steps in reliance on the report.

The matter has been set down for hearing in February 2013.

“Section 76(2)(c) of the ICAC Act requires the Commission to report any recommendations for changes in the laws of the state...”

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

Complaints against Commission officers

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

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

In 2011–12, the Commission dealt with two matters in which allegations were made about Commission officers.

The first matter concerned an allegation that a Commission officer may have used items of Commission property for private purposes. The Commissioner appointed two Commission officers to conduct an investigation. The investigation established that items of Commission property had been used by the officer for a purpose unconnected with the officer’s official duties. The investigation established, however, that the use was not in contravention of Commission policies.

The second matter concerned an allegation that unknown Commission officers may have arranged the absence from work of a Commission assessment officer (a person who assesses complaints of corrupt conduct) with whom the complainant had been dealing so that the complainant could not provide the assessment officer with information in relation to a matter the complainant claimed was relevant to a public inquiry that was being conducted by the Commission.

It was established that the information the complainant wished to provide was of no relevance to the public inquiry and that the complainant had been advised of this before attempting to contact the assessment officer to provide the information. There was nothing untoward with the assessment officer taking leave. The assessment officer had, prior to taking leave, advised the complainant that if he could not directly contact the assessment officer he could write to the Commission enclosing the additional information.

There was no evidence of any wrongdoing on the part of any Commission officer.

Privacy and personal information

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

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

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

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

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

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

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

Access to information

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

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

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

Section 125 of the GIPA Act requires agencies to report on their obligations under the GIPA Act. The Commission's report is set in appendix 6.

Report publicly about the work of the Commission

Section 76 of the ICAC Act requires the Commission to report on its operations for each year ending on 30 June and to furnish that report to the Presiding Officer of each House of Parliament.

The section provides that the report shall include the following:

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



Inspector of the ICAC His Honour Harvey Cooper AM (right) and ICAC Commissioner the Hon David Ipp AO QC (left) sign the memorandum of understanding between the Commission and the Inspector of the ICAC.

- the total number of compulsory examinations and public inquiries conducted during the year
- the number of days spent during the year in conducting public inquiries
- the time interval between the completion of each public inquiry conducted during the year and the furnishing of a report on the matter
- any recommendations for changes in the laws of the state, or for administrative action, that the Commission considers should be made as a result of the exercise of its functions
- the general nature and extent of any information furnished under the ICAC Act by the Commission during the year to a law enforcement agency

- the extent to which its investigations have resulted in prosecutions or disciplinary action in that year
- the number of search warrants issued by authorised officers and the Commissioner respectively
- a description of its activities during that year in relation to its educating and advising functions.

This information is included in this publication.

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

Table 13: Time interval between completion of each public inquiry and furnishing of the report – section 76(2)(ba)(vi) of the ICAC Act

Public inquiry	Date public inquiry complete*	Date investigation report furnished to presiding officers	Days from end of public inquiry to furnishing of report**
Investigation into corrupt conduct involving alleged fraud on two Sydney hospitals (Operation Charity) (16 day public inquiry)	18/4/11	31/8/11	135
Investigation into the misuse of access rights to a Land and Property Management Authority database (Operation Carina) (2 day public inquiry)	13/7/11	3/11/11	113
Investigation into the unauthorised purchase of property at Currawong by the Chief Executive of the Land and Property Management Authority (Operation Napier) (12 day public inquiry)	25/8/11	12/12/11	109
Investigation into the undisclosed conflict of interest of a senior executive of the Sydney Harbour Foreshore Authority (Operation Vesta) (8 day public inquiry)	14/9/11	16/12/11	93
Investigation into alleged fraud on the former NSW Department of Education and Training (Operation Barcoo) (3 day public inquiry)	30/9/11	18/1/12	110
Investigation into the payment of \$4,500 to a councillor of Auburn City Council (Operation Barrow) (3 day public inquiry)	3/5/12	14/6/12	42

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

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

Investigation reports

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

In 2011–12, the Commission furnished six investigation reports to the Presiding Officers. All were immediately made public. The reports, and the time interval between the completion of the relevant public inquiry and the furnishing of the report, are set out in table 13.

Other publications

The following publications were also produced or revised during the reporting period:

- *Corruption risks in NSW Government procurement – Recommendations to government* (14 July 2011)
- *Corruption risks in NSW Government procurement – Suppliers' perception of corruption* (14 July 2011)
- *Annual Report 2010–2011* (28 October 2011)

- *Section 11: Report guidelines for principal officers* (1 November 2011)
- *Acknowledging your section 11 report* (1 November 2011)
- *Blowing the whistle* (1 November 2011)
- *Help make your LALC strong* (3 November 2011)
- *Providing advice on corruption issues – A guide for community leaders* (21 November 2011)
- *Corruption risks in NSW Government procurement – The management challenge* (14 December 2011)
- *Anti-corruption safeguards and the NSW planning system* (15 February 2012)
- *Fact finder – A guide to conducting internal investigations* (12 March 2012)
- *Gifts or bribes? Know the difference* (27 March 2012)
- *What is corrupt conduct? Information for LALC members* (23 April 2012).

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

The year ahead

In 2012–13, the Commission will:

- undertake to improve the time taken to finalise and publish investigation reports
- ensure compliance with relevant legislative and internal compliance requirements
- respond to requests from the Parliamentary Committee on the ICAC and the Inspector of the ICAC by providing accurate and relevant information in a timely manner.

Chapter 6: Our organisation



About the Corporate Services Division

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

The division also manages other functions, such as recruitment, payroll, risk management and procurement, and provides significant corporate support services to the Health Care Complaints Commission (HCCC) through a shared services agreement.

Andrew Koureas is the Executive Director of the Corporate Services Division. In 2011–12, the division had an average of 21.7 full-time equivalent staff, and an expenses budget of \$2.8 million. The division comprises the Human Resources (HR) and Administration, the Information Management and Technology (IM&T), and the Finance units.

Division's performance in 2011–12

During the reporting period, a new communications and server room was built to accommodate new equipment, provide uninterrupted power supply and improve the room's air-conditioning capacity. This represented the first phase of the information and communications technology (ICT) infrastructure upgrade project.

The Commission also engaged consultants to develop a detailed ICT infrastructure architecture design, which may be used for tendering purposes. In 2012–13, the Commission will submit a revised business case seeking additional funding to fully implement the recommended architecture.

During the reporting period, the audio and video systems in the Commission's Hearing Room were upgraded with additional capacity and redundancy. Plans were also put in place to construct a new hearing room in additional leased office space in 2012–13.

The HR and Administration unit of the division completed the HR payroll procedures manual for both the Commission and the HCCC. In addition, work commenced during the reporting period on the development and implementation of a performance management system using the Commission's existing Aurion HR Management Information System. After extensive system testing, the Commission also requested several changes and product enhancements to its Timekeeper module (part of the Aurion system) to further improve its usability and functionality. It is expected that these changes and enhancements will be implemented in the new financial year.

In 2011–12, the Commission conducted security vetting on 70 applicants (an unprecedented number in one year) who were under consideration for employment, and maintained a systematic review and update of its policies. A contractor was also engaged to provide in-house, customised training to staff and to deliver a series of e-learning applications. During the reporting period, staff participated in training sessions at an average of 4.3 sessions per staff member (540 staff attendances in total).

Commission's staff

Staff profile

The Commission's organisational structure comprises the Executive Unit, Investigation Division, Corruption Prevention Division, Legal Division, Corporate Services Division and Assessments Section (see the organisation chart on page 5).

Table 14: Average full-time equivalent (FTE) staff numbers by division/section

Division/section	2011–12*	2010–11	2009–10	2008–09
Executive	8.5	8.1	8	7.8
Corporate Services	21.7	20.6	20.8	20.3
Corruption Prevention	20.5	20.8	21.7	20.5
Legal	10.4	10.2	9.7	8.8
Investigation	50.7	44.4	44	41.2
Assessments	13	13	13.5	13.3

* Based on Establishment Report figures (internal). There is a variation between these figures and those of the Workforce Profile report, a result of differences in counting criteria.

In 2011–12, the Commission employed an average of 120³ FTE staff (excluding contractors) across its six functional areas. At the end of the reporting period, of the 144 staff working at the Commission, 122 were employed on a permanent basis, 14 on a temporary basis, two were casual employees and six staff (including the Commissioner), were employed in the equivalent of Senior Executive Service (SES) contract positions (see appendix 7).

Personnel vetting

The vetting process is one of the risk management strategies in place to support the integrity and confidentiality of Commission operations and activities. Vetting is designed to make suitability assessments of people who are being considered for work engagement at the Commission. It is applied to prospective staff, contractors and consultants to determine whether those who work at the Commission are suitable to be entrusted with sensitive information or resources as part of their work or are suitable to work in an environment that holds sensitive information. The Commission continues to apply its vigorous security vetting regime to all personnel who work at the Commission.

³ Based on Workforce Profile reporting figures (external).

In the reporting period, an unprecedented 70 referrals were received in one year for the implementation of security vetting. Of this total, 58 requests were processed to completion and eight applicants were not cleared for employment. The remaining four are still being processed.

At the commencement of employment, all new employees receive a security induction, which is in place to promote security and risk management awareness as a way of managing risk and enhancing the security profile of the Commission and its staff.

Conditions of employment

The ICAC Award sets out the conditions of employment for Commission staff. In line with award conditions, a 2.5% increase became effective at the beginning of the first full pay period from 1 July 2011. The increase also applied to some of the award's allowances, such as the Associate Allowance, Community Language Allowance and First Aid Officer's Allowance. The award expired on 30 June 2011. In the past, ICAC Award increases have followed the Crown Employees (Conditions of



In 2011–12, the Commission employed an average of 120 full-time equivalent staff across its six functional areas.

Service) Award. The ICAC Award was listed for a review in March 2012 and adjusted to incorporate the 2.5% pay increase.

Staff performance management

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

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

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

Industrial relations

The Commission, its officers and the Public Service Association (PSA) have maintained a strong commitment to joint consultation. The Commission Consultative Group (CCG), which includes senior management personnel, staff representatives, PSA delegates and industrial officers, ensures that workplace issues, policies and procedures, and organisational changes, are discussed and resolved quickly and effectively.

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

"Vetting is designed to make suitability assessments of people who are being considered for work engagement at the Commission. It is applied to prospective staff, contractors and consultants..."

Policies and procedures

Three comprehensive and detailed HR and payroll procedures manuals were produced during the reporting period. This series of internal manuals is divided into 42 separate procedures across the areas of payroll, conditions of service, recruitment, injury management, superannuation, policy development, external and internal reporting requirements, Senior Executive Service, staff development and end-of-financial year and wage case processing.

There are currently 102 Commission-wide policies. Prior to approval by the Commissioner, all policies are reviewed by the Commission's Executive Management Group (EMG) and endorsed by the CCG. In 2011–12, the Social Media Policy was produced and the following policies and codes were reviewed and updated: Outside Employment Policy, Code of Conduct, Managing Excess Employees Policy and Work Experience Policy.

During the reporting period, the Commission enhanced the Compliance Monitoring Register, which identifies the target date for the systematic review and update of Commission-wide policies to ensure continued compliance with legislative requirements and alignment with the conditions of employment contained in the ICAC Award. Subject to any new legislative changes, several policies have been identified for review in 2012–13.

Risk management

As a result of the Commission's continued commitment to risk management, the Commission's emergency wardens were provided with ongoing training in evacuation procedures, fire awareness,

extinguishers and hose reels, coping in an emergency, and bomb threat procedures. During the reporting period, Commission officers also attended several risk management training sessions, including sessions on operational risk, strategic risk, and work health and safety.

The Commission's physical security measures were continually reviewed and updated. The security system was periodically tested, monitored and rigorously maintained to ensure optimum efficiency. As with any security system, the maintenance and upkeep function of the system is ongoing.

In addition to standard mitigation procedures, additional mitigation measures were put in place for three of the 10 public hearings held during the 2011–12 reporting period.

Five hazards were lodged in 2011–12 and all were mitigated. One hazard related to an isolated incident involving the generation of fumes from refurbishment work being carried out at the Commission. This resulted in project managers being advised of the need to identify potential risks associated with their work on Commission premises beforehand. The other hazards during this period related to office environment incidents.

Table 15: Hazards reported and risks controlled

Reporting period	Number of hazards reported	Risks controlled to an acceptable level?
2011–12	5	yes
2010–11	3	yes
2009–10	3	yes
2008–09	2	yes

Insurance activities

The NSW Treasury Managed Fund provides insurance cover for all of the Commission's activities. It includes workers compensation, motor vehicle, public liability, property and miscellaneous claims. During the year, the workers compensation deposit premium increased by \$19,840 (20%), while the non workers compensation deposit premium increased by \$2,860 (13%).

Information management and technology

Systems and infrastructure

In 2011–12, the Commission upgraded its email system to Microsoft Exchange 10, the HP TRIM Electronic Document and Records Management System (TRIM) to version 6.2.5.1343, and its internet speed to 100mbps. All users were also connected with gigabit speed. The Commission continued enhancements of its Management of Cases, Complaints and Assessments (MOCCA) system.

ICT infrastructure architecture design

In October 2011, external consultants commenced the ICT infrastructure architecture design project. This design document provides the basis for building a new and improved contemporary ICT infrastructure that will better support the Commission's current and long-term ICT needs. This document was completed in December 2011 but implementation is subject to the allocation of additional funding in 2012–13.

Surveillance and technical

In early 2011, the Commission's telephone interception capability was enhanced with the purchase of a server and switching systems. The approval to purchase this specialist telecommunications interception equipment was granted by the NSW Premier through a transfer of project funds.

In June 2011, an upgrade of the computer forensics capability, including software, hardware and storage, was also commenced, and continued during the reporting period.

“...the Commission obtained re-certification for accreditation to the latest ISO/IEC 27001:2005 [information security] in 2006 and has since been complying fully with the requirements of the standards...”

Information security

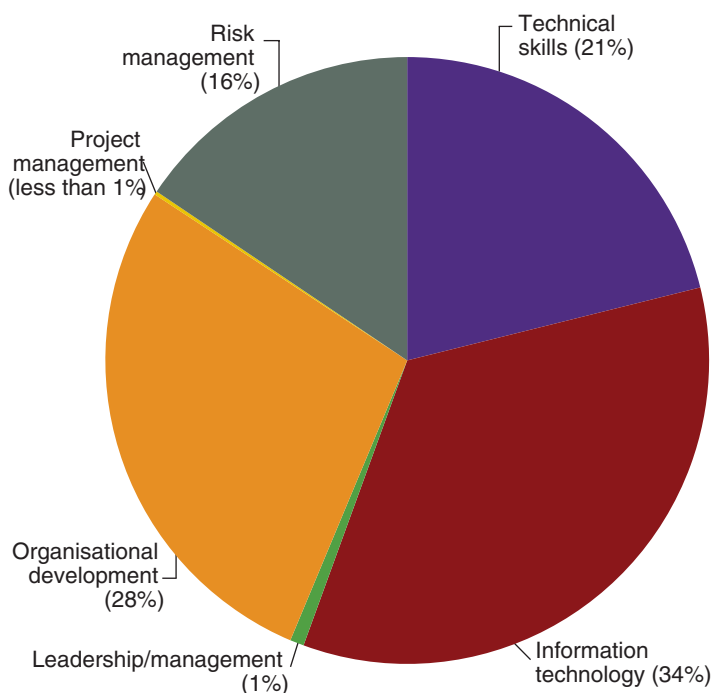
The Commission is conscious of the risks of disclosure of confidential information, and the need to maintain high standards of security and integrity of information systems. To this end, the Commission gained full accreditation to the AS7799.2:2000 Australian Standard for Information Security in 2003. As part of the Commission's ongoing commitment to information security, the Commission obtained re-certification for accreditation to the latest ISO/IEC 27001:2005 in 2006 and has since been complying fully with the requirements of the standards by successfully completing the annual external compliance audits.

Learning and development

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

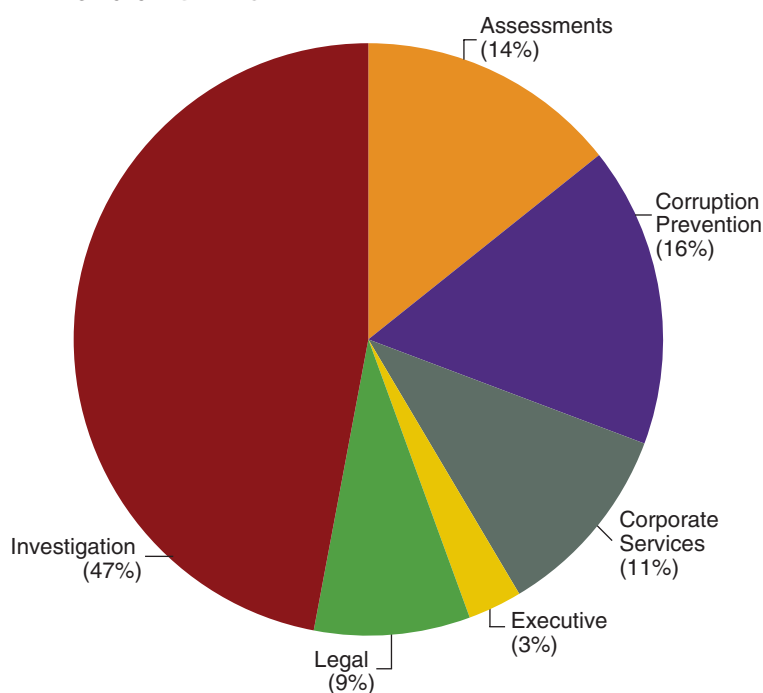
The Commission focuses on six core streams for staff learning and development activities, as shown in the figure below.

Figure 8: Training attendance per core learning stream in 2011–12



There were 540 staff attendances at training sessions in 2011–12, which equates to an average of 4.3 training sessions per staff member. The average number of training sessions per staff member in 2010–11 was 3.0 with a total of 345 staff attendances at training sessions.

Figure 9: Training attendances by staff across the Commission's divisions, section and unit in 2011–12



Among the workshops provided during the reporting period, training was undertaken on work health and safety (WHS) responsibilities for supervisors and managers (in line with new WHS legislation), integrated risk and compliance management, the *Public Interest Disclosures Act 1994*, the internet as an effective research tool, and new Commission staff also undertook a series of e-learning modules. In 2011–12, staff also participated in sessions conducted by the NSW Anti-Discrimination Board on equal employment opportunity, and discrimination and harassment prevention.

During 2011–12, the Commission expanded its training opportunities to staff through the implementation of five e-learning Microsoft Office applications, which were made available on the intranet. This initiative consists of 250 mini lessons that staff can access in their own time and undertake at their own pace.

“The Commission also has in place a range of internal management and staff committees to facilitate good governance.”

In March 2012, the Commission engaged the services of an external trainer to undertake in-house, customised induction and advanced training to staff on the MOCCA system, Tower Records and Information Management (TRIM) system and Microsoft Office products. The trainer also provided customised training and produced instructional manuals and “cheat sheets”.

In 2012–13, the Commission will be implementing a new performance management system through the Aurion payroll system. This will enable the Commission to more effectively capture and address the training needs identified by staff in their individual performance agreements.

The Commission continues to encourage staff to undertake further study to enhance their skills and provides assistance in the form of study leave and examination leave. During 2011–12, three staff obtained qualifications in policing, intelligence and counter-terrorism, public administration and public sector management.

Opportunities also arose during the reporting period for some staff to undertake higher duties and temporary appointments both within divisions and across divisions, which would assist in individual staff career development. The Commission also supported the secondment of two staff members to other NSW public sector agencies and granted leave-without-pay to two other staff members to work for local councils.



The Commission is committed to learning and development. In the reporting period, 540 staff attendances were recorded at training sessions.

Internal committees

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

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

Access and Equity Committee

The primary role of the Access and Equity Committee is to act as the Commission's oversight body for issues, plans and policies related to equal employment opportunity (EEO), and it is responsible for monitoring and implementing the Commission's EEO Management Plan, the Disability Action Plan and the Multicultural Policies and Services Program. The committee reports to the Commissioner through the CCG.

In accordance with the Commission's terms of reference, meetings are held quarterly and the minutes are available to staff via the intranet.

Further information on activities undertaken by the committee, and other Commission access and equity activities, is outlined in appendix 8.

Audit and Risk Committee (ARC)

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

A key role of the committee is to monitor progress on agreed management action arising out of recommendations made by the Commission's independent internal auditors. During the reporting period, an internal audit of investigations was conducted to determine the adequacy and effectiveness of the controls in place to manage risks associated with the planning process. All recommendations, including the development of

the General Investigation Standards and Procedure Manual, were implemented. Another engagement was also undertaken to identify key risks related to the functions of the Corruption Prevention Division.

In 2011–12, four meetings were held by the ARC, which were also attended by the Independent Chair and Member. As the three-year term of the current chair expired on 31 July 2012, the Commission will appoint a new Independent Chair and Member from the list of pre-qualified audit and risk committee members issued by the Department of Finance and Services.

Commission Consultative Group (CCG)

The CCG was established to provide a formal mechanism for consultation and communication between staff and management on matters of policy and procedure before final endorsement of these policies and procedures is provided by the Commissioner. The group also considers issues referred by staff and management that relate to employee policies or procedures with Commission-wide significance.

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

In accordance with the CCG's charter, meetings are held on a monthly basis (or as required), and the minutes are posted on the intranet for staff. Staff are encouraged to contribute to the CCG through a staff representative, and raise any issues relating to the ICAC Award, policies and procedures.

Information Management and Technology Steering Committee

The Information Management and Technology (IM&T) Steering Committee was established to provide a coordinated, whole-of-organisation approach to developing and managing information and IT-related technologies. The committee's membership includes the Commissioner, the Deputy Commissioner and the executive directors of all divisions. The manager of the IM&T unit within the Corporate Services Division is responsible for providing secretariat support.

**Internal Audit and Risk Management Statement
for the 2011–2012 Financial Year for the
Independent Commission Against Corruption**

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

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

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

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

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



The Hon David Ipp AO QC
Commissioner
Independent Commission Against Corruption
6 August 2012

Work Health and Safety (WHS) Committee

The WHS Committee, which superseded the Commission's previous Occupational Health and Safety Committee (pursuant to changes to safety legislation), elected to function on lines similar to the previous committee. Accordingly, the new WHS Committee meets quarterly. It reviews safety policies and practices, conducts regular workplace inspections and facilitates the resolution of safety issues. Three workplace inspections were conducted during the reporting period. No major issues were identified during the inspections.

In 2011–12, the WHS Committee comprised Jacqueline Fredman and Alan Mathison (Assessments Section), Margaret Sutherland and Mary Murabito (Corruption Prevention Division), Chris Wightman (Investigation Division), Nyrelle Colley (Legal Division), and Aruni Wijetunga (chair), Catherine O'Brien and Cathy Walsh (Corporate Services Division). The senior management representative was Andrew Koureas, Executive Director, Corporate Services.

Shared corporate services

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

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

The shared services agreement was renewed for 2012–13 and provides for a modest increase in the service delivery fee.

Additional information related to the work of the Corporate Services Division is available in the appendices.

The year ahead

In 2012–13, the Corporate Services Division will:

- prepare a business case for additional funding to fully implement the ICT upgrade infrastructure project; a large and complex initiative that would be completed in various stages over a two-year period
- implement a performance management system through the Aurion HR Management Information System
- implement further enhancements to the Timekeeper (part of the Aurion system) module
- conduct a significant review of business requirements of MOCCA and develop and implement relevant system enhancements
- upgrade the internet to conform to the World Wide Web Consortium's (W3C) Web Content Accessibility Guidelines (WCAG) 2.0 Level A
- continue compliance to ISO/IEC 27001:2005 Standards for Information Security
- construct a new hearing room in additional leased office space and complete audio, video and media streaming facilities as well as the local area network access
- continue to provide staff with suitable training and development opportunities
- arrange supplementary funding requests to meet anticipated recurrent and capital funding needs.

Financials







INDEPENDENT COMMISSION
AGAINST CORRUPTION

Statement by Commissioner

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

- (a) the accompanying financial statements in respect of the year ended 30 June 2012 have been prepared in accordance with applicable Australian Accounting Standards (which include Australian Accounting Interpretations), the requirements of the Act, and Regulation 2010, and the Financial Reporting Directions published in the Financial Reporting Code for NSW General Government Sector Entities or issued by the Treasurer under section 9(2) of the Act
- (b) the financial statements exhibit a true and fair view of the financial position and financial performance of the Independent Commission Against Corruption
- (c) there are no circumstances that would render any particulars included in the financial statements to be misleading or inaccurate.

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

The Hon David Ipp AO QC
Commissioner

28 September 2012



INDEPENDENT AUDITOR'S REPORT

Independent Commission Against Corruption

To Members of the New South Wales Parliament

I have audited the accompanying financial statements of the Independent Commission Against Corruption (the Commission), which comprise the statement of financial position as at 30 June 2012, the statement of comprehensive income, statement of changes in equity, statement of cash flows and a summary of compliance with financial directives for the year then ended, notes comprising a summary of significant accounting policies and other explanatory information.

Opinion

In my opinion, the financial statements:

- give a true and fair view of the financial position of the Commission as at 30 June 2012, and of its financial performance and its cash flows for the year then ended in accordance with Australian Accounting Standards
- are in accordance with section 45E of the *Public Finance and Audit Act 1983* (the PF&A Act) and the Public Finance and Audit Regulation 2010.

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

Commissioner's Responsibility for the Financial Statements

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

Auditor's Responsibility

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

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

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

My opinion does *not* provide assurance:

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

Independence

In conducting my audit, I have complied with the independence requirements of the Australian Auditing Standards and relevant ethical pronouncements. The PF&A Act further promotes independence by:

- providing that only Parliament, and not the executive government, can remove an Auditor-General
- mandating the Auditor-General as auditor of public sector agencies but precluding the provision of non-audit services, thus ensuring the Auditor-General and the Audit Office of New South Wales are not compromised in their roles by the possibility of losing clients or income.



Peter Achterstraat
Auditor-General

28 September 2012
SYDNEY

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Statement of comprehensive income for the year ended 30 June 2012

	Notes	Actual 2012 \$'000	Budget 2012 \$'000	Actual 2011 \$'000
Expenses excluding losses				
Operating expenses				
Employee related	2(a)	16,910	16,524	15,282
Other operating expenses	2(b)	5,940	5,920	4,957
Depreciation and amortisation	2(c)	967	1,091	739
Total expenses excluding losses		23,817	23,535	20,978
Revenue				
Recurrent appropriation	3	20,496	20,508	19,186
Capital appropriation	3	1,162	4,983	236
Sale of goods and services	3(b)	332	350	401
Investment revenue	3(c)	82	80	66
Acceptance by the Crown Entity of employee benefits and other liabilities	3(e)	1,108	506	671
Other revenue	3(d)	7	2,849	59
Total Revenue		23,187	29,276	20,619
Gain/(Loss) on disposal	4	–	–	(3)
Net result	16	(630)	5,741	(362)
Total comprehensive income		(630)	5,741	(362)

The accompanying notes form part of these statements.

Statement of financial position as at 30 June 2012

	Notes	Actual 2012 \$'000	Budget 2012 \$'000	Actual 2011 \$'000
Assets				
Current Assets				
Cash and cash equivalents	6	1,276	1,947	1,848
Receivables	7	818	354	443
Total Current Assets		2,094	2,301	2,291
Non-Current Assets				
Property, plant and equipment	8			
– Leasehold improvements		328	4,754	197
– Plant and equipment		1,246	2,288	675
Total property, plant and equipment		1,574	7,042	872
Intangible assets	9	569	497	691
Total Non-Current Assets		2,143	7,539	1,563
Total Assets		4,237	9,840	3,854
Liabilities				
Current Liabilities				
Payables	10	792	596	390
Provisions	11	1,684	1,522	1,493
Other	12	30	–	4
Total Current Liabilities		2,506	2,118	1,887
Non-Current Liabilities				
Provisions	11	407	–	14
Total Non-Current Liabilities		407	–	14
Total Liabilities		2,913	2,118	1,901
Net Assets		1,324	7,722	1,953
Equity				
Reserves		409	409	409
Accumulated funds		915	7,313	1,544
Total Equity		1,324	7,722	1,953

The accompanying notes form part of these statements.

Statement of changes in equity for the year ended 30 June 2012

	Notes	Accumulated Funds \$'000	Asset Revaluation Surplus \$'000	Total \$'000
Balance at 1 July 2011		1,544	409	1,953
Net result for the year		(630)	–	(630)
Total comprehensive income for the year		(630)	–	(630)
Balance at 30 June 2012		915	409	1,324
Balance at 1 July 2010		1,906	409	2,315
Net result for the year		(362)	–	(362)
Total comprehensive income for the year		(362)	–	(362)
Balance at 30 June 2011		1,544	409	1,953

The accompanying notes form part of these statements.

Statement of cash flows for the year ended 30 June 2012

	Notes	Actual 2012 \$'000	Budget 2012 \$'000	Actual 2011 \$'000
Cash flows from operating activities				
Payments				
Employee related		(15,438)	(16,017)	(14,511)
Other		(6,619)	(6,648)	(5,817)
Total Payments		(22,057)	(22,665)	(20,328)
Receipts				
Recurrent appropriation	3	20,496	20,508	19,186
Capital appropriation	3	1,192	4,983	236
Sale of goods and services		340	350	401
Interest received		78	49	75
GST		571	–	599
Sundry debtors		–	–	1
Cash transfers to the Consolidated Fund		(30)	(4)	–
Other		–	3,945	59
Total Receipts		22,647	29,831	20,557
Net cash flows from operating activities	16	590	7,166	229
Cash flows from investing activities				
Proceeds from sale of plant and equipment		–	–	–
Purchases of property, plant and equipment		(1,162)	(7,000)	(236)
Other		–	(70)	–
Net cash flows from investing activities		(1,162)	(7,070)	(236)
Net increase/(decrease) in cash and cash equivalents		(572)	96	(7)
Opening cash and cash equivalents		1,848	1,851	1,855
Closing cash and cash equivalents	6	1,276	1,947	1,848

The accompanying notes form part of these statements.

Summary of compliance with financial directives

2012					2011			
	Recurrent Appropriation \$'000	Expenditure/ Net claim on Consolidated Fund \$'000	Capital Appropriation \$'000	Expenditure/ Net claim on Consolidated Fund \$'000	Recurrent Appropriation \$'000	Expenditure/ Net claim on Consolidated Fund \$'000	Capital Appropriation \$'000	Expenditure/ Net claim on Consolidated Fund \$'000
Original budget appropriation/ expenditure								
– Appropriation Act	20,496	20,496	1,192	1,162	17,986	17,986	240	236
	20,496	20,496	1,192	1,162	17,986	17,986	240	236
Other appropriations/ expenditure								
– Treasurer's Advances	–	–	–	–	1,200	1,200	–	–
	–	–	–	–	1,200	1,200	–	–
Total Appropriations								
Expenditure/Net Claim on Consolidated Fund (includes transfer payments)	20,496	20,496	1,192	1,162	19,186	19,186	240	236
Amount drawn down against Appropriation		20,496		1,192		19,186		240
Liability to Consolidated Fund*		–		30		–		4

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

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

The accompanying notes form part of these statements.

Notes to and forming part of the financial statements for the year ended 30 June 2012

1. Summary of Significant Accounting Policies

a. Reporting entity

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

The Commission is a NSW government entity. The Commission is a not-for-profit entity (as profit is not its principal objective) and it has no cash generating units. The reporting entity is consolidated as part of the NSW Total State Sector Accounts.

The financial statements for the year ended 30 June 2012 have been authorised for issue by the Commissioner on 28 September 2012.

b. Basis of preparation

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

- applicable Australian Accounting Standards (that include Australian Accounting Interpretations)
- the requirements of the *Public Finance and Audit Act 1983* and Regulation
- the Financial Reporting Directions published in the Financial Reporting Code for NSW General Government Sector Entities or issued by the Treasurer.

The financial statements are prepared in accordance with the historical cost convention, except for property, plant and equipment, which are at fair value.

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

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

c. Statement of compliance

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

d. Insurance

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

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

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

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

Cash flows are included in the statement of cash flows on a gross basis. However, the GST components of cash flows arising from investing and financing activities, which are recoverable from, or payable to, the Australian Taxation Office, are classified as operating cash flows.

f. Income recognition

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

i. Parliamentary appropriations and contributions

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

Notes to and forming part of the financial statements for the year ended 30 June 2012

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

The liability is disclosed in Note 12 as part of "Current liabilities – other".

ii. Sale of goods

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

iii. Rendering of services

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

iv. Investment revenue

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

g. Assets

i. Acquisitions of assets

The cost method of accounting is used for the initial recording of all acquisitions of assets controlled by the Commission. Cost is the amount of cash or cash equivalents paid or the fair value of the other consideration given to acquire the asset at the time of its acquisition or construction or, where applicable, the amount attributed to that asset when initially recognised in accordance with the requirements of other Australian Accounting Standards.

Assets acquired at no cost, or for nominal consideration, are initially recognised at their fair value at the date of acquisition.

Fair value is the amount for which an asset could be exchanged between knowledgeable, willing parties in an arm's length transaction.

Where payment for an asset is deferred beyond normal credit terms, its cost is the cash price

equivalent, that is deferred payment amount is effectively discounted at an asset-specific rate.

ii. Capitalisation thresholds

The capitalisation threshold for property, plant and equipment and intangible assets was revised during the reporting period from \$5,000 to \$10,000. This means that all property, plant and equipment and intangible assets costing \$10,000 and above individually (or forming part of a network costing more than \$10,000) are capitalised.

iii. Revaluation of property, plant and equipment

Physical non-current assets are valued in accordance with the "Valuation of Physical Non-Current Assets at Fair Value" Policy and Guidelines Paper (TPP 07-1). This policy adopts fair value in accordance with AASB 116 *Property, Plant and Equipment*.

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

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

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

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

Notes to and forming part of the financial statements for the year ended 30 June 2012

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

iv. Impairment of property, plant and equipment

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

v. Depreciation of property, plant and equipment

Depreciation is provided for on a straight-line basis for all depreciable assets so as to write off the depreciable amount of each asset as it is consumed over its useful life to the Commission.

All material separately identifiable components of assets are depreciated over their shorter useful lives.

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

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

vi. Maintenance

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

vii. Leased assets

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

The Commission has no finance lease arrangements.

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

viii. Intangible assets

The Commission recognises intangible assets only if it is probable that future economic benefits will flow to the Commission and the cost of the asset can be measured reliably. Intangible assets are measured initially at cost. Where an asset is acquired at no or nominal cost, the cost is its fair value as at the date of acquisition.

The useful lives of intangible assets are assessed to be finite.

Intangible assets are subsequently measured at fair value only if there is an active market. As there is no active market for the Commission's intangible assets, the assets are carried at cost less any accumulated amortisation.

The Commission's intangible assets, that is, computer software, are amortised using the straight-line method over four years.

ix. Receivables

Receivables are non-derivative financial assets with fixed or determinable payments that are not quoted in an active market. These financial assets are recognised initially at fair value, usually based on the transaction cost or face value. Subsequent measurement is at amortised cost using the effective interest method, less an allowance for any impairment of receivables. Any changes are recognised in the net result for the year when impaired, de-recognised or through the amortisation process.

Notes to and forming part of the financial statements for the year ended 30 June 2012

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

x. Impairment of financial assets

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

The amount of the impairment loss is recognised in the net result for the year.

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

xi. De-recognition of financial assets and financial liabilities

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

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

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

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

h. Liabilities

i. Payables

These amounts represent liabilities for goods and services provided to the Commission and other amounts. Payables are recognised initially at fair value, usually based on the transaction cost or face value. Subsequent measurement is at amortised cost using the effective interest method. Short-term payables with no stated interest rate are measured at the original invoice amount where the effect of discounting is immaterial.

ii. Financial guarantees

A financial guarantee contract is a contract that requires the issuer to make specified payments to reimburse the holder for a loss it incurs because a specified debtor fails to make payment when due in accordance with the original or modified terms of a debt instrument. The Commission does not have any financial guarantee contracts.

iii. Employee benefits and other provisions

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

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

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

Notes to and forming part of the financial statements for the year ended 30 June 2012

bonds of 4.30% are used to discount long-term annual leave.

Unused non-vesting sick leave does not give rise to a liability, as it is not considered probable that sick leave taken in the future will be greater than the benefits accrued in the future.

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

(b) Long service leave and superannuation

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

Long service leave is measured at present value in accordance with AASB 119 *Employee Benefits*. This is based on the application of certain factors (specified in NSW TC 12/06) to employees with five or more years of service, using current rates of pay. These factors were determined based on an actuarial review to approximate present value.

The superannuation expense for the financial year is determined by using the formulae specified in the Treasurer's Circular (TC 12/06). The expense for certain superannuation schemes (that is, Basic Benefit and First State Super) is calculated as a percentage of the employees' salary. For other superannuation schemes (that is, State

Superannuation Scheme and State Authorities Superannuation Scheme), the expense is calculated as a multiple of the employees' superannuation contributions.

iv. Other provisions

The Commission has a present legal obligation to make good its current accommodation premises at Piccadilly Centre when the current lease agreement terminates on 15 October 2014. This obligation is being recognised for the first time in the 2011–12 financial year as the Piccadilly Centre lease – make good provision (Note 11). This is because it is probable that an outflow of resources will be required to settle the obligation; and a reliable estimate can be made of the amount of the obligation.

As the effect of the time value of money is material, provisions are discounted at 5.5%, which is a pre-tax rate that reflects the current market assessments of the time value of money and the risks specific to the liability.

i. Equity and reserves

(a) Revaluation surplus

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

(b) Accumulated funds

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

(c) Separate reserve accounts are recognised in the financial statements only if such accounts are required by specific legislation or Australian Accounting Standards (for example, asset revaluation surplus).

Notes to and forming part of the financial statements for the year ended 30 June 2012

j. Budgeted amounts

The budgeted amounts are drawn from the original budgeted financial statements in respect of the reporting period, as adjusted for section 24 of the *Public Finance and Audit Act 1983* where there has been a transfer of functions between departments. Other amendments made to the budget are not reflected in the budgeted amounts.

k. Comparative information

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

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

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

Notes to and forming part of the financial statements for the year ended 30 June 2012

2. Expenses excluding losses

	2012 \$'000	2011 \$'000
(a) Employee related expenses		
Salaries and wages (including recreation leave)*	13,716	12,668
Superannuation – defined benefit plans	271	435
Superannuation – defined contribution plans	886	845
Long service leave	954	220
Workers compensation insurance	117	97
Payroll tax and fringe benefits tax	952	869
Temporary assistance	14	23
	16,910	15,157
* Employee related expenses capitalised in Note 9 – Intangible assets, and therefore excluded from the above		
Salaries and wages (including recreation leave)	–	15
	–	15
(b) Other operating expenses include the following:		
Auditor's remuneration		
– audit of the financial statements	34	33
Operating lease rental expense		
– minimum lease payments	2,201	2,137
Insurance	23	19
Cleaning	30	20
Electricity	97	98
Travelling, air fares and subsistence	147	115
Taxi and motor vehicle rentals	22	15
Consultancy fees	212	52
Contractor fees	366	124
External legal fees	852	758
Transcript fees	137	121
Fees for services	77	163
Contract security services	199	203
Training	144	123
Advertising and publicity	90	35
Books and subscriptions	139	110
Postal and telephone	120	124
Printing	66	79
Stores and specialised supplies	101	96
Minor computer equipment/licences	111	57
Courier and freight	2	2
Maintenance*	296	253
Other	474	344
	5,940	5,081

Notes to and forming part of the financial statements for the year ended 30 June 2012

	2012 \$'000	2011 \$'000
* Reconciliation – Total maintenance		
Maintenance expense – other (non-employee related), as above	296	253
Employee related maintenance expense included in Note 2(a)	–	–
Total maintenance expenses included in Note 2(a) + 2(b)	296	253
(c) Depreciation and amortisation expense		
Depreciation		
Leasehold improvements	321	90
Computer equipment	217	219
Plant and equipment	123	139
	661	448
Amortisation		
Intangibles – computer software	306	291
Total depreciation and amortisation	967	739

3. Revenue

	2012 \$'000	2011 \$'000
(a) Appropriations		
Recurrent appropriations		
Total recurrent draw-downs from NSW Treasury (per Summary of compliance)	20,496	19,186
Less: Liability to Consolidated Fund* (per Summary of compliance)	–	–
	20,496	19,186
Comprising:		
Recurrent appropriations (per Statement of comprehensive income)	20,496	19,186
Capital appropriations		
Total capital draw-downs from NSW Treasury (per Summary of compliance)	1,192	240
Less: Liability to Consolidated Fund* (per Summary of compliance)	(30)	(4)
	1,162	236
Comprising:		
Capital appropriations (per Statement of comprehensive income)	1,162	236

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

Notes to and forming part of the financial statements for the year ended 30 June 2012

	2012 \$'000	2011 \$'000
(b) Sale of goods and services		
Corporate Services Support – Health Care Complaints Commission	332	333
Presentation and seminar fees	–	68
	332	401
(c) Interest revenue	82	66
(d) Other revenue		
Profit share – 8th National Investigations Symposium	–	20
Other	7	39
	7	59
(e) Acceptance by the Crown Entity of employee benefits and other liabilities		
The following liabilities and/or expenses have been assumed by the Crown Entity:		
Superannuation – defined benefit	271	435
Long service leave	822	219
Payroll tax (on employer superannuation contributions)	15	17
	1,108	671

4. Gain/(loss) on disposal

	2012 \$'000	2011 \$'000
Written-down value of assets disposed	–	3

5. Service Group of the Commission

Corruption Investigation, Prevention, Research and Education

The Commission has one service group.

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

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

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

Notes to and forming part of the financial statements for the year ended 30 June 2012

6. Current assets – cash and cash equivalents

	2012 \$'000	2011 \$'000
Cash at bank and on hand	1,276	1,848

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

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

	2012 \$'000	2011 \$'000
Cash and cash equivalents (per statement of financial position)	1,276	1,848
Closing cash and cash equivalents (per statement of cash flows)	1,276	1,848

7. Current/Non-current assets – receivables

	2012 \$'000	2011 \$'000
Sale of goods and services	–	–
Retained taxes, fees and fines	327	142
Prepayments	423	251
Other receivables		
sundry debtors	10	–
interest income	43	39
other	15	12
	818	444

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

Details regarding credit risk, liquidity risk and market risk, including financial assets that are either past due or impaired are disclosed in Note 17.

8. Non-current assets – property, plant and equipment

	Leasehold improvements \$'000	Plant and equipment \$'000	Computer equipment \$'000	Work in progress \$'000	Total \$'000
At 1 July 2011 – fair value					
Gross carrying amount	937	1,355	1,747	–	4,039
Accumulated depreciation and impairment	(740)	(1,073)	(1,354)	–	(3,167)
Net carrying amount	197	282	393	–	872
At 30 June 2012 – fair value					
Gross carrying amount	1,390	1,365	1,823	755	5,333
Accumulated depreciation and impairment	(1,062)	(1,129)	(1,568)	–	(3,759)
Net carrying amount	328	236	255	755	1,574

Notes to and forming part of the financial statements for the year ended 30 June 2012

Reconciliation

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

	Leasehold improvements \$'000	Plant and equipment \$'000	Computer equipment \$'000	Work in progress \$'000	Total \$'000
Year ended 30 June 2012					
Net carrying amount at start of year	197	283	392	–	872
Additions	452	76	80	755	1,363
Disposals	–	–	–	–	–
Depreciation expense	(321)	(123)	(217)	–	(661)
Net carrying amount at end of year	328	236	255	755	1,574
At 1 July 2010 – fair value					
Gross carrying amount	937	1,379	1,737	–	4,053
Accumulated depreciation and impairment	(650)	(994)	(1,215)	–	(2,859)
Net carrying amount	287	385	522	–	1,194
At 30 June 2011 – fair value					
Gross carrying amount	937	1,355	1,747	–	4,039
Accumulated depreciation and impairment	(740)	(1,073)	(1,354)	–	(3,167)
Net carrying amount	197	282	393	–	872

Reconciliation

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

	Leasehold improvements \$'000	Plant and equipment \$'000	Computer equipment \$'000	Work in progress \$'000	Total \$'000
Year ended 30 June 2011					
Net carrying amount at start of year	287	385	522	–	1,194
Additions	–	36	92	–	128
Disposals	–	–	(2)	–	(2)
Depreciation expense	(90)	(139)	(219)	–	(448)
Net carrying amount at end of year	197	282	393	–	872

Notes to and forming part of the financial statements for the year ended 30 June 2012

9. Intangible assets

	Software \$'000	Work in progress \$'000	Total \$'000
At 1 July 2011			
Cost (gross carrying amount)	1,930	–	1,930
Accumulated amortisation and impairment	(1,239)	–	(1,239)
Net carrying amount	691	–	691
At 30 June 2012			
Cost (gross carrying amount)	2,035	80	2,115
Accumulated amortisation and impairment	(1,546)	–	(1,546)
Net carrying amount	489	80	569
Year ended 30 June 2012			
Net carrying amount at start of year	691	–	691
Additions	104	80	184
Disposals	–	–	–
Amortisation expense	(306)	–	(306)
Net carrying amount at end of year	489	80	569
At 1 July 2010			
Cost (gross carrying amount)	1,886	25	1,911
Accumulated amortisation and impairment	(1,040)	–	(1,040)
Net carrying amount	846	25	871
At 30 June 2011			
Cost (gross carrying amount)	1,930	–	1,930
Accumulated amortisation and impairment	(1,239)	–	(1,239)
Net carrying amount	691	–	691
Year ended 30 June 2011			
Net carrying amount at start of year	846	25	871
Additions	111	–	111
Disposals	–	–	–
Transfer	25	(25)	–
Amortisation expense	(291)	–	(291)
Net carrying amount at end of year	691	–	691

Notes to and forming part of the financial statements for the year ended 30 June 2012

10. Current liabilities – payables

	2012 \$'000	2011 \$'000
Creditors	2	–
Accrued salaries, wages and on-costs	411	245
Accrued expenses	379	145
	792	390

Details regarding credit risk, liquidity risk and market risk, including a maturity analysis of the above payables, are disclosed in Note 17.

11. Current/non-current liabilities – provisions

	2012 \$'000	2011 \$'000
Current		
Employee benefits and related on-costs		
Recreation leave (includes annual leave loading)	1,124	1,099
Payroll tax on long service leave (and fringe benefits tax payable)	57	60
Recreation leave oncosts	75	68
Long service leave oncosts	428	266
	1,684	1,493
Non-current		
Employee benefits and related on-costs		
Long service leave oncosts	14	7
Provision for payroll tax on long service leave	9	7
Piccadilly Centre lease – make good provision	384	–
	407	14
Aggregate employee benefits and related on-costs		
Provision – current	1,684	1,493
Provision – non-current	23	14
Accrued salaries, wages and on-costs (Note 10)	411	245
	2,118	1,752

12. Current liabilities – other

	2012 \$'000	2011 \$'000
Liability to Consolidated Fund	30	4

Notes to and forming part of the financial statements for the year ended 30 June 2012

13. Commitments for expenditure

	2012 \$'000	2011 \$'000
(a) Capital commitments		
Aggregate other expenditure for the acquisition of goods/services contracted for at balance date and not provided for:		
Not later than one year	21	–
Later than one year and not later than five years	–	–
Later than five years	–	–
Total (including GST)	21	–

The total "capital commitments" above includes potential input tax credits of \$1,883.02 (2011:\$nil).

(b) Operating lease commitments		
Future non-cancellable operating lease rental not provided for and payable:		
Not later than one year	2,154	2,186
Later than one year and not later than five years	2,824	5,028
Later than five years	–	–
Total (including GST)	4,978	7,214

The total "operating lease commitments" above includes potential input tax credits of \$452,501 (2011: \$655,789) that are expected to be recoverable from the ATO. The operating lease commitments represent the balance of the five-year lease option for the current accommodation at Piccadilly Centre and motor vehicle leases.

14. Contingent liabilities and contingent assets

The Commission has contingent liabilities estimated at \$141,000 representing potential legal expenses for which the Crown Solicitor is acting on behalf of the Commission as at 30 June 2012 (30 June 2011:\$53,000).

The Commission will seek reimbursement of the \$135,000 from the Treasury Managed Fund (\$6,000 is Commission funded) if the liabilities are realised.

15. Budget review

Net result

The actual net result was unfavourable to budget by \$6,371,000, primarily due to the unanticipated cessation of the relocation of the Commission premises (\$2,681,000 – capital appropriation; \$2,784,000 – lessor revenue contribution), the deferral of the ICT Infrastructure Project (\$1,600,000) and unanticipated increase in the long service leave and consequential on-costs actuarial assessment for the 2011–12 financial year of \$547,602. The decreased receipts detailed were offset by an approximate \$1,000,000 decrease in expenditure previously planned for the relocation of the Commission's premises. In addition, the Commission gained approval for supplementary funding of \$620,000 of which \$250,000 was absorbed by the Commission and \$370,000 rolled over to 2012–13.

Discounting the effects of the office relocation project, the underlying result was \$906,000 higher than budget.

Authorisation was obtained from Treasury to retain \$490,000 of capital appropriations from the relocation project to upgrade its surveillance equipment due to changes in its previous sharing arrangements with the NSW Crime Commission.

Assets and liabilities

Current assets were \$224,000 lower than budget as the result of decreased cash balances. Non current assets were \$5,396,000 lower than budget for reasons previously detailed.

Total liabilities were higher than budgeted (\$778,000) due to the increased long service leave and consequential costs actuarial assessment and the first time recognition of the Commission's premises lease make good provision of \$384,830 due to be realised at the end of the lease in October 2014.

Cash flows

The Commission's capital appropriation was lower than budget by \$3,821,000 due to reasons detailed in the net result review paragraph above.

Notes to and forming part of the financial statements for the year ended 30 June 2012

16. Reconciliation of cash flows from operating activities to Net result

	2012 \$'000	2011 \$'000
Net cash used on operating activities	590	229
Depreciation	(967)	(739)
(Increase)/decrease in provision for employee entitlements	(191)	(37)
Increase/(decrease) in prepayments and other assets	358	(1)
Decrease/(increase) in payables	(420)	186
Net gain/(loss) on sale of assets		
Net Result	(630)	(362)

17. Financial instruments

The Commission's principal financial instruments are outlined below. These financial instruments arise directly from the Commission's operations or are required to finance the Commission's operations. The Commission does not enter into or trade financial instruments, including derivative instruments, for speculative purposes.

The Commission's main risks arising from financial instruments are outlined below, together with the Commission's objectives, policies and processes for measuring and managing risk. Further quantitative and qualitative disclosures are included throughout the financial statements.

The Executive Director, Corporate Services has overall responsibility for the establishment and oversight of risk management and reviews and agrees on policies for managing each of these risks. Risk management policies are established to identify and analyse the risks faced by the Commission, to set risk limits and controls, and to monitor risks. From time to time, compliance with policies is reviewed by the Audit and Risk Committee/internal audit.

(a) Financial instrument categories

Financial Assets	Note	Category	Carrying Amount	Carrying Amount
			2012 \$'000	2011 \$'000
Class:				
Cash and cash equivalents	6	N/A	1,276	1,848
Receivables ¹	7	Loans and receivables (at amortised cost)	68	13
Financial Liabilities	Note	Category	Carrying Amount	Carrying Amount
			2012 \$'000	2011 \$'000
Class:				
Payables ²	10	Financial liabilities measured at amortised cost	380	145

Notes

1. Excludes statutory receivables and prepayments (not within scope of AASB 7).
2. Excludes statutory payables and unearned revenue (not within scope of AASB 7).

Notes to and forming part of the financial statements for the year ended 30 June 2012

(b) Credit risk

Credit risk arises when there is the possibility of the Commission's debtors defaulting on their contractual obligations, resulting in a financial loss to the Commission. The maximum exposure to credit risk is generally represented by the carrying amount of the financial assets (net of any allowance for impairment).

Credit risk arises from the financial assets of the Commission, including cash and receivables. No collateral is held by the Commission. The Commission has not granted any financial guarantees.

Cash

Cash comprises cash on hand and bank balances within the NSW Treasury Banking System. Interest is earned on daily bank balances at the monthly average NSW Treasury Corporation (Tcorp) 11 am unofficial cash rate adjusted for a management fee to Treasury. The average interest rate during the period was 4.23%. The average rate for 2010–11 was 4.45%.

Receivables – trade debtors

All trade debtors are recognised as amounts receivable at balance date. Collectability of trade debtors is reviewed on an ongoing basis. Procedures as established in the Treasurer's Directions are followed to recover outstanding amounts, including letters of demand. Debts that are known to be uncollectable are written off. An allowance for impairment is raised when there is objective evidence that the entity will not be able to collect all amounts due. This evidence includes past experience, and current and expected changes in economic conditions and debtor credit ratings.

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

The Commission is not materially exposed to concentrations of credit risk to a single trade debtor or group of debtors. Based on past experience, debtors that are not past due (2012:\$nil ; 2011:\$nil) and not less than 12 months past due (2012:\$nil; 2011:\$nil) are not considered impaired and together these represent 100% of the total trade debtors. All of the Commission's debtors are other government departments or government authorities. There are no debtors which are currently not past due or impaired whose terms have been renegotiated.

(c) Liquidity risk

Liquidity risk is the risk that the Commission will be unable to meet its payment obligations when they fall due. The Commission continuously manages risk through monitoring future cash to ensure adequate holding of liquid assets. The objective is to maintain a balance between continuity of funding and flexibility through the use of overdrafts, loans and other advances.

During the current and prior years, there were no defaults on any loans payable. No assets have been pledged as collateral. The Commission's exposure to liquidity risk is deemed insignificant based on prior periods' data and current assessment of risk.

The liabilities are recognised for amounts due to be paid in the future for goods or services received, whether or not invoiced. Amounts owing to suppliers (which are unsecured) are settled in accordance with the policy set out in NSW TC 11/12. For small business suppliers, where terms are not specified, payment is made no later than 30 days from date of receipt of a correctly rendered invoice. For other suppliers, if trade terms are not specified, payment is made no later than the end of the month following the month in which an invoice or a statement is received. For small business suppliers, where payment is not made within the specified time period, simple interest must be paid automatically unless an existing contract specifies otherwise. For payments to other suppliers, the head of an authority (or a person appointed by the head of an authority) may automatically pay the supplier simple interest. No interest was applied during the year.

(d) Market risk

Market risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market prices. The Commission has no exposure to market risk as it does not have borrowings or investments. The Commission has no exposure to foreign currency risk and does not enter into commodity contracts.

18. Events after the reporting period

The Commission plans to lease additional office space at the Piccadilly Centre to allow the construction of a larger hearing room to accommodate its operational needs.

(END OF AUDITED FINANCIAL STATEMENTS)

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Appendix 1 – Complaints profile

Table 16: Government sectors that were the subject of matters received in 2011–12

Government sector	Section 10 complaints (s10s)		Public interest disclosures (PIDs)		Section 11 reports (s11s)		Other types of matters (OMs)		Total for all matters	
	Number of s10s	% of s10s	Number of PIDs	% of PIDs	Number of s11s	% of s11s	Number of OMs	% of OMs	Number of matters	% of all matters
Local government	414	45	108	40	183	23	222	23	927	31
Custodial services	42	5	17	6	230	28	25	3	314	11
Transport, ports and waterways	58	6	22	8	88	11	21	2	189	6
Health	39	4	27	10	70	9	27	3	163	5
Policing	31	3	0	0	6	1	107	11	144	5
Education (except universities)	39	4	23	9	51	6	15	2	128	4
Law and justice	70	8	7	3	16	2	24	2	117	4
Government and financial services	45	5	8	3	27	3	35	4	115	4
Community and human services	56	6	11	4	17	2	30	3	114	4
Natural resources and environment	38	4	13	5	43	5	16	2	110	4
Universities	29	3	9	3	27	3	14	1	79	3
Land, property and planning	24	3	2	1	7	1	12	1	45	2
Other – unspecified	7	1	2	1	2	0	30	3	41	1
Emergency services	5	1	5	2	20	2	10	1	40	1
Energy	5	1	7	3	14	2	8	1	34	1
Aboriginal affairs and services	20	2	4	1	5	1	3	0	32	1
Consumer and trade	21	2	3	1	0	0	4	0	28	1
Arts and heritage	9	1	5	2	8	1	5	1	27	1
Employment and industrial relations	1	0	0	0	0	0	3	0	4	0
Tourism, sport, recreation and gaming	1	0	0	0	1	0	2	0	4	0
Parliament	0	0	0	0	0	0	2	0	2	0
Human services (including housing)	0	0	0	0	1	0	0	0	1	0

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

Table 17: Workplace functions applicable to matters received in 2011–12

Workplace function	Section 10 complaints (s10s)		Public interest disclosures (PIDs)		Section 11 reports (s11s)		Other types of matters (OMs)		Total for all matters	
	Number of s10s	% of s10s	Number of PIDs	% of PIDs	Number of s11s	% of s11s	Number of OMs	% of OMs	Number of matters	% of all matters
Human resources and staff administration	154	17	119	44	274	34	30	3	577	19
Reporting, investigation, sentencing and enforcement	230	25	55	20	154	19	56	6	495	17
Development applications and land rezoning	236	26	21	8	52	6	40	4	349	12
Procurement, disposal and partnerships	113	12	49	18	94	12	31	3	287	10
Allocation of funds, materials and services	111	12	33	12	91	11	30	3	265	9
Miscellaneous functions	104	11	11	4	97	12	41	4	253	8
Processing of electronic and cash payments	20	2	5	2	40	5	9	1	74	2
Issue of licences or qualifications	31	3	4	1	31	4	6	1	72	2
Electoral and political activities	21	2	11	4	5	1	11	1	48	2
Policy development and information processing	29	3	3	1	6	1	7	1	45	2

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

Table 18: Types of corrupt conduct alleged in matters received in 2011–12

Corrupt conduct alleged	Section 10 complaints (s10s)		Public interest disclosures (PIDs)		Section 11 reports (s11s)		Other types of matters (OMs)		Total for all matters	
	Number of s10s	% of s10s	Number of PIDs	% of PIDs	Number of s11s	% of s11s	Number of OMs	% of OMs	Number of matters	% of all matters
Partiality	342	37	111	41	123	15	42	4	618	21
Improper use of records or information	154	17	40	15	216	27	39	4	449	15
Improper use or acquisition of funds or resources	123	13	49	18	195	24	22	2	389	13
Failure to perform required actions	177	19	48	18	94	12	47	5	366	12
Personal interests	142	15	56	21	99	12	19	2	316	11
Intimidating or violent conduct	75	8	39	14	95	12	19	2	228	8
Bribery, secret commissions and gifts	110	12	14	5	79	10	7	1	210	7
Corrupt conduct related to investigations or proceedings	116	13	33	12	33	4	27	3	209	7
Other corrupt conduct	75	8	11	4	54	7	18	2	158	5

Note: percentages may not add to 100% because allegations may involve more than one type of corrupt conduct or allegations of corrupt conduct may not be made.

Appendix 2 – Statutory reporting

Table 19: Reports under section 76(2)(ba) of the ICAC Act

Section	Reporting requirements	Results
76(2)(ba)(i)	Time interval between the lodging of each complaint and the Commission deciding to investigate the complaint	See Table 20 for details
76(2)(ba)(ii)	Number of complaints where investigations were commenced but were not finalised in 2011–12	14
76(2)(ba)(iii)	Average time taken to deal with complaints	60 days
76(2)(ba)(iii)	Actual time taken to investigate any matter in which a report is made	See Table 21 for details
76(2)(ba)(iv)	Total number of compulsory examinations during 2011–12	135
76(2)(ba)(iv)	Total number of public inquiries conducted during 2011–12	10*
76(2)(ba)(v)	Number of days spent during 2011–12 in conducting public inquiries	70
76(2)(ba)(vi)	Time interval between the completion of each public inquiry conducted during 2011–12 and the furnishing of a report on the matter	See Table 13 (chapter 5) for details

* One of these public inquiries (Operation Napier) commenced in 2010–11 and continued in 2011–12.

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

In 2011–12, the Commission furnished information to the following law enforcement agencies:

- NSW Police Force (various intelligence disseminations)
- Australian Federal Police (statements)
- Australian Taxation Office (intelligence dissemination).

Table 20: Time interval between the lodging of each complaint and the Commission deciding to investigate the complaint – section 76(2)(ba)(i) of the ICAC Act

Date matter received	Date decided to investigate	Time interval (days)	Date matter received	Date decided to investigate	Time interval (days)
29/10/2010	28/07/2011	272	8/11/2011	16/02/2012	100
9/06/2011	14/07/2011	35	11/11/2011	11/11/2011	0
20/06/2011	12/07/2011	22	11/11/2011	16/02/2012	97
20/06/2011	28/07/2011	38	25/11/2011	15/03/2012	111
30/06/2011	5/07/2011	5	13/12/2011	27/01/2012	45
4/07/2011	16/08/2011	43	22/12/2011	5/06/2012	166
5/07/2011	21/07/2011	16	23/12/2011	17/01/2012	25
13/07/2011	13/09/2011	62	10/01/2012	23/02/2012	44
22/07/2011	28/07/2011	6	18/01/2012	23/02/2012	36
22/07/2011	16/08/2011	25	24/01/2012	16/02/2012	23
30/07/2011	25/08/2011	26	27/01/2012	13/03/2012	46
10/08/2011	23/08/2011	13	3/02/2012	16/02/2012	13
18/08/2011	25/08/2011	7	16/02/2012	13/03/2012	26
19/08/2011	23/08/2011	4	21/02/2012	23/02/2012	2
19/08/2011	23/08/2011	4	5/03/2012	17/05/2012	73
5/09/2011	22/09/2011	17	12/03/2012	15/03/2012	3
6/09/2011	29/09/2011	23	3/04/2012	12/04/2012	9
8/09/2011	17/01/2012	131	24/04/2012	24/05/2012	30
15/09/2011	27/09/2011	12	11/05/2012	24/05/2012	13
26/09/2011	16/02/2012	143	14/05/2012	24/05/2012	10
7/10/2011	13/10/2011	6	15/05/2012	24/05/2012	9
10/10/2011	20/10/2011	10	22/05/2012	22/06/2012	31
27/10/2011	16/02/2012	112	30/05/2012	31/05/2012	1

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

Table 21: Actual time to investigate any matter in respect of which a report is made – section 76(2)(ba)(iii) of the ICAC Act

Date referred for investigation	Date investigation completed	Time taken to investigate (days)
1/10/2009	16/08/2011	684
29/10/2009	16/08/2011	656
30/11/2009	16/08/2011	624
8/12/2009	16/08/2011	616
15/04/2010	22/08/2011	494
19/07/2010	16/09/2011	424
26/08/2010	16/09/2011	386
19/10/2010	4/10/2011	350
28/10/2010	13/10/2011	350
25/11/2010	1/11/2011	341
16/06/2011	22/11/2011	159
12/07/2011	9/12/2011	150
21/07/2011	9/12/2011	141
21/07/2011	9/02/2012	203
4/08/2011	7/03/2012	216
13/09/2011	20/03/2012	189
8/11/2011	27/03/2012	140
10/11/2011	2/05/2012	174
27/01/2012	2/05/2012	96
23/02/2012	25/05/2012	92
13/03/2012	12/06/2012	91
15/03/2012	12/06/2012	89

Note: these figures relate only to matters reported under section 11 of the ICAC Act.

Appendix 3 – Outcomes of matters

Table 22: Key outcomes recorded in 2011–12

Key outcomes	Section 10 matters	Public interest disclosures	Section 11 matters	Other types of matters	Total
Number of persons subject to recommendations that advice of Director of Public Prosecutions be sought for prosecution	2	0	7	0	9
ICAC compulsory examinations	80	7	20	28	135
ICAC public inquiry*	5	1	2	2	10
ICAC investigation	26	19	21	7	73
Corruption prevention recommendations made	4	0	25	0	29

* One of these public inquiries (Operation Napier) commenced in 2010–11 and continued in 2011–12.

Table 23: Other outcomes for matters closed during 2011–12

Other outcomes	Section 10 matters	Public interest disclosures	Section 11 matters	Other types of matters	Total
ICAC outcomes					
Intelligence or technical product passed to another agency	1	0	0	0	1
Matter referred to another law enforcement agency	1	0	1	0	2
Referral to another agency for information	38	19	11	9	77
Referral to the subject agency for information	100	55	10	9	174
Systemic issue identified by the Commission	7	7	10	7	31
No further action by the Commission	737	115	691	877	2420
Agency outcomes					
Systemic issues identified by the agency	7	6	26	3	42
Systemic issues addressed by the agency	7	9	23	3	42
Disciplinary action taken by the agency – Counselling	7	4	30	2	43
Disciplinary action taken by the agency – Dismissal	2	1	19	0	22
Disciplinary action taken by the agency – Resignation	2	1	13	0	16
Disciplinary action taken by the agency – Other	1	2	24	0	27
Disciplinary action proposed by the agency	4	4	37	0	45
No action warranted by the agency	85	24	53	17	179

Appendix 4 – Prosecution and disciplinary action in 2011–12 arising from Commission investigations

Table 24: Progress of prosecution matters in 2011–12

The date the investigation report was published is in brackets.

“Crimes Act” refers to the *Crimes Act 1900* (NSW), while “ICAC Act” refers to the *Independent Commission Against Corruption Act 1988* (NSW).

Investigation into certain transactions of Koompahtoo Local Aboriginal Land Council (KLALC) (Operation Unicorn) (April 2005)

Name	Bill Smith
Offences recommended for Director of Public Prosecutions (DPP) consideration	Section 249B Crimes Act (corrupt rewards) in relation to Villa World and section 178BB Crimes Act (obtain money by false or misleading statement) in relation to land transfers to KLALC members.
DPP advice	On 13 June 2008, DPP advised sufficient evidence to proceed with one offence under section 178BB in relation to land transfers to KLALC members. On 6 August 2009, DPP advised sufficient admissible evidence to proceed with an offence under section 249B.
Status	Sentenced on 12 February 2010 in relation to the section 178BB offence to nine months imprisonment suspended. Section 249B charge dismissed 12 May 2011 with order DPP pay costs. On 7 June 2011, DPP appealed. Appeal against dismissal of charge dismissed 2 April 2012. On 23 May 2012, appeal against costs order dismissed but appeal against quantum upheld.

Name	Adam Perkins
Offence recommended for DPP consideration	Section 249F Crimes Act (aiding, abetting, etc, corrupt rewards) in relation to Villa World.
DPP advice	On 6 August 2009, DPP advised sufficient evidence to proceed with an offence under section 249F.
Status	Charge dismissed 12 May 2011 with order DPP pay costs. On 7 June 2011, DPP appealed. Appeal against dismissal of charge dismissed 2 April 2012. On 23 May 2012, appeal against costs order dismissed but appeal against quantum upheld.

Name	Robert Scott
Offence recommended for DPP consideration	Section 249F Crimes Act (aiding, abetting, etc, corrupt rewards) in relation to Villa World.
DPP advice	On 6 August 2009, DPP advised sufficient evidence to proceed with an offence under section 249F.
Status	Charge dismissed 12 May 2011 with order DPP pay costs. On 7 June 2011, DPP appealed. Appeal against dismissal of charge dismissed 2 April 2012. On 23 May 2012, appeal against costs order dismissed but appeal against quantum upheld.

Name	Kim Wilson
Offence recommended for DPP consideration	Section 249F Crimes Act (aiding, abetting, etc, corrupt rewards) in relation to Villa World.
DPP advice	On 6 August 2009, DPP advised sufficient evidence to proceed with an offence under section 249F.
Status	Charge dismissed 12 May 2011 with order DPP pay costs. On 7 June 2011, DPP appealed. Appeal against dismissal of charge dismissed 2 April 2012. On 23 May 2012, appeal against costs order dismissed but appeal against quantum upheld.

Investigation into safety certification and the operations of the WorkCover NSW Licensing Unit (Operation Cassowary) (December 2005)

Recommendations were made in this report that consideration be given to obtaining the advice of the DPP with respect to the prosecution of 18 named individuals for various criminal offences. Briefs of evidence in relation to all matters were provided to the DPP in December 2007.

On 22 February 2011, the Commission received advice from the DPP that there was insufficient evidence to prosecute five persons.

On 28 June 2012, the Commission advised the DPP that the Commission will take no further action in relation to the prosecution of the remaining persons. In reaching this decision, the Commission took into account considerations including that:

- WorkCover needs to commit considerable resources to obtain additional material requested by the DPP before the DPP can provide advice as to whether any prosecutions should be commenced
- there is doubtful public interest in prosecuting matters where the relevant conduct occurred so long ago (from 2000 to 2004), particularly where the relevant conduct has been exposed in the Commission's investigation, findings of corrupt conduct have been made, relevant public officials have been removed from employment in the public service and system changes have been implemented to reduce the likelihood of future conduct of the type exposed by the investigation.

Investigation into schemes to fraudulently obtain building licences (Operation Ambrosia) (December 2005)

Name	William Makdessi
Offences recommended for DPP consideration	Common law offence of conspiracy to defraud, section 300(2) Crimes Act (use false instrument), section 307A Crimes Act (false or misleading applications), and section 178BA Crimes Act (obtain valuable thing by deception).
DPP advice	On 15 June 2011, DPP advised sufficient evidence to proceed with one section 300(2) offence, and one section 178BA offence.
Status	On 22 August 2011, pleaded guilty to one section 178BA offence. Placed on two-year good behaviour bond.

Name	Bander Nader
Offences recommended for DPP consideration	Common law offence of conspiracy to defraud, section 300(2) Crimes Act (use false instrument), section 307A Crimes Act (false or misleading applications), and section 178BA Crimes Act (obtain valuable thing by deception).
DPP advice	On 15 June 2011, DPP advised sufficient evidence to proceed with one section 300(2) offence, and one section 178BA offence.
Status	On 22 August 2011, pleaded guilty to one section 178BA offence. Placed on two-year good behaviour bond.

Name	Labib Tannous
Offences recommended for DPP consideration	Common law offence of conspiracy to defraud, section 300(2) Crimes Act (use false instrument), section 307A Crimes Act (false or misleading applications), and section 178BA Crimes Act (obtain valuable thing by deception).
DPP advice	On 15 June 2011, DPP advised sufficient evidence to proceed with one section 300(2) offence, and one section 178BA offence.
Status	On 6 October 2011, pleaded guilty to one section 178BA offence. Placed on one-year good behaviour bond.

Name	Boutros Harb
Offences recommended for DPP consideration	Common law offence of conspiracy to defraud, section 307A Crimes Act (false or misleading applications), and section 178BA Crimes Act (obtain valuable thing by deception).
DPP advice	On 15 June 2011, DPP advised sufficient evidence to proceed with one section 178BA offence.
Status	On 22 August 2011, pleaded guilty to one section 178BA offence. Placed on one-year good behaviour bond.

Name	Basil Ben
Offences recommended for DPP consideration	Common law offence of conspiracy to defraud, section 300(2) Crimes Act (use false instrument), section 307A Crimes Act (false or misleading applications), and section 178BA Crimes Act (obtain valuable thing by deception).
DPP advice	On 21 June 2011, DPP advised sufficient evidence to proceed with one section 300(2) offence, and one section 178BA offence.
Status	On 5 April 2012, pleaded guilty to one section 178BA offence. Placed on one-year good behaviour bond.

Name	David Dib
Offences recommended for DPP consideration	Common law offence of conspiracy to defraud, section 300(2) Crimes Act (use false instrument), section 307A Crimes Act (false or misleading applications), and section 178BA Crimes Act (obtain valuable thing by deception).
DPP advice	On 23 June 2011, DPP advised sufficient evidence to proceed with one section 300(2) offence, and one section 178BA offence.
Status	On 6 October 2011, pleaded guilty to one section 178BA offence. Placed on one-year good behaviour bond.

Name	Barry Barakat
Offences recommended for DPP consideration	Section 300(2) Crimes Act (use false instrument), section 307A Crimes Act (false or misleading applications), and section 178BA Crimes Act (obtain valuable thing by deception).
DPP advice	On 19 January 2012, DPP advised sufficient evidence to proceed with one section 300(2) offence and one section 178BA offence.
Status	On 7 June 2012, pleaded guilty to one section 178BA offence. Placed on one-year good behaviour bond.

Recommendations were originally made with respect to 36 persons. In addition to the seven persons listed above, matters relating to another 17 persons have been finalised either as a result of the persons being successfully prosecuted (12 persons), charges being withdrawn by the DPP (one person) or the DPP advising there was insufficient admissible evidence to proceed (four persons).

One person died before the Commission received advice from the DPP.

With respect to the remaining 11 persons, the Commission is either attending to gathering further evidence requested by the DPP or awaiting DPP advice.

Investigation into defrauding the RTA and RailCorp in relation to the provision of traffic management services (Operation Quilla) (December 2006)

Name	Terry Stepto
Offences recommended for DPP consideration	Section 178BB Crimes Act (obtain benefit by deception), section 249B Crimes Act (corrupt benefits), and section 87 ICAC Act (false evidence).
DPP advice	On 19 June 2009, DPP advised sufficient evidence to proceed with 41 section 178BA offences (obtain money by deception), four section 249B offences, and one section 87 offence.
Status	Pleaded guilty on 2 November 2010 to 18 section 178BA offences (the remaining 23 charges under this section were withdrawn by the DPP), four section 249B offences, and one section 87 offence. Sentenced 10 February 2012 to an aggregate period of 5.5 years imprisonment.

Name	Damon Job
Offences recommended for DPP consideration	Section 178BB Crimes Act (obtain benefit by deception) and section 249B Crimes Act (corrupt benefits).
DPP advice	On 19 June 2009, DPP advised sufficient evidence to proceed with 41 section 178BA offences and four section 249B offences.
Status	Sentenced 3 September 2010 to 18 months imprisonment for two section 178BA offences and three years imprisonment for four section 249B offences. Confiscation order for \$106,500 imposed. Appeal on severity of sentence heard 16 December 2011. Periods of imprisonment for section 178BA offences reduced to 12 months and for section 249B offences reduced to two years.

Investigation into allegations of bribery relating to Wollongong City Council (Operation Berna) (December 2007)

Name	Lou Tasich
Offences recommended for DPP consideration	Common law offence of bribery, section 249B Crimes Act (corrupt reward), section 87 ICAC Act (false evidence), and section 86(1)(a) ICAC Act (failure to attend).
DPP advice	On 30 July 2009, DPP advised sufficient evidence to proceed with one section 249B offence, and three section 87 offences.
Status	On 21 November 2011, found not guilty of section 249B offence. The trial for the section 87 offences ended with a hung jury on 26 June 2012. The case is listed for mention on 17 August 2012.

**Investigation into bribery and fraud at RailCorp (Operation Monto)
(August, September and November 2008)**

Name	Renea Hughes
Offences recommended for DPP consideration	Section 249C Crimes Act (provide misleading document), section 178BB Crimes Act (obtain benefit by deception), section 308C Crimes Act (unauthorised computer access), and the common law offence of misconduct in public office.
DPP advice	On 3 September 2010, DPP advised sufficient evidence to proceed with five section 178BA offences (obtain money by deception), eight section 178BB offences, and one section 308C offence.
Status	Pleaded guilty to one section 178BA offence, eight section 178BB offences, and one section 308C offence. On 24 February 2012, sentenced overall to 3.5 years full time custody, with a non-parole period of 2.5 years. Appeal against the severity of sentence lodged.

Name	William Kuipers
Offences recommended for DPP consideration	In relation to dealings with Renea Hughes – aiding and abetting offences under section 249C Crimes Act (provide misleading document), section 178BB Crimes Act (obtain benefit by deception), section 308C Crimes Act (unauthorised computer access), and aiding and abetting the common law offence of misconduct in public office. In relation to dealings with Allan Walker – section 249B Crimes Act (corrupt benefit), section 178BA Crimes Act (obtain money by deception), and section 87 ICAC Act (false evidence).
DPP advice	On 9 March 2011, DPP advised insufficient evidence to proceed with offences arising from dealings with Renea Hughes. On 1 February 2011, DPP advised sufficient evidence to prosecute for one section 87 offence arising from evidence concerning his dealings with Allan Walker.
Status	For trial October 2012.

Name	Michael Blackstock
Offences recommended for DPP consideration	Section 249B Crimes Act (corrupt reward), section 249C Crimes Act (provide misleading document), section 178BB Crimes Act (obtain benefit by deception), the common law offence of misconduct in public office, and section 87 ICAC Act (give false evidence).
DPP advice	On 12 January 2011, DPP advised sufficient evidence to proceed with six section 178BB offences, three section 87 offences, and the common law offence of misconduct in public office.
Status	Pleaded guilty to misconduct in public office, one section 87 offence and three section 178BB offences. On 24 February 2012, sentenced overall to 4.5 years full time custody with a non-parole period of 3.5 years. Appeal against severity of sentence lodged.

Name	Youssef Madrajat
Offences recommended for DPP consideration	Section 249B Crimes Act (corrupt reward) and section 178BB Crimes Act (obtain benefit by deception).
DPP advice	On 12 January 2011, DPP advised sufficient evidence to proceed with two section 178BB offences.
Status	On 16 August 2011, pleaded guilty to two section 178BB offences. Ordered to perform 500 hours of community service.

Name	Kevin Dulhunty
Offences recommended for DPP consideration	Section 249B Crimes Act (corrupt reward), section 249C Crimes Act (provide misleading document), the common law offence of misconduct in public office, and section 87 ICAC Act (give false evidence).
DPP advice	On 2 February 2011, DPP advised sufficient evidence to proceed with one section 249B offence and one section 87 offence.
Status	Pleaded guilty to section 249B(1) offence in full satisfaction of the charges. On 18 October 2011, sentenced to a 15-month suspended sentence.

Name	Michael Napier
Offences recommended for DPP consideration	Section 249B Crimes Act (corrupt benefit), section 178BA Crimes Act (obtain money by deception), and section 87 ICAC Act (false evidence).
DPP advice	On 1 February 2011, DPP advised sufficient evidence to proceed with one section 87 offence.
Status	On 25 August 2011, found not guilty.

Name	Guy Hetman
Offences recommended for DPP consideration	Section 249B Crimes Act (corrupt reward), section 178BA Crimes Act (obtain advantage by deception), and section 87 ICAC Act (give false evidence).
DPP advice	On 19 April 2012, DPP advised sufficient evidence to proceed with five section 87 offences.
Status	In court.

Name	Domenic Murdocca
Offences recommended for DPP consideration	Common law offence of conspiracy to defraud, section 249B Crimes Act (corrupt reward), section 178BB Crimes Act (obtain advantage by making false statement), section 300 Crimes Act (use false instrument), and section 87 ICAC Act (give false evidence).
DPP advice	On 19 April 2012, DPP advised sufficient evidence to proceed with four section 87 offences.
Status	In court.

The Commission published seven investigation reports on this matter between August and November 2008 in which recommendations were made that consideration be given to obtaining the advice of the DPP with respect to the prosecution of 33 named individuals for various criminal offences. In addition to the above, matters involving 13 persons have been finalised either as a result of the persons being successfully prosecuted (three persons) or the DPP advising that there was insufficient admissible evidence to proceed (10 persons).

With respect to the remaining 12 persons, the Commission is either attending to gathering further evidence requested by the DPP (one person) or awaiting DPP advice (11 persons).

**Investigation into corruption allegations affecting Wollongong City Council (Operation Atlas)
(October 2008)**

Name	Frank Vellar
Offences recommended for DPP consideration	Section 249B Crimes Act (corrupt reward), and section 80(c) ICAC Act (make false statement).
DPP advice	On 23 June 2010 and 28 September 2010, DPP advised sufficient evidence to prosecute four section 80(c) offences, and one section 88(3) ICAC Act offence (fabrication of a document).
Status	On 17 August 2011, found guilty of three section 80(c) offences (the fourth offence was dismissed), and one section 88(3) offence. On 26 August 2011, placed on two-year good behaviour bond and fined \$3,000 in relation to the section 80(c) offences. On 21 October 2011, given a 10-month custodial sentence to be served as an Intensive Correctional Order in relation to the section 88(3) offence. Awaiting DPP advice concerning Mr Vellar's conduct in dealing with Ms Morgan in relation to her assessment and determination of the Quattro DA and her providing council information to him.

Name	Beth Morgan
Offences recommended for DPP consideration	Section 249B Crimes Act (corrupt reward), common law offence of misconduct in public office, and section 80(c) ICAC Act (make false statement).
DPP advice	On 28 September 2010, DPP advised insufficient evidence to prosecute Ms Morgan for any offences relating to her dealings with Ray Younan, Gerald Carroll, Glen Tabak, Michael Kollaras or Frank Vellar (in relation to the receipt of gifts or benefits or her assessment of development applications for Lot 3 Phillips Avenue West Wollongong or the Bather's Pavilion). On 20 May 2011, DPP advised no section 80(c) charges available.
Status	Awaiting advice in relation to Ms Morgan's conduct in assessing and determining the Quattro DA and providing council information to Mr Vellar.

Recommendations were originally made with respect to 11 persons. Apart from the two persons listed above, matters relating to seven other persons were finalised either by way of prosecution (four persons) or receipt of advice from the DPP that there was insufficient evidence to prosecute (three persons).

In 2010, the Commission received advice with respect to some of the recommendations involving Ray Younan and Gerald Carroll. As a result of this advice, a Court Attendance Notice was issued against Mr Younan on 28 September 2010 for an offence under section 95(1) ICAC Act (impersonating an ICAC officer). As he was overseas and could not be served, an arrest warrant was issued on 30 September 2010. Advice remained outstanding on whether there was sufficient evidence to prosecute Mr Younan or Mr Carroll for offences under section 87 of the ICAC Act of giving false or misleading evidence in relation to the matters canvassed in chapter 11 of the investigation report.

On 28 June 2012, the Commission advised the DPP that the Commission will take no further action in relation to the section 87 matters concerning Mr Younan. In reaching this decision, the Commission took into account, among other factors, that Mr Younan remained overseas and was unlikely to return, and there was doubtful public interest in prosecuting matters where the relevant conduct occurred so long ago, particularly where the relevant conduct had been exposed in the Commission's investigation and findings of corrupt conduct made.

On 2 July 2012, the DPP advised there was insufficient evidence to prosecute Mr Carroll for any offence under section 87 of the ICAC Act of giving false or misleading evidence in relation to the matters canvassed in chapter 11 of the report.

Investigation into tendering and payments in relation to NSW Fire Brigades capital works projects (Operation Mirna) (December 2008)

Recommendations were made in this report that consideration be given to obtaining the advice of the DPP with respect to the prosecution of five named individuals for various criminal offences. Briefs of evidence for all matters were provided to the DPP on 8 January 2009. The Commission is awaiting advice from the DPP on these matters.

Investigation into corrupt conduct associated with tendering for TransGrid (Operation Tambo) (September 2009)

Name	Goran Pevec
Offences recommended for DPP consideration	Common law offence of misconduct in public office, section 249B Crimes Act (corrupt benefit), section 80(c) ICAC Act (make false statement), and section 87 ICAC Act (give false evidence).
DPP advice	On 23 September 2011, DPP advised sufficient evidence to proceed with three section 80(c) offences. On 8 March 2012, DPP advised sufficient evidence to proceed with six section 87 offences.
Status	On 5 April 2012, pleaded guilty to all offences. On 31 May 2012, sentenced to a 12-month good behaviour bond and fined \$8,000.

Name	Linda Pevec
Offences recommended for DPP consideration	Section 87 ICAC Act (give false evidence).
DPP advice	On 9 March 2012, DPP advised insufficient admissible evidence to prosecute.
Status	Finalised.

Name	Domenic Murdocca
Offences recommended for DPP consideration	Common law offence of misconduct in public office, section 249B Crimes Act (corrupt benefit), and section 87 ICAC Act (give false evidence).
DPP advice	Awaiting DPP advice.
Status	Awaiting DPP advice.

Investigation into the solicitation and receipt of corrupt payments from a RailCorp contractor (Operation Chaucer) (September 2009)

Name	Wasim Khan
Offences recommended for DPP consideration	Section 249B Crimes Act (solicit corrupt reward).
DPP advice	On 4 April 2011, DPP advised sufficient evidence to proceed with two section 249B offences.
Status	On 1 September 2011, pleaded guilty to both offences. On 15 February 2012, sentenced to two years of imprisonment to be served by way of Intensive Correctional Order.

Name	Mohammed Ali
Offences recommended for DPP consideration	Section 249F Crimes Act (aid and abet solicitation of corrupt reward).
DPP advice	On 28 February 2011, DPP advised sufficient evidence to proceed with one section 249F offence.
Status	On 15 September 2011, sentenced to home detention for a period of 12 months.

Investigation into the misuse of Sydney Ferries corporate credit cards (Operation Argyle) (November 2009)

Name	Vincenzo Rossello
Offences recommended for DPP consideration	Section 87 ICAC Act (give false evidence).
DPP advice	On 12 April 2011, DPP advised sufficient evidence to proceed with one section 87 offence, and one section 80(c) ICAC Act offence (mislead ICAC officer).
Status	On 16 November 2011, charges dismissed.

Name	Geoffrey Smith
Offences recommended for DPP consideration	Common law offence of misconduct in public office.
DPP advice	On 5 October 2011, DPP advised sufficient evidence to proceed with one section 176A Crimes Act offence (director defrauding a body corporate), one offence of misconduct in public office, and one offence under Clause 11(2)(a) of Schedule 10, Part 1 of the <i>State Owned Corporations Act 1989</i> (knowingly making a false statement to a voting shareholder).
Status	In court.

Report on corruption in the provision and certification of security industry training (Operation Columba) (December 2009)

Name	Ahmed Moosani
Offences recommended for DPP consideration	Section 178BB Crimes Act (obtain advantage by making false statement), section 88 ICAC Act (destruction of document), and section 33 <i>Security Industry Act 1997</i> (make false representation).
DPP advice	On 19 January 2012, DPP advised sufficient evidence to proceed with two section 178BB offences and two section 300 Crimes Act offences (make false instrument).
Status	In court.

Name	Tiberiu Brandusoiu
Offences recommended for DPP consideration	Section 178BB Crimes Act (obtain advantage by making false statement), section 87 ICAC Act (give false evidence), and section 33 <i>Security Industry Act 1997</i> (make false representation).
DPP advice	On 19 January 2012, DPP advised sufficient evidence to proceed with one section 178BB offence, and two offences under section 300 Crimes Act (make false instrument).
Status	In court.

Name	Ali Merchant
Offences recommended for DPP consideration	Section 178BB Crimes Act (obtain advantage by making false statement), section 88 ICAC Act (destruction of document), and section 33 <i>Security Industry Act 1997</i> (make false representation).
DPP advice	On 19 January 2012, DPP advised sufficient evidence to proceed with three section 178BB offences and 10 offences under section 300 Crimes Act (make false instrument).
Status	In court.

Name	Shane Camilleri
Offences recommended for DPP consideration	Section 178BB Crimes Act (obtain advantage by making false statement), section 33 <i>Security Industry Act 1997</i> (make false representation), and clause 15(2) Security Industry Regulation (false qualification certificates).
DPP advice	On 19 January 2012, DPP advised sufficient evidence to proceed with one section 178BB offence.
Status	On 28 February 2012, placed on 18-month good behaviour bond.

Name	Hamdi Alqudsi
Offences recommended for DPP consideration	Section 178BB Crimes Act (obtain advantage by making false statement), section 33 <i>Security Industry Act 1997</i> (make false representation), and clause 15(2) Security Industry Regulation (false qualification certificates).
DPP advice	On 19 January 2012, DPP advised sufficient evidence to proceed with five section 178BB offences.
Status	On 7 June 2012, placed on three-year good behaviour bond and fined \$1,000.

Name	Dru Hyland
Offences recommended for DPP consideration	Section 178BB Crimes Act (obtain advantage by making false statement), section 33 <i>Security Industry Act 1997</i> (make false representation), and clause 15(2) Security Industry Regulation (false qualification certificates).
DPP advice	On 19 January 2012, DPP advised sufficient evidence to proceed with eight section 178BB offences.
Status	In court.

Name	Vivek Raghavan
Offences recommended for DPP consideration	Section 178BB Crimes Act (obtain advantage by making false statement), section 33 <i>Security Industry Act 1997</i> (make false representation), and clause 15(2) Security Industry Regulation (false qualification certificates).
DPP advice	On 19 January 2012, DPP advised sufficient evidence to proceed with one section 178BB offence.
Status	On 7 June 2012, fined \$1,000.

Name	Craig Wheeler
Offences recommended for DPP consideration	Section 178BB Crimes Act (obtain advantage by making false statement), section 87 ICAC Act (give false evidence), section 33 <i>Security Industry Act 1997</i> (make false representation), and clause 15(2) Security Industry Regulation (false qualification certificates).
DPP advice	On 19 January 2012, DPP advised insufficient evidence to proceed.
Status	Matter finalised.

Investigation into corrupt conduct affecting the administration of justice in the Wagga Wagga and other local court areas (Operation Segomo) (March 2010)

Recommendations were made in this report that consideration be given to obtaining the advice of the DPP with respect to the prosecution of five named individuals for various criminal offences. Briefs of evidence were provided to the DPP in September 2010. The DPP has forwarded the briefs to the Crown Solicitor's office for consideration.

Investigation into the offer of a corrupt payment to an officer of Strathfield Municipal Council (Operation Centurion) (May 2010)

Name	David Pyo
Offences recommended for DPP consideration	Section 249B Crimes Act (solicit corrupt reward).
DPP advice	On 19 August 2011, DPP advised sufficient evidence to proceed with one section 249B offence.
Status	On 23 February 2012, the charge was dismissed.

Investigation into the false claims for sitting day relief payments by a NSW MP and members of her electorate staff (Operation Corinth) (July 2010)

Name	Karyn Paluzzano
Offences recommended for DPP consideration	The common law offence of misconduct in public office, section 178BA Crimes Act (obtain valuable thing by deception), and section 87 ICAC Act (give false evidence).
DPP advice	On 21 September 2011, DPP advised sufficient evidence to proceed with one offence of misconduct in public office, two section 178BB offences, and two section 87 offences.
Status	On 7 June 2012, pleaded guilty to three section 178BB offences, and one section 87 offence. For sentence in August 2012.

Investigation into attempted corrupt payment and submission of false resumes to public authorities (Operation Avoca) (August 2010)

Name	Don Gamage
Offences recommended for DPP consideration	Section 249B Crimes Act (offer corrupt reward), section 178BA Crimes Act (publish false statement to obtain valuable thing), section 192G Crimes Act (publish false statement to obtain valuable thing), section 80(c) ICAC Act (misleading an ICAC officer), and section 87 ICAC Act (give false evidence).
DPP advice	On 20 January 2011, DPP advised sufficient evidence to proceed with seven section 178BA offences, one section 192G offence, one section 249B offence, one section 80(c) offence, and one section 87 offence.
Status	Mr Gamage is not available to be served with Court Attendance Notices. Arrest warrant issued 20 October 2011.

Investigation into the misuse of resources by a NSW Maritime legal services officer (Operation Vargas) (September 2010)

Name	Nicolae Dacombe
Offences recommended for DPP consideration	Section 87 ICAC Act (give false evidence).
DPP advice	On 2 August 2011, DPP advised sufficient evidence to proceed with one section 87 offence.
Status	On 7 February 2012, sentenced to four months imprisonment. On 5 March 2012, sentence suspended on appeal.

Name	Tonette Kelly
Offences recommended for DPP consideration	Common law offence of misconduct in public office, section 300 Crimes Act (make or use false instrument), and section 93 ICAC Act (injury to person assisting ICAC).
DPP advice	On 12 June 2012, DPP advised sufficient evidence to proceed with two offences under section 87 ICAC Act (give false evidence).
Status	In court.

Investigation into the submission of false claims for sitting day relief entitlement by Angela D'Amore MP and some of her staff (Operation Syracuse) (December 2010)

Recommendations were made in this report that consideration be given to obtaining the advice of the DPP with respect to the prosecution of one named individual. A brief of evidence was provided to the DPP on 10 March 2011. The Commission is awaiting advice from the DPP on this matter.

Investigation into acceptance of corrupt benefits by a City of Canada Bay Council employee (Operation Challenger) (December 2010)

Name	Peter Higgs
Offences recommended for DPP consideration	Section 249B Crimes Act (corrupt reward), section 80(c) ICAC Act (mislead ICAC officer), section 87 ICAC Act (give false evidence), and section 88 ICAC Act (fabrication of document).
DPP advice	On 18 July 2011, DPP advised sufficient evidence to proceed with one section 80(c) offence, and five section 87 offences. On 6 December 2011, DPP advised sufficient evidence to proceed with a further four section 87 offences.
Status	In court.

Name	David Turner
Offences recommended for DPP consideration	Section 249B Crimes Act (corrupt reward), section 80(c) ICAC Act (mislead ICAC officer), section 87 ICAC Act (give false evidence), and section 88 ICAC Act (fabrication of document).
DPP advice	On 18 July 2011, DPP advised sufficient evidence to proceed with one section 80(c) offence, and three section 87 offences.
Status	On 29 June 2012, sentenced to 400 hours community service.

Investigation into corrupt conduct of Sydney Water employees and others (Operation Siren) (March 2011)

Name	Robert Funovski
Offences recommended for DPP consideration	Section 249B Crimes Act (corrupt reward), and section 87 ICAC Act (give false evidence)
DPP advice	On 23 May 2012, DPP advised sufficient evidence to proceed with two section 249B offences, and one section 87 offence.
Status	In court.

Recommendations were made in this report that consideration be given to obtaining the advice of the DPP with respect to the prosecution of four other named individuals. Briefs of evidence were provided to the DPP on 1 April 2011. The Commission is awaiting advice from the DPP on these matters.

Investigation into alleged corrupt conduct involving Burwood Council's general manager and others (Operation Magnus) (April 2011)

Name	Pasquale (Pat) Romano
Offences recommended for DPP consideration	Section 249C Crimes Act (provide false document), section 178BB Crimes Act (obtain money by false or misleading statement), common law offence of misconduct in public office, section 20 <i>Protected Disclosures Act 1994</i> (taking detrimental action), section 93 ICAC Act (causing disadvantage to persons assisting the ICAC), and section 87 ICAC Act (give false evidence).
DPP advice	In April 2011, DPP advised insufficient evidence to prosecute Mr Romano for any offence under section 20 <i>Protected Disclosures Act 1994</i> .
Status	Awaiting DPP advice on other matters.

Investigation into the solicitation of a corrupt payment by a Strathfield Municipal Council officer (Operation Danby) (May 2011)

Name	Michael Chau
Offence recommended for DPP consideration	Section 249B Crimes Act (corrupt reward).
DPP advice	On 9 January 2012, DPP advised insufficient admissible evidence to prosecute.
Status	Matter finalised.

Investigation into the corrupt conduct of a Willoughby City Council officer (Operation Churchill) (June 2011)

Name	Edward Karkowski
Offences recommended for DPP consideration	Section 249B Crimes Act (corrupt reward), section 192E Crimes Act (fraud), and the common law offence of misconduct in public office.
DPP advice	On 11 January 2012, DPP advised sufficient evidence to proceed with five section 249B offences and two section 192E offences.
Status	On 26 June 2012, pleaded guilty to four section 249B offences and two section 192E offences. Listed for sentencing in July 2012.

Investigation into corrupt conduct involving alleged fraud on two Sydney hospitals (Operation Charity) (August 2011)

Recommendations were made in this report that consideration be given to obtaining the advice of the DPP with respect to the prosecution of two named individuals. Briefs of evidence were provided to the DPP on 20 January 2012. The Commission is awaiting advice from the DPP on this matter.

Investigation into the unauthorised purchase of property at Currawong by the Chief Executive of the Land and Property Management Authority (Operation Napier) (December 2011)

Recommendations were made in this report that consideration be given to obtaining the advice of the DPP with respect to the prosecution of three named individuals. The Commission is in the process of finalising briefs of evidence for the DPP.

Investigation into the undisclosed conflict of interest of a senior executive of the Sydney Harbour Foreshore Authority (Operation Vesta) (December 2011)

Recommendations were made in this report that consideration be given to obtaining the advice of the DPP with respect to the prosecution of two named individuals. Briefs of evidence were provided to the DPP on 19 March 2012. The Commission is awaiting advice from the DPP on this matter.

Investigation into alleged fraud on the former NSW Department of Education and Training (Operation Barcoo) (January 2012)

A recommendation was made in this report that consideration be given to obtaining the advice of the DPP with respect to the prosecution of one named individual. A brief of evidence was provided to the DPP on 29 February 2012. The Commission is awaiting advice from the DPP on this matter.

Investigation into the payment of \$4,500 to a councillor of Auburn City Council (Operation Barrow) (June 2012)

A recommendation was made in this report that consideration be given to obtaining the advice of the DPP with respect to the prosecution of one named individual. The Commission is in the process of finalising a brief of evidence for the DPP.

Table 25: Progress of disciplinary matters in 2011–12

Investigation into corrupt conduct affecting the administration of justice in the Wagga Wagga and other local court areas (Operation Segomo) (March 2010)

Name	Anthony Paul
ICAC recommendation	Consideration be given to taking of disciplinary action under the <i>Legal Profession Act 2004</i> for unsatisfactory professional conduct or professional misconduct.
Status	Disciplinary proceedings commenced by the Law Society of NSW. Matter is listed for a directions hearing at the Administrative Decisions Tribunal in August 2012.

Investigation into the misuse of resources by a NSW Maritime legal services officer (Operation Vargas) (September 2010)

Name	Tonette Kelly
ICAC recommendation	Consideration be given to taking action with a view to dismissal on grounds of misconduct and referral of her conduct in relation to the preparation of a false reference for Mr Dacombe to the Legal Services Commissioner.
Status	Dismissed on 14 October 2010. Practising certificate suspended 16 September 2010. Investigation currently being conducted by the Office of the Legal Services Commission.

Investigation into the solicitation of a corrupt payment by a Strathfield Municipal Council officer (Operation Danby) (May 2011)

Name	Michael Chau
ICAC recommendation	Consideration be given to taking disciplinary action with a view to dismissal for misconduct.
Status	Strathfield Municipal Council undertook disciplinary proceedings resulting in the dismissal of Mr Chau.

Investigation into the payment of \$4,500 to a councillor of Auburn City Council (Operation Barrow) (June 2012)

Name	Jack Au
ICAC recommendation	Consideration be given to the suspension of Mr Au from civic office as a councillor of Auburn City Council with a view to his dismissal for serious corrupt conduct.
Status	Mr Au was suspended from civic office as a councillor of Auburn City Council on 18 June 2012. He resigned on 25 June 2012.

Appendix 5 – Implementation of corruption prevention recommendations

After receiving corruption prevention recommendations, an agency is required under section 111E(2) of the ICAC Act to inform the Commission in writing within three months (or such longer period as the Commission may agree to in writing) whether it proposes to implement any plan of action in response to the recommendations and, if so, of the plan of action.

In the event 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 the plan has not been fully implemented by then, a further written report must be provided 12 months after the first report.

The Commission publishes responses to its recommendations, plans of action and progress reports on its website at www.icac.nsw.gov.au.

Tables 26 and 27 present information received by the Commission from agencies in 2011–12, including the number and percentage of recommendations that agencies reported having implemented at the progress report and final report stages.

Table 26: Progress reports received in 2011–12

Public inquiry	Agency	Number of recommendations	Date progress report received	Not implemented	Not agreed	Partially implemented	Implemented in alternative way	Implemented as described in report	% partially implemented	% fully implemented
Corinth	NSW Parliament	2	Apr 2012	2	0	0	0	0	0	0
Siren	Sydney Water Corporation	18	Mar 2012	0	0	6	0	12	33	67
Columba	NSW Police Force	10	Mar 2012	4	0	4	0	2	40	20
Challenger	City of Canada Bay Council	5	Feb 2012	0	0	1	1	3	20	80
Avoca	Cobar Shire Council	4	Jan 2012	0	0	1	0	3	25	75
Cicero	Department of Corrective Services	12	Dec 2011	2	0	3	1	6	25	58
Centurion	Strathfield Council	5	Aug 2011	0	0	3	0	2	60	40
Total		56		8	0	18	2	28	32	54

Table 27: Final reports received in 2011–12

Public inquiry	Agency	Number of recommendations	Date progress report received	Not implemented	Not agreed	Partially implemented	Implemented in alternative way	Implemented as described in report	% partially implemented	% fully implemented
Kanda	University of Sydney	5	Mar 2012	0	0	0	0	5	0	100
Corsair	TAFE	8	Mar 2012	0	0	0	0	8	0	100
Chaucer	RailCorp	5	Mar 2012	0	0	0	0	5	0	100
Columba	WorkCover NSW	2	Apr 2012	0	0	0	0	2	0	100
	Office of Liquor, Gaming and Racing	2	Mar 2012	1	0	1	0	0	50	0
	Vocational Education and Accreditation Board	5	Jan 2012	0	0	0	0	5	0	100
Vargas	NSW Maritime	7	Aug 2011	0	0	2	0	5	29	71
Atlas	NSW Department of Planning & Infrastructure	6	Aug 2011	0	0	0	0	6	0	100
Total		40		1	0	3	0	36	8	90

Appendix 6 – Report on the ICAC’s obligations under the *Government Information (Public Access) Act 2009*

Section 125 of the *Government Information (Public Access) Act 2009* (the “GIPA Act”) requires an agency to prepare an annual report on the agency’s obligations under the GIPA Act. The Government Information (Public Access) Regulation 2009 sets out what must be included in the report. This appendix contains the information required to be reported on by the Commission.

Section 7(3) of the GIPA Act provides that an agency must, at intervals of not more than 12 months, review its program for the release of government information to identify the kinds of government information held by the agency that should be made available in the public interest and that can be made publicly available without imposing unreasonable additional costs on the agency. During the reporting period, the Commission conducted one such review.

The Commission received no valid access applications during the reporting period.

Tables 28–34 provide statistical information about access applications – clause 7(d) and Schedule 2.

Table 28: Number of applications by type of applicant and outcome*

	Access granted in full	Access granted in part	Access refused in full	Information not held	Information already available	Refuse to deal with application	Refuse to confirm/deny whether information is held	Application withdrawn
Media	0	0	0	0	0	0	0	0
Members of Parliament	0	0	0	0	0	0	0	0
Private sector business	0	0	0	0	0	0	0	0
Not for profit organisations or community groups	0	0	0	0	0	0	0	0
Members of the public (application by legal representative)	0	0	0	0	0	0	0	0
Members of the public (other)	0	0	0	0	0	0	0	0

* More than one decision can be made in respect of a particular access application. If so, a recording must be made in relation to each such decision. This also applies to table 29.

Table 29: Number of applications by type of application and outcome

	Access granted in full	Access granted in part	Access refused in full	Information not held	Information already available	Refuse to deal with application	Refuse to confirm/deny whether information is held	Application withdrawn
Personal information applications*	0	0	0	0	0	0	0	0
Access applications (other than personal information applications)	0	0	0	0	0	0	0	0
Access applications that are partly personal information applications and partly other	0	0	0	0	0	0	0	0

* A "personal information application" is an access application for personal information (as defined in clause 4 of Schedule 4 of the GIPA Act) about the applicant (the applicant being an individual).

Table 30: Invalid applications

Reason for invalidity	Number of applications
Application does not comply with formal requirements (section 41 of the GIPA Act)	0
Application is for excluded information of the agency (section 43 of the GIPA Act)	4
Application contravenes restraint order (section 110 of the GIPA Act)	0
Total number of invalid applications received	4
Invalid applications that subsequently became valid applications	0

Table 31: Conclusive presumption of overriding public interest against disclosure: matters listed in Schedule 1 of the GIPA Act

	Number of times consideration used*
Overriding secrecy laws	0
Cabinet information	0
Executive Council information	0
Contempt	0
Legal professional privilege	0
Excluded information	0
Documents affecting law enforcement and public safety	0
Transport safety	0
Adoption	0
Care and protection of children	0
Ministerial code of conduct	0
Aboriginal and environmental heritage	0

*More than one public interest consideration may apply in relation to a particular access application and, if so, each such consideration is to be recorded (but only once per application). This also applies in relation to table 32.

Table 32: Other public interest considerations against disclosure: matters listed in table to section 14 of the GIPA Act

	Number of occasions when application not successful
Responsible and effective government	0
Law enforcement and security	0
Individual rights, judicial processes and natural justice	0
Business interests of agencies and other persons	0
Environment, culture, economy and general matters	0
Secrecy provisions	0
Exempt documents under interstate freedom of information legislation	0

Table 33: Timeliness

	Number of applications
Decided within the statutory timeframe (20 days plus any extensions)	0
Decided after 35 days (by agreement with applicant)	0
Not decided within time (deemed refusal)	0
Total	0

Table 34: Number of applications reviewed under Part 5 of the GIPA Act (by type of review and outcome)

	Decision varied	Decision upheld	Total
Internal review	0	0	0
Review by Information Commissioner*	0	0	0
Internal review following recommendation under section 93 of Act	0	0	0
Review by ADT	0	0	0
Total	0	0	0

* The Information Commissioner does not have the authority to vary decisions, but can make recommendations to the original decision-maker. The data in this case indicates that a recommendation to vary or uphold the original decision has been made.

Table 35: Applications for review under Part 5 of the GIPA Act (by type of applicant)

	Number of applications for review
Applications by access applicants	0
Applications by persons to whom information the subject of access application relates (see section 54 of the GIPA Act)	0

Appendix 7 – Chief executive officer and executive officers

On 14 November 2009, the Governor of NSW appointed the Hon David Ipp AO QC ICAC Commissioner for a five-year term.

Mr Ipp's conditions of employment are outlined in his instrument of appointment, and his salary is paid in line with the determination provided by the Statutory and Other Officers Remuneration Tribunal (SOORT) for puisne judges.

The Commissioner's salary is calculated at 160% of the remuneration of a NSW Supreme Court puisne judge. The total annual remuneration package for Mr Ipp is currently \$625,728. No fringe benefits were paid for the relevant reporting period. In its annual determination, SOORT awarded a 2.5% increase, effective from 1 October 2011.

Theresa Hamilton is the Deputy Commissioner of the ICAC and her term of appointment will expire in January 2014. The remuneration package of the Deputy Commissioner's position is equivalent to a Level 5 Senior Executive Service (SES) officer. Ms Hamilton's current total remuneration package is \$285,300.

Performance of Deputy Commissioner

Under annual reporting legislation, the Commission is required to report on the performance of any SES officers at Level 5 or above. In 2011–12, Ms Hamilton, Deputy Commissioner, was the only ICAC senior officer in this category. Ms Hamilton commenced her appointment as Deputy Commissioner in January 2007.

In 2011–12, the Commissioner assessed Ms Hamilton's overall performance as outstanding. She has successfully met the criteria contained in her performance agreement, including the provision of high-quality and timely operational and strategic advice.

Ms Hamilton acts as the Commission's main point of liaison with its external oversight bodies, namely the Inspector of the ICAC's office and the Parliamentary Committee on the ICAC. She also liaises at a senior level with the Office of the Director of Public Prosecutions about the progress of prosecutions arising from Commission investigations, and with CEOs and other SES officers in various government departments and agencies.

As the Commissioner's delegate, she approves the use of the Commission's compulsory powers, and presides at the Commission's compulsory examinations and public inquiries, as required by the Commissioner.

Ms Hamilton directly supervises the manager, assessments and the manager, communications and media. Ms Hamilton also supports the Commissioner by undertaking a direct supervisory role in respect of the Commission's executive directors responsible for investigations, corruption prevention, legal services, and corporate services.

Executive management

In 2011–12, the Commission's Executive Management Team consisted of:

- David Ipp AO QC, Commissioner, BCom LLB (Stellenbosch University)
- Theresa Hamilton, Deputy Commissioner, LLB (University of Queensland)
- Andrew Koureas, Executive Director, Corporate Services, BCom, MCom (University of NSW), LLB (University of Technology, Sydney), FCPA
- Stephen Osborne, Acting Executive Director, Investigation (until 8 July 2011), Associate Diploma in Criminal Justice (Charles Sturt University)
- Sharon Loder, Executive Director, Investigation (from 11 July 2011), LLB (Queensland University of Technology), BBus (HRM) (Queensland University of Technology), LLM (University of Queensland)
- Dr Robert Waldersee, Executive Director, Corruption Prevention, BA (University of Sydney), MA (University of Sydney), MA (University of Nebraska), PhD Management (University of Nebraska)
- Roy Waldon, Executive Director, Legal and Solicitor to the Commission, LLB Hons (University of Tasmania).

Table 36: Total number of executive staff in 2011–12 compared to previous years

Level	2011–12	2010–11	2009–10	2008–09
Commissioner	1	1	1	1
Level 5*	1	1	1	1
Level 3*	1	1	1	1
Level 2*	3	3	2	2
Level 1*	–	–	1	1
Total	6	6	6	6

* Commission executive staff employed at the equivalent of this SES level.

Table 37: Number of female executive staff at 30 June 2012 compared to previous years

Year	Number
2011–12	2
2010–11	1
2009–10	1
2008–09	1

Appendix 8 – Access and equity

The Commission is committed to the development of a culture that is supportive of employment equity and diversity principles. The Commission's Equal Employment Opportunity (EEO) Management Plan is prepared in accordance with Part 9A of the *Anti-Discrimination Act 1977*, under section 122J.

In 2011–12, an expression of interest was issued to staff to fill vacancies on the Access and Equity Committee to ensure representation of both male and female staff from across the various business units of the Commission.

The primary role of the Commission's Access and Equity Committee is to act as the Commission's oversight body for EEO issues, plans and policies. The committee reports to the Commissioner through the Commission Consultative Group (CCG).

The committee is responsible for monitoring and implementing the Commission's EEO Management Plan, the Disability Action Plan and the Multicultural Policies and Services Program.

In accordance with the committee's terms of reference, meetings are held quarterly and the minutes are available to staff from the intranet.

Members of the committee in the reporting period were:

- Justin Agale, Corruption Prevention Division
- Chris Bentley, Investigation Division
- Tony Bertoia, Corruption Prevention Division
- Heidrun Blackwood, Assessments Section
- Stephanie Coorey, Assessments Section
- Cindy Fong, Corporate Services Division
- Jacqueline Fredman, Assessments Section
- John Hoitink, Investigation Division
- Bill Kokkaris, Corruption Prevention Division
- Andrew Koureas, Corporate Services Division
- Jay Lawrence, Legal Division
- Catherine O'Brien, Corporate Services Division
- Michele Smith, Executive Unit
- Sandra Walker, Corruption Prevention Division
- Cathy Walsh, Corporate Services Division.

In 2011–12, the following outcomes were achieved in accordance with the Commission's EEO Management Plan:

- engagement of accredited trainers from the NSW Anti-Discrimination Board to conduct several training courses on EEO, discrimination, harassment prevention and intervention for managers and supervisors, and EEO, discrimination, harassment prevention, and rights and responsibilities for non-supervisory staff
- arrangements made for a new manager to undertake skills training in order to be appointed a grievance support officer
- conducted the annual survey of the Commission's EEO & Workforce Profile Data Collection form
- provision of merit selection training to a new manager by an accredited external consultant
- advertising of all external job vacancies on the Indigenous Jobs Australia website to facilitate an increase in Aboriginal and Torres Strait Islander representation
- payment of the Community Language Allowance Scheme to two staff members who successfully passed the Cantonese and Polish examinations conducted by the Community Relations Commission
- supported requests from several staff members for flexible work arrangements in order to balance family and work responsibilities
- access to Family and Community Service Leave and Carer's Leave by staff to address family responsibilities
- engagement of a new, two-year contract with an external organisation to continue to provide counselling services to staff and their immediate families under the Commission's Employee Assistance Program (EAP)
- promotion of the EAP through the Commission's internal staff newsletter
- supported the secondment of a female staff member to another NSW public sector agency in order to assist in career development
- sponsorship of several female employees to attend the International Women's Day 2012 breakfast

- review of the Commission's established EEO Management Plan, with action identified for the development of a new three-year plan.

The following strategies have been identified for 2012–13:

- develop a new three-year EEO Management Plan
- develop a new three-year Disability Action Plan
- appoint a new grievance support officer
- provide merit selection training to new managers
- organise for the NSW Anti-Discrimination Board to provide training to new staff and refresher training for existing staff

- conduct the annual survey of the Commission's EEO and Workforce Profile Data Collection form
- promote the Community Language Allowance Scheme (CLAS)
- advertise external job vacancies on the Indigenous Jobs Australia website
- support for requests for flexible work arrangements in order to meet work and family responsibilities
- support female staff attendance at related International Women's Day activities.

Table 38: Staff numbers by salary level 2011–12

Remuneration Level of Substantive Position	Total staff (Men & Women)	Respondents	Men	Women	Aboriginal & Torres Strait Islanders	People from racial, ethnic, ethno-religious minority groups	People whose language first spoken as a child was not English	People with a disability	People with a disability requiring work-related adjustment
\$0 – \$40,662	0	0	0	0	0	0	0	0	0
\$40,662 – \$53,407	1	1	1	0	0	0	0	1	0
\$53,407 – \$59,705	3	3	0	3	0	1	0	0	0
\$59,705 – \$75,552	19	19	3	16	0	7	6	0	0
\$75,552 – \$97,702	30	29	12	18	1	13	10	3	0
\$97,702 – \$122,128	47	46	31	16	0	11	9	5	0
\$122,128 > (Non SES)	21	21	11	10	0	3	3	2	0
\$122,128 > (SES)	5	5	3	2	0	1	1	0	0
Total	126	124	61	65	1	36	29	11	0

Table 39: Trends in the representation of EEO Groups

EEO Group	Benchmark/ Target	2010	2011	2012
Women	50%	50.4%	50.0%	51.6%
Aboriginal people and Torres Strait Islanders	2.6%	0.9%	0.8%	0.8%
People whose first language spoken as a child was not English	19.0%	19.9%	22.6%	23.4%
People with a disability	n/a	9.5%	9.7%	8.9%
People with a disability requiring work-related adjustment	1.5%	1.5%	1.6%	0.0%

Table 40: Trends in the distribution of EEO groups

EEO Group	Benchmark/ Target	2010	2011	2012
Women	100	90	90	90
Aboriginal people and Torres Strait Islanders	100	n/a	n/a	n/a
People whose first language spoken as a child was not English	100	96	95	96
People with a disability	100	n/a	n/a	n/a
People with a disability requiring work-related adjustment	100	n/a	n/a	n/a

Note 1: A Distribution Index of 100 indicates that the centre of the distribution of the EEO group across salary levels is equivalent to that of other staff. Values less than 100 mean that the EEO group tends to be more concentrated at lower salary levels than is the case for other staff. The more pronounced this tendency is, the lower the index will be. In some cases, the index may be more than 100, indicating that the EEO group is less concentrated at lower salary levels.

Note 2: The Distribution Index is not calculated where EEO group or non-EEO group numbers are less than 20.

Table 41: Staff numbers by employment basis in 2011–12

	Total staff	Respondents	Men	Women	Aboriginal & Torres Strait Islanders	People from racial, ethnic, ethno-religious minority groups	People whose language first spoken as a child was not English	People with a disability	People with a disability requiring work-related adjustment
Permanent full-time	108	104	57	51	1	31	25	9	2
Permanent part-time	14	14	1	13	0	6	3	3	0
Temporary full-time	14	14	8	6	0	2	1	1	0
Temporary part-time	0	0	0	0	0	0	1	0	0
Contract – SES equivalent	6	6	4	2	0	1	0	0	0
Contract – non-SES equivalent	0	0	0	0	0	1	0	0	0
Training positions	0	0	0	0	0	0	0	0	0
Retained staff	0	0	0	0	0	0	0	0	0
Casual	2	2	0	2	0	0	0	0	0
Total	144	140	70	74	1	41	30	13	2

Table 42: Employment basis for 2011–12, compared to previous years

Employment basis		2011–12	2010–11	2009–10	2008–09	2007–08
Permanent	Full-time	108	110	101	91	97
	Part-time	14	12	11	14	8
Temporary	Full-time	14	15	11	7	11
	Part-time	0	4	4	1	3
Contract	SES equivalent	6	6	6	6	6
	Non-SES equivalent	0	0	0	0	0
	Trainee	0	0	0	0	0
Total		142	147	133	119	125

Note: Two casual staff are not included in this table for 2011–12.

Table 43: Average full-time equivalent (FTE) staffing in 2011–12, compared to previous years

	2011–12	2010–11	2009–10	2008–09
Average FTE staffing	120.3	117.1	117.6	111.9

Appendix 9 – Multicultural Policies and Services Program

The Commission recognises the social, cultural and economic contribution that results from multiculturalism. In addition to activities directed at staff under the Multicultural Policies and Services Program (MPSP), the Commission continues to ensure that its services are responsive to the needs of culturally and linguistically diverse (CALD) communities.

The Commission embraces the principles of multiculturalism, as defined under the *Community Relations and Principles of Multiculturalism Act 2000*, and implements activities in support of these principles through the MPSP. A new, three-year MPSP (2012–2014) is being developed in line with the Community Relations Commission's guidelines.

In 2011–12, the following outcomes were achieved:

- engagement of accredited interpreters and translators to assist clients, when needed. During the reporting period, there were 30 occasions in which the Commission utilised external services for the languages of Arabic, Assyrian, Cantonese, Italian, Mandarin and Vietnamese
- inclusion under the Community Language Allowance Scheme (CLAS) of two staff members who successfully passed the Cantonese and Polish examinations conducted by the Community Relations Commission
- continuation of the CLAS allowance to approved staff members
- promotion to staff of the 2012 days of religious significance for multicultural NSW through the intranet
- update of the Commission's bilingual skills directory to include new staff skilled in the languages of Norwegian, Sinhala and Tamil
- promotion of multilingual resources through the Commission's website, presentations, public displays and information brochures
- media from non-English language outlets attended relevant public inquiries and generated coverage
- speaking engagements undertaken with members of CALD communities to address corruption issues
- CALD presentations included in two rural and regional outreach visits

- over 14,000 multilingual brochures were distributed to multicultural services and migrant resource centres
- multilingual resources provided to relevant CALD international delegations.

The Commission has identified the following strategies for 2012–13:

- finalise and promote the Commission's new three-year MPSP
- review and update the bilingual skills directory
- promote the CLAS to staff
- review the Commission's CALD information resources
- monitor Commission investigations to identify and address those with issues involving CALD communities
- deliver presentations and training to CALD communities and relevant agencies
- promote the 2013 days of religious significance for multicultural NSW to staff.

Appendix 10 – Work health and safety (formerly occupational health and safety)

The Commission is strongly committed to the continuous improvement of health and safety in the workplace. Work health and safety (WHS) principles continue to be incorporated into all facets of business planning and operational activities.

In line with the new *Work Health and Safety Act 2011*, the Commission developed a WHS Project Plan to:

- review and update the Commission's related policies, namely the Occupational Health and Safety (OHS) Policy, Corporate Induction Policy, Workplace Injury Management and Workers Compensation Policy, and Security and Risk Management Policies
- amend the Commission's OHS portal
- review and update related OHS intranet sites and forms
- amend the Commission's OHS Committee's charter
- disseminate information and train staff on the new WHS legislation

- review and update position descriptions to reflect new WHS terminology.

In June 2012, the Commission engaged the services of Deloitte Touche Tohmatsu to undertake a gap analysis of the Commission's WHS management framework in accordance with the NSW Government's *Working Together: Public Sector Workplace Health and Safety and Injury Management Strategy 2010–2012*.

The Commission was assessed against performance criteria contained within the Occupational, Health and Safety Injury Management Improvement Standard, as outlined below.

OHS policy	Management and responsibility	Planning processes
Consultation	Risk management	Information, instruction and training
Injury treatment and management	Claims management	Incident reporting, investigation, analysis and review
Measuring and evaluating OHS performance	Reviewing the OHS management system	CEO reporting and leadership

Deloitte Touche Tohmatsu also examined the Commission's WHS Project Plan to address key changes in the new WHS legislation. The assessment identified one important area of concern and five minor areas. The Commission determined that the former was less significant to the operations of the Commission than had been identified. The three minor areas of concern were considered adequately addressed and the Commission would take action on the other two minor areas of concern raised.

The Commission's WHS Committee is an active stakeholder in the implementation of the WHS Project Plan. The committee will also help with the development of the Commission's new three-year WHS and Risk Management Plan.

In addition to the WHS activity above, the following initiatives were implemented by the Commission in 2011–12:

- flu vaccine offered to staff, administered by health professionals
- contract renewal of the Employee Assistance Program to continue to provide counselling services to staff and their immediate families
- engagement of an accredited occupational therapist to undertake ergonomic workplace assessments and develop return-to-work plans for injured staff
- electrical testing and tagging of relevant equipment
- expressions of interest sought from staff to become first aid officers
- training provided to identified staff in the following:
 - operational safety and defensive tactics
 - WHS responsibilities for supervisors and managers
 - OHS consultation for new WHS Committee members
 - *Work Health and Safety Act 2011* for WHS Committee members.

Table 44: WHS incidents, injuries and claims in 2011–12

Body stress	3
Journey to/from work	4
Fall, trip, slip	0
Hitting objects	1
Other non-specified	0
Heat, radiation, electricity	1
Total	9
Number of workers compensation claims (provisional liability)	3*

* There has been a decrease in the number of workers compensation claims; from four in 2010–11 to three in 2011–12. The three claims related to a journey to/from work.

Appendix 11 – Engagement and use of consultants

Table 45: Engagement and use of consultants

Consultancies equal to or more than \$50,000	
Unisys Australia P/L, ICT infrastructure architecture design project	\$125,388
Consultancies less than \$50,000	
Number of engagements: 4	
Risk management	\$6,363
Facilities management	\$17,500
Management services	\$25,159
Information technology	\$37,532
Total cost	\$86,554
Total consultancies	\$211,943

Appendix 12 – Payment performance indicators

Table 46: Aged analysis at end of each quarter 2011–12

Quarter	Current (i.e.) within due date \$	Less than 30 days overdue \$	Between 30 and 60 days overdue \$	Between 60 and 90 days overdue \$	More than 90 days overdue \$
All suppliers					
September	1,831,267	1,601	–	–	–
December	1,766,314	1,725	–	–	–
March	1,739,537	567	–	–	–
June	3,474,789	12,528	–	–	–
Small business suppliers					
September	32,469	–	–	–	–
December	51,884	–	–	–	–
March	24,524	–	–	–	–
June	79,164	–	–	–	–

Table 47: Accounts due or paid within each quarter

Measure	September 2011	December 2011	March 2012	June 2012
All suppliers				
Number of accounts due for payment	777	871	908	1082
Number of accounts paid on time	774	870	906	1076
Actual percentage of accounts due for payment	99.6%	99.8%	99.7%	99.4%
Dollar amount of accounts due for payment	1,832,868	1,768,039	1,740,104	3,487,317
Dollar amount of accounts paid on time	1,831,267	1,766,314	1,739,537	3,474,789
Actual percentage of accounts paid on time (based on \$)	99.91%	99.90%	99.96%	99.64%
Number of payments for interest on overdue accounts	–	–	–	–
Interest paid on overdue accounts	–	–	–	–
Small business suppliers				
Number of accounts due for payment	33	48	24	52
Number of accounts paid on time	33	48	24	52
Actual percentage of accounts due for payment	100%	100%	100%	100%
Dollar amount of accounts due for payment	32,469	51,884	24,524	79,164
Dollar amount of accounts paid on time	32,469	51,884	24,524	79,164
Actual percentage of accounts paid on time (based on \$)	100%	100%	100%	100%
Number of payments for interest on overdue accounts	–	–	–	–
Interest paid on overdue accounts	–	–	–	–

The Commission did not make any interest payments for late payment of accounts. Where there were delays in the payment of accounts, the reasons can be attributed to inaccuracies/incompleteness of the original invoices and/or minor disputes requiring the adjustment of invoice details prior to eventual payment.

All small business number of accounts were paid on time during the current reporting period. The above disclosure includes details for the September and December quarters for small business accounts, even though the effective date of NSW TC 11/12 is January 2012.

Appendix 13 – Credit card certification

The Commissioner certifies that credit card usage in the Commission has met best practice guidelines in accordance with Premier's Memoranda and Treasury Directions.

Appendix 14 – Major works in progress

The Commission commenced the first sub-project of its information and communication technology (ICT) infrastructure upgrade project. This involved relocating its ICT room during May and June 2012. The project included upgrading the fire suppression, uninterrupted power supply and air-conditioning systems. Cut over to the new room is expected in early August 2012. The cost for this sub-project was \$395,618. This project was delayed by about six weeks due to building certificate issues and sourcing air-conditioning equipment. The ICT infrastructure upgrade project has been deferred to allow the Commission to amend its business case to seek additional funding to fully implement the strategy recommended by the Commission's consultants.

Appendix 15 – Overseas travel

Table 48: Overseas travel in 2011–12

Name of officer	Date of travel	Destination	Purpose	Amount (\$)
Theresa Hamilton, Deputy Commissioner	8–13 May 2012	Hong Kong	Deliver speech and attend 5th Hong Kong ICAC Symposium	894.18
Bronwyn Barker, electronic evidence specialist	20–24 May 2012	United States	Attend Computer and Enterprise Investigations Conference	2,965.25

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