



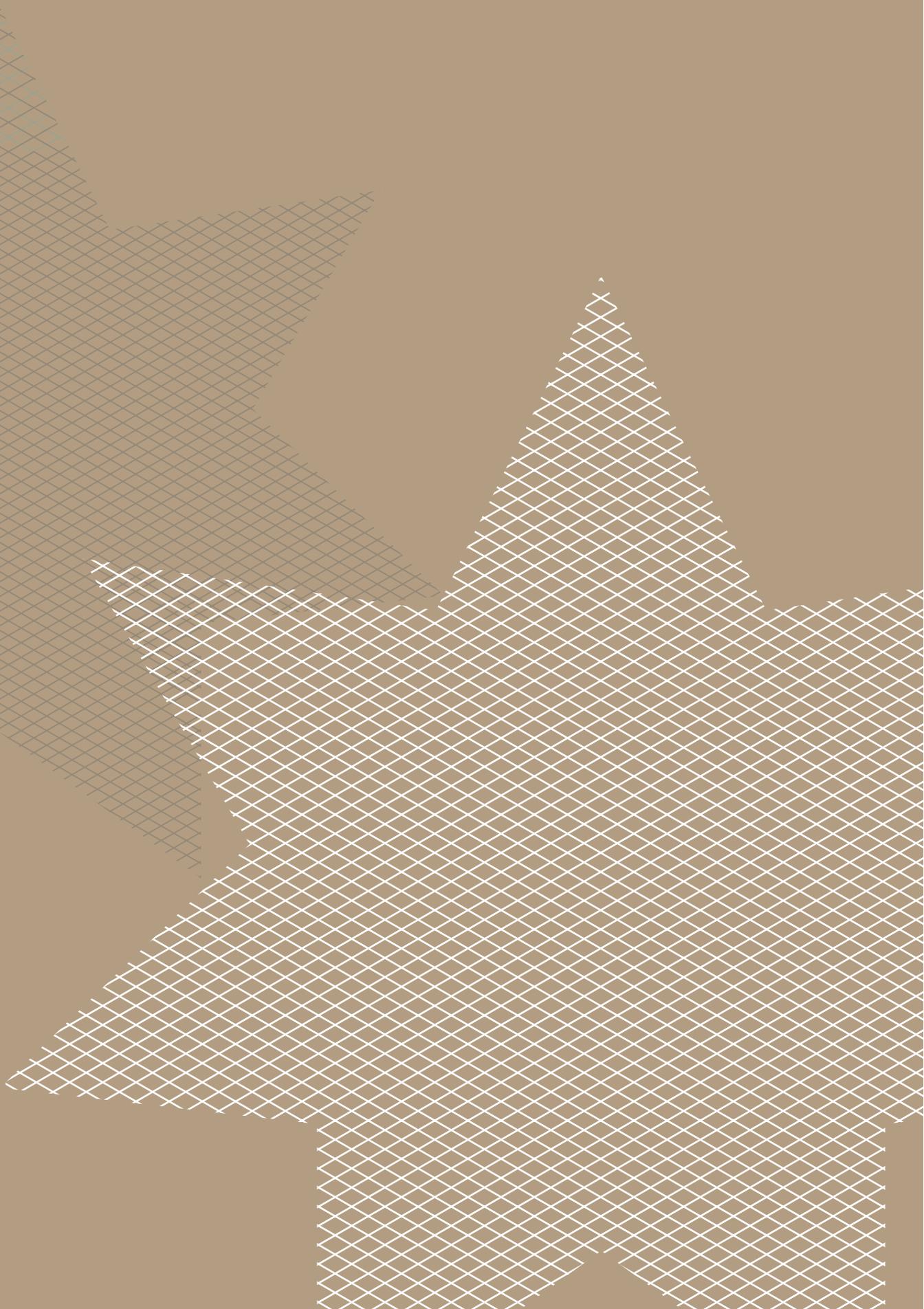
# CDPP

*Australia's Federal Prosecution Service*



## ANNUAL REPORT 2018–19

COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS



# LETTER OF TRANSMITTAL



**CDPP**

*Australia's Federal Prosecution Service*

Sarah McNaughton SC  
Director

Commonwealth Director  
of Public Prosecutions

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26 September 2019

Attorney-General  
The Hon Christian Porter MP  
Parliament House  
Canberra ACT 2600

Dear Attorney-General

It is my pleasure to present to you the annual report of the Commonwealth Director of Public Prosecutions (CDPP) for the financial year 2018-19.

The report has been prepared pursuant to section 46 of the *Public Governance, Performance and Accountability Act 2013* and reflects the matters CDPP dealt with and the legislation it administered in pursuing its purpose for the year to 30 June 2019.

I certify I am satisfied CDPP has, in accordance with section 10 of the Public Governance, Performance and Accountability Rule 2014:

- prepared fraud risk assessments and a fraud control plan
- put into place appropriate fraud prevention, detection, investigation recording and reporting mechanisms that meet CDPP's needs
- taken all reasonable measures to minimise the potential incidence of fraud in the CDPP.

There have been no instances of fraud identified for the year to 30 June 2019.

In presenting this annual report, I would like to acknowledge the contribution made throughout the year by my colleagues in CDPP.

Yours sincerely

Sarah McNaughton SC  
Commonwealth Director of Public Prosecutions

# ABOUT THE CDPP

The Office of the Commonwealth Director of Public Prosecutions (CDPP) is an independent prosecution service established by Parliament to prosecute offences against Commonwealth law.

We are a Commonwealth statutory agency with 10 offices around Australia. The CDPP operates as an independent agency within the Attorney-General's portfolio.



Australia's  
independent  
prosecution  
service

**SERVICE**



Contributing to  
a fair, safe and  
just society

**SOCIETY**



Prosecuting  
crimes  
against the  
Commonwealth  
for 35 years

**JUSTICE**



Providing advice  
to assist the  
investigative  
process

**ADVISE**



Bringing cases  
to a close  
through effective  
prosecutions

**PROSECUTE**



Highlighting  
outcomes to  
educate the  
community and  
deter offenders

**EDUCATE**

## Our aim

To be fair, consistent and professional in everything we do. We recognise, value and develop the knowledge, skills and commitment of our people to deliver Australia's federal prosecution service.

Our aim ensures we invest in, and build, the capability of our people. We enable and support them in their work through our ongoing commitment to digital transformation, modernising our systems, processes and practices. This demonstrates our commitment to innovation, collaboration and diversity as a means to develop our prosecution service in step with the expectations of partner agencies and the broader community.

## Our purpose

To prosecute crimes against Commonwealth law through an independent prosecution service that is responsive to the priorities of our law enforcement and regulatory partners, and that effectively contributes to the safety of the Australian community and the maintenance of the rule of law.

To achieve our purpose, we build effective relationships with partner agencies and bring cases to a close through successful prosecutions.

## Our outcome

Contribute to a fair, safe and just society by delivering an effective, independent prosecution service in accordance with the *Prosecution Policy of the Commonwealth*.

By delivering this outcome, we build public confidence in the Australian justice system, where the laws of the Commonwealth are respected, offenders are brought to justice and potential offenders are deterred.

# STRATEGIC THEMES

The CDDP’s strategic framework is based on three themes:



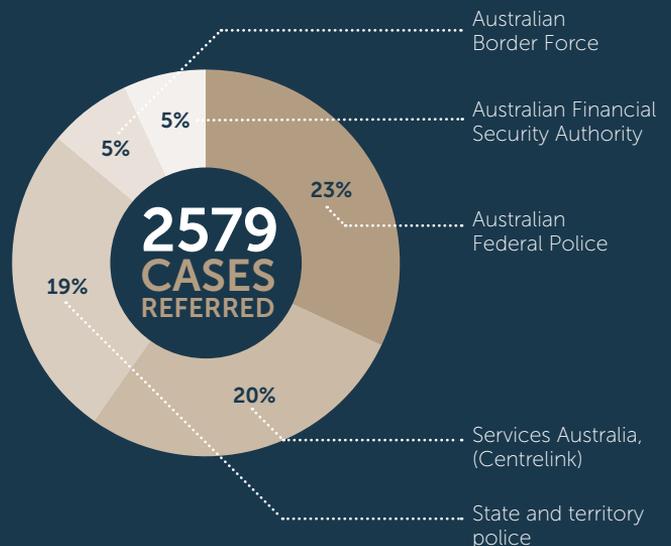
Our strategic themes focus and direct our effort. The matters we prosecute are diverse and complex, reflecting the evolving and expanding nature of offences against Commonwealth laws. Our strategic themes underpin how we set our priorities, providing a framework that enables us to achieve our purpose and deliver our stated outcome.

## OUR PARTNERS

We serve the public interest by maintaining strong and effective working relationships with partner agencies.

In 2018–19, 62 partner agencies referred cases to the CDDP:

- 46 Commonwealth investigative agencies
- 16 state and territory agencies.



PROSECUTIONS



**3,961**

Matters before court



**2,101**

Cases dealt with\*



**1,691**

Prosecutions resulting in a finding of guilt



**890**

Prosecutions resulting in immediate imprisonment

APPEALS



**15**

Prosecution appeals decided



**8**

Successful appeals against the inadequacy of sentence

\* This total is derived from the number of summary, trial and sentence phases closed during the reporting period.

## OUR PRACTICE

We have offices in Canberra, Sydney, Melbourne, Brisbane, Perth, Adelaide, Hobart, Darwin, Cairns and Townsville. We carry out legal work in the courts of every Australian state and territory.

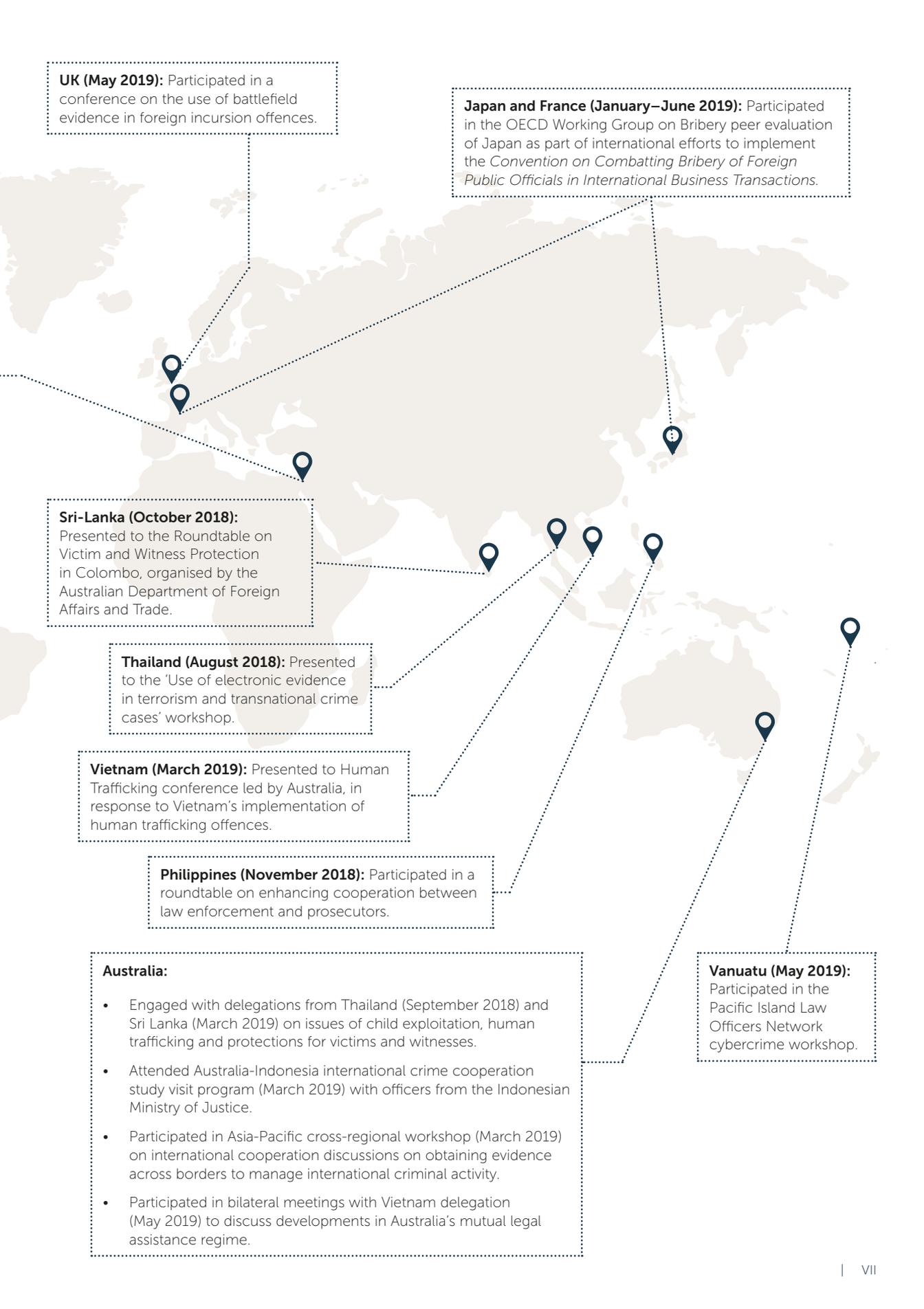
We are also responsible for prosecuting offences in Jervis Bay and Australia's external territories, including Norfolk Island, Christmas Island and the Cocos (Keeling) Islands.

## INTERNATIONAL ENGAGEMENT

**Israel (October 2018):** Attended the International Competition Network Cartel workshop with representatives from the Australian Competition and Consumer Commission.

**Kiribati (February 2019):** Participated in a legal cooperation program run by the International Association of Prosecutors. The aim was to build capacity, with a focus on prosecuting cybercrime, money laundering, proceeds of crime, fraud and corruption.





**UK (May 2019):** Participated in a conference on the use of battlefield evidence in foreign incursion offences.

**Japan and France (January–June 2019):** Participated in the OECD Working Group on Bribery peer evaluation of Japan as part of international efforts to implement the *Convention on Combatting Bribery of Foreign Public Officials in International Business Transactions*.

**Sri-Lanka (October 2018):** Presented to the Roundtable on Victim and Witness Protection in Colombo, organised by the Australian Department of Foreign Affairs and Trade.

**Thailand (August 2018):** Presented to the 'Use of electronic evidence in terrorism and transnational crime cases' workshop.

**Vietnam (March 2019):** Presented to Human Trafficking conference led by Australia, in response to Vietnam's implementation of human trafficking offences.

**Philippines (November 2018):** Participated in a roundtable on enhancing cooperation between law enforcement and prosecutors.

**Australia:**

- Engaged with delegations from Thailand (September 2018) and Sri Lanka (March 2019) on issues of child exploitation, human trafficking and protections for victims and witnesses.
- Attended Australia-Indonesia international crime cooperation study visit program (March 2019) with officers from the Indonesian Ministry of Justice.
- Participated in Asia-Pacific cross-regional workshop (March 2019) on international cooperation discussions on obtaining evidence across borders to manage international criminal activity.
- Participated in bilateral meetings with Vietnam delegation (May 2019) to discuss developments in Australia's mutual legal assistance regime.

**Vanuatu (May 2019):** Participated in the Pacific Island Law Officers Network cybercrime workshop.

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# DIRECTOR'S FOREWORD



For 35 years, the CDPP has been serving Australia through its contribution to a fair, safe and just society. Since we became an integral part of the Commonwealth justice system under the *Director of Public Prosecutions Act 1983*, the law enforcement landscape has changed markedly. We too have evolved, and have risen to the challenge of prosecuting an increasingly diverse and complex array of criminal offending.

At the heart of our practice is our people. We understand that in order to achieve our outcomes, successfully transition into a digitally-enabled practice, and support our stakeholders, we need to invest in and build the capabilities of our people. To this end, in 2018–19 we introduced a number of initiatives that, together, provide building blocks for the CDPP to improve prosecution practices and assist staff to enhance their professional capability and develop their skills as future leaders in their field.

## Launching caseHQ

We successfully introduced caseHQ in August 2018. The launch was the culmination of a significant period of research and development to provide a new business management system for the practice. caseHQ combines a suite of tools that deliver a secure, flexible and contemporary system, giving prosecutors end-to-end case management capability with embedded document and workflow management functions.

Providing us with the capability to more effectively track and measure our work is a key feature of caseHQ. It will allow us to more accurately allocate our resources, identify emerging themes and trends, and measure our performance against a range of criteria. This, in turn, enhances our ability to identify how we can provide the training, resources and materials our people need to ensure we continue to meet our outcomes.

Despite its ambitious scope, caseHQ was delivered on budget and within 11 months of selecting a vendor. In June 2019, we reached a significant milestone with more than half of all cases on hand being managed in caseHQ.

## **New ways of working**

While the introduction of caseHQ is an important element of the CDPP's digital transformation, we are also promoting a number of other technologies to support our people and practice into the future. In 2018–19, the CDPP introduced a range of initiatives that help staff achieve balance in their working lives and succeed in their professional endeavours.

On the technology front, our ICT systems have been upgraded so our staff can work remotely and flexibly. As of 30 June 2019, 33 employees had adopted formal remote working arrangements, while 54 staff had established part-time agreements, with a total of 231 of our staff remotely accessing their desktop. I anticipate we will continue to report growth in the number of successful flexible arrangements we have in place, enhancing our dynamic and productive work environment.

Underpinning our ability to encourage and adopt flexible practices is a strong understanding of our workplace needs, both immediately and into the future. In 2018, we established the CDPP's Workforce Planning Committee to more effectively synthesise how we oversee and steer workforce planning decisions. The Committee uses a range of information, including data from caseHQ, to identify and address resourcing requirements.

As a result, we are better able to meet the challenges associated with emerging trends across our prosecution environment. This, in turn, enables us to balance staffing arrangements in relation to labour hire, ensuring we achieve greater levels of stability within the workforce.

Another key development during 2018–19 was the introduction of Digital Litigation Specialists within our practice. This team is leading our efforts to build capability across the CDPP, especially in relation to how we can best manage our large, complex and long-running cases.

## **Engaging with stakeholders**

We could not successfully prosecute matters without close and ongoing relationships with the agencies responsible for identifying and investigating crimes against the Commonwealth. We engage with investigators regularly, providing advice and support throughout the prosecution process. We also participate and contribute to various criminal justice taskforces to support law enforcement outcomes.

To ensure the preparation of briefs of evidence and the progression of matters through court is as efficient and effective as possible, we provide our law enforcement partners with access to a range of tools, such as the Partner Agency Portal. This digital resource provides secure access to key documentation

and support for investigators. It also links to the Digital Referrals Gateway, which supports our transition to receiving all briefs electronically. In April 2019, we launched the Comcare Engagement Framework, which supports our engagement with Comcare and provides investigators with information about prosecutions in this area.

Another key aspect of our stakeholder engagement is with external counsel. Our ability to bring in specialist practitioners to assist us with prosecutions and provide advice on more complex matters is vital to ensuring we achieve our outcomes. In 2018–19, we introduced the Counsel e-Newsletter initiative to enhance links with the counsel we brief.

In February 2019, the Attorney-General, the Hon Christian Porter MP, launched a new online resource for victims and witnesses. The site was developed in consultation with victims, witnesses, non-government organisations and CDPP prosecutors, in response to recommendations from the *Royal Commission into Institutional Responses to Child Sexual Abuse*. This resource is improving our ability to meet the needs of our most vulnerable stakeholders, who often require additional support in navigating the justice system.

## Performing against our purpose

Our commitment to effectively prosecuting matters remains unwavering. It is driven by the expectations of the Australian public and our determination to achieve outcomes in the public interest. In 2018–19, we continued to measure our performance against three key measures:

- meeting the test for prosecution in the *Prosecution Policy of the Commonwealth*
- partner agency satisfaction
- prosecutions resulting in a conviction.

The launch of caseHQ has been instrumental in helping us to audit compliance in relation to addressing the terms of the tests for prosecution. This is done through Prosecution Policy Declarations, which are automatically generated within caseHQ. It is not possible to finalise key legal decision-making tasks without completing a declaration, and we continue to achieve a 100 per cent compliance rate in this area.

Our key measure for partner agency satisfaction is a biennial survey that has an established methodology and baseline to track satisfaction on an ongoing basis. Comparing the past two surveys from 2016 and 2018 shows our satisfaction rate is improving, reaching 87 per cent in 2018. While this fell slightly short of our 90 per cent target, we continue to build on the survey's feedback to improve and enhance our relationships with our partners. The next survey will be held in the first half of 2020.

Our conviction rate of 97 per cent is a testament to the commitment and hard work of our prosecutors and partner agencies. In 2019–20, we will be expanding how we measure compliance in this area to differentiate between findings of guilt in all of our concluded cases, and findings of guilt for defended matters only.

We understand that ensuring timely assessment of briefs is vitally important to partner agencies. Over the last two years we have set ourselves a target of assessing 85 per cent of briefs within 90 days of receipt<sup>1</sup> and we have continued to meet this key performance indicator since it was put in place.

## Emerging trends

Our digital transformation, the skills and training we provide to our people, and the strong relationships we build with our stakeholders are all part of our commitment to providing an independent and effective prosecution service now and into the future.

We deal with diverse matters that reflect the evolving and expanding nature of offences against Commonwealth law. Our national practice model reflects our ability to prosecute matters from terrorism to money laundering, child exploitation to welfare fraud, and regulatory non-compliance to illicit drug importations.

Across all crime types, we are seeing an increasing level of complexity. This can be attributed to the inclusion of international elements to the offending, large volumes of digital evidence, multiple defendants, or a combination of these and other factors. To address these challenges effectively, we need to be agile and responsive in how we prepare and develop our briefs.

During 2018–19, we responded to recommendations from a number of royal commissions that have implications for our practice, including the *Royal Commission into Institutional Responses to Child Sexual Abuse*, the *Victorian Royal Commission into the Management of Police Informants* and the *Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry*.

## Looking ahead

In response to the *Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry*, the Australian Government provided an additional \$41.6 million in funding to the CDPP over four years. We are developing key resources, recruiting new staff, and identifying counsel with criminal and corporate law experience to assist with an anticipated increase in caseload.

<sup>1</sup> Where a brief needs to be suspended pending receipt of additional significant material from the agency, that time is not counted in the in 90 day calculation.

The Australian National Audit Office is conducting a performance audit of the CDPP, examining the efficiency with which we manage our cases. Specifically, the audit is exploring whether we have efficient arrangements in place for the assessment of cases, and whether we effectively monitor and report on our case management. The findings of the audit are expected to be finalised during 2019–20, and will form part of our ongoing efforts to ensure we consistently deliver an effective and independent prosecution service.

We will continue on our journey of digital transformation, and over the next 12 months will embed our new processes and systems, while strengthening our capability in the digital operating environment. Our Corporate Plan provides more details about how we intend to leverage the gains we made during 2018–19 over the next four years. Our ambitious program to build a digitally capable, flexible and agile workforce provides the foundation for our digital transformation, and continued success as Australia’s federal prosecution service.



**Sarah McNaughton SC**  
Commonwealth Director of Public  
Prosecutions



# CHAPTER 1 OVERVIEW

## Australia's independent prosecution service

The CDPP was established under the *Director of Public Prosecutions Act 1983* (DPP Act) and started operating on 5 March 1984.

The DPP Act sets out the functions and powers of the Director, including independent responsibility for carrying out prosecutions for offences against Commonwealth laws. The Commonwealth Solicitor for Public Prosecutions takes a lead role in supporting the Director to fulfil our statutory obligations, while the Executive Leadership Group oversees legal and corporate functions.

While the CDPP is part of the Commonwealth Attorney-General's portfolio, we operate independently of both the Attorney-General and the political process. However, under section 8 of the DPP Act, the Commonwealth Attorney-General has the power to issue directions or guidelines to the Director. Before issuing directions, the Attorney-General must consult with the Director, and any directions or guidelines must be in writing and tabled in Parliament. The CDPP is bound by any directions or guidelines issued by the Attorney-General. Since the CDPP was established, seven directions have been issued. No directions were issued during the reporting period.

The CDPP is an integral part of the Australian justice system and is committed to upholding the highest professional and ethical standards. We liaise with state and territory prosecuting authorities, and attend valuable national prosecution forums,

including the Conference of Australian Directors of Public Prosecutions and the National Executive Officers' Meeting. We work collaboratively with stakeholders at every level of the justice system, contributing to legislative reform and procedural forums to improve the delivery of our prosecution service, and meet the expectations of the broader community.

Our national reach allows us to work efficiently and effectively with partner agencies and state and territory counterparts, to progress our prosecution work and strengthen our working relationships with all stakeholders in the justice system.

We also work to ensure that victims, witnesses, alleged offenders and others affected by the criminal justice process are treated fairly.



The CDPP is committed to promoting and maintaining an organisational culture that values fairness, equity and respect.

All staff sign our guideline on official conduct, and are expected to maintain the high ethical standards that are valued across our organisation.



We provide advice to referring agencies, stakeholders and international counterparts about cases, law reform and the application and operation of Commonwealth law.



We contribute to a fair, safe and just society by successfully prosecuting crimes against Commonwealth law.



We treat victims and witnesses with respect and support the most vulnerable through the prosecution process.



We educate the community about the consequences of breaking the law, which sends a strong message of deterrence.

# PROSECUTING CASES IN UNUSUAL PLACES

When your flight lands at an international airport runway that is part of the local golf course, you know your visit is going to be unusual. This is the gateway for CDPP prosecutors arriving at the Cocos (Keeling) Islands (CKI) at what is thought to be the only golf club in Australia, perhaps in the world, to have an international runway.

Closer to Indonesia than Australia, the CKI lie in the Indian Ocean some 2,750 kilometres northwest of Perth. Every three months, CDPP prosecutors from our Perth office spend a week there, and another week on Christmas Island 900 kilometres away, to prosecute cases. The prosecutions they conduct include offences against Western Australian law as well as Commonwealth laws.

Both islands are generally law abiding, if somewhat unusual, places. The 450 strong population of the CKI has few cars. So it is unsurprising that some of the driving offences prosecuted by the CDPP involve golf carts, as these vehicles are commonly used to get around. However, regardless of what you drive, it is illegal to lock your vehicle in case it needs to be moved. In another sign of the population's honesty, the thatched bungalows allocated to visitors don't have keys.

On both the CKI and Christmas Island, the types of offending mean courts usually dispense fines and community orders. Everyone knows each other, so perpetrators are often very apologetic to their victims, and the courtroom is usually full of spectators. The courts provide a social focus for the week, and family and friends turn up to support both victims and defendants.

From Perth, there are only one or two flights to the islands each week. This means the CDPP prosecutor, the defence lawyer, the Legal Aid officer and the magistrate all fly out together. It is usually the same Legal Aid officer on each circuit.

CDPP prosecutor Jordan Johnston, who has travelled to Christmas Island a number of times, said continuity is important in legal representation on the islands.

'The Legal Aid officer works closely with the small community on Christmas Island and has a good feel for the plea in mitigation in each case,' he said.

'They make submissions on what an appropriate sentence should be, given all the circumstances and what community orders have worked in the past.'

Another CDPP prosecutor, Oralee Logan, who travels from the Perth office to the CKI, believes there is a significant benefit for all the parties in being able to liaise informally outside the courtroom.

'As the defendant often pleads guilty, it means the different sides can discuss issues ahead of time and be efficient in the courtroom,' she said.

Given there are no telecommunication or internet services on the CKI, the ability to work effectively in the courtroom is important. Prosecutors have no way to contact the office if they need to access resources if a matter is contested at the last minute.

Mr Johnston said that despite prosecuting 'fairly routine state offences' such as road traffic misdemeanours, prosecutors need to understand and apply Western Australian state law, which makes the work more interesting.

'It's a unique experience working within the criminal justice system in a small community,' he said.

Along with the CKI and Christmas Island, the CDPP is also responsible for prosecuting matters in Jervis Bay, Norfolk Island and Antarctica.

## A responsive national legal practice



Our national legal practice group operating model provides an efficient, effective and nationally-consistent federal prosecution service.



The model helps to harness staff expertise to improve the timeliness and effectiveness of prosecutions.



Leveraging the national practice group model means we are able to allocate specialist prosecutors to matters depending on areas of priority and need.

### Prosecuting Commonwealth offences

We work in an increasingly dynamic environment prosecuting a diverse range of complex crimes, which are often transnational in nature and regularly involve large quantities of electronic evidence.

Our caseload of complex matters continues to expand and evolve. It includes: criminal cartels, foreign bribery, online child exploitation, sophisticated revenue and benefits fraud, complex tax fraud, fraud by company directors and breaches of directors' duties, large-scale and cross-border organised crime activity including drug offences, human trafficking, slavery and terrorism offences.

We anticipate the profile of our work will continue to change as emerging crime types, such as foreign interference,

espionage and cybercrime, shape our prosecutions in the future. To ensure we are able to meet these challenges, the CDPP actively participates in the legislative reform process.

### Prosecution services for partner agencies

We continue to refine and improve our prosecution services for partner agencies. These services cover every aspect of the criminal prosecution process, from pre-brief advice and brief assessment to litigation services during the court process, creation of specialist resources for agencies, and liaison activity.

We also collaborate extensively with our partners to build capability and drive improvements in the prosecution process. This collaboration ranges from tailored training and secondments or outposts,

to participation in joint initiatives, such as government taskforces.

The growing need to digitise prosecution processes has seen us work closely with our partners to design standards for the submission of electronic briefs. As a result of this work, approximately 40 per cent of all briefs are now submitted to the CDPP in electronic form. For those matters that are referred prior to charges being laid, the figure is around 85 per cent. In 2018–19, we received a substantial number of these e-briefs through our Digital Referrals Gateway from a range of agencies.

Each of our legal practice groups actively engages with partner agencies to establish and build strong working relationships. The insights our prosecutors develop help to ensure we provide effective prosecution services that are responsive to the operating environment and our partner agencies' needs.

## Connecting with state and territory prosecution services

As the CDPP prosecutes offences in all Australian jurisdictions, we have established procedures with each state and territory prosecution service for trials that involve both Commonwealth and state or territory offences.

We can prosecute indictable offences against state or territory laws where our Director and other senior CDPP legal staff hold an authority to do so under the relevant jurisdiction's laws. In addition, our legal staff can conduct committal proceedings and summary prosecutions

on behalf of the Director for offences against state or territory law where a Commonwealth officer is the informant.

## Prosecution Policy of the Commonwealth

The *Prosecution Policy of the Commonwealth* applies to all Commonwealth prosecutions. It outlines the principles, factors and considerations our prosecutors must take into account in prosecuting offences against the laws of the Commonwealth.

The policy promotes consistency, fairness and efficiency. It guides decision-making throughout the prosecution process for every matter, regardless of the crime type or practice group.

### Criteria governing the decision to prosecute—the prosecution test

The CDPP must apply the test for prosecution, as set out under the *Prosecution Policy of the Commonwealth*, when making a decision to prosecute. The test requires prosecutors to be satisfied there is sufficient evidence to prosecute a case, and that the prosecution is in the public interest.

To determine if there is sufficient evidence to prosecute a case, we must be satisfied there is both *prima facie* evidence of the elements of the offence, and a reasonable prospect of obtaining a conviction. In making this decision, our prosecutors must evaluate how strong the case is likely to be when presented in court. They must take into account matters such as the availability, competence

and credibility of witnesses, their likely effect on the arbiter of fact (magistrate or jury), and the admissibility of any alleged confession or other evidence. Our prosecutors also consider any lines of defence open to the alleged offender, and any other factors that could affect the likelihood of a conviction.

In addition, our prosecutors consider if any evidence might be excluded by a court. If that evidence is crucial to the case, this may substantially affect the decision whether or not to prosecute. Our prosecutors need to look closely at the evidence in each matter, particularly in borderline cases.

Once satisfied there is sufficient evidence to justify starting or continuing with a prosecution, our prosecutors then consider whether pursuing a prosecution is in the public interest. This involves assessing all provable facts and surrounding circumstances.

Public interest factors we may consider include:

- Whether the offence is serious or trivial
- Mitigating or aggravating circumstances
- The age, intelligence, physical health, mental health or vulnerability of the alleged offender, witness or victim
- The alleged offender's criminal history and background
- The passage of time since the alleged offence

- The availability and efficacy of any alternatives to prosecution
- The prevalence of the alleged offence and the need for general and personal deterrence
- The attitude of the victim or victims
- The need to apply regulatory or punitive imperatives
- The likely outcome in the event of a finding of guilt.

The decision to prosecute must be made impartially, and must not be influenced by reference to race, religion, sex, national origin or political association, activities or beliefs of the alleged offender, or of any other person involved. The decision to prosecute must not be influenced by any possible political advantage or disadvantage to the Government, or to any political group or party.

The *Prosecution Policy of the Commonwealth* is on our website.

### Measuring compliance with the prosecution test

Our prosecutors are required to certify compliance in addressing the test for prosecution in the *Prosecution Policy of the Commonwealth* by completing a Prosecution Policy Declaration. Since introducing this performance metric, we have achieved 100 per cent compliance.

These declarations are entered electronically into our case recording and information management systems. This has been an important initiative to

confirm and capture evidence that the *Prosecution Policy of the Commonwealth* has been addressed. Specifically, it provides assurance that our prosecutors have considered whether there is a *prima facie* case, whether there are reasonable prospects of a conviction, and whether a prosecution is in the public interest at each stage of the prosecution process.

## Treating victims of crime with courtesy, dignity and respect

In February 2019, the Commonwealth Attorney-General, the Hon Christian Porter MP, launched our web-based service for victims and witnesses of crime. The website provides tailored and timely information, tools and resources to support victims, witnesses and carers through the prosecution process.

The site builds on our understanding that victims and witnesses play a critical role in the prosecution process, and our commitment to ensuring they are treated with respect. Our dedicated and valued Witness Assistance Service provides support to vulnerable victims and witnesses involved in matters we are prosecuting. To ensure we provide consistent and appropriate support, CDDP prosecutors are required to refer any matters where there are identifiable child victims, victims of slavery, servitude or forced marriage to the service.

Our *Victims of Crime Policy* guides and supports victims and witnesses through the prosecution process, and we have established effective processes and procedures linked to the *Prosecution Policy of the*

*Commonwealth*. In all prosecutions, we treat victims with courtesy, compassion, cultural sensitivity and respect for their dignity and entitlements.

## Educating the community about our role

To educate the community about our role and build confidence in the federal justice system we:

- Promote prosecution outcomes on our website [www.cdpp.gov.au](http://www.cdpp.gov.au)
- Highlight the positive working relationships we have with partner agencies and state and territory counterparts
- Regularly participate in court users forums and committees
- Attend relevant legal conferences and events
- Provide input into legislative reform.

Promoting prosecution outcomes educates the community about the consequences of committing crimes against Commonwealth law, and also deters potential offenders.



# CHAPTER 2

## HOW WE OPERATE

### Our organisation

Our organisation is made up of specialist legal practice groups supported by our corporate services group. Together, they form our national practice group model, which is designed to provide a unified and nationally consistent federal prosecution service.

The model allows us to respond to the changing nature and complexity of criminal activity. Our staff are agile, flexible and able to work across practice groups in response to agency referrals or other operational needs.

We are continuing to optimise the model to ensure it continues to evolve and deliver benefits, including improvements to our brief assessment timeframes, the early resolution of matters, timely pre-brief advice and effective investigative and prosecution outcomes.

Figure 1: Organisational chart as at 30 June 2019



## The role of the Director

Our legislative and policy framework establishes the role of our organisation and the statutory position of Director.

Key elements include:

- *Director of Public Prosecutions Act 1983* (DPP Act)
- *Public Governance, Performance and Accountability Act 2013* (PGPA Act)
- *Public Service Act 1999*
- *Prosecution Policy of the Commonwealth*.

The DPP Act established the Office of the Director of Public Prosecutions. It sets out the functions and powers of the Director, including independent responsibility for carrying out prosecutions for offences against Commonwealth law.

The Director delegates or authorises most of these functions or powers to be carried out by CDPP staff. Together, the Director and staff constitute a statutory agency, led by the Director.

The Director also has a number of miscellaneous functions, including to:

- provide legal advice to Commonwealth investigators
- apply for superannuation forfeiture orders under Commonwealth law.

## The role of the Commonwealth Solicitor for Public Prosecutions

The Commonwealth Solicitor for Public Prosecutions takes a lead role in supporting the Director to fulfil her statutory obligations.

The Commonwealth Solicitor for Public Prosecutions works with our legal practice groups and corporate services group to make sure we have the essential systems, processes, people and culture in place to fulfil our purpose and deliver outcomes.

The Commonwealth Solicitor for Public Prosecutions is committed to ensuring the CDPP is a contemporary and innovative legal practice that operates in a nationally consistent manner. The Commonwealth Solicitor for Public Prosecutions focuses on:

- **ensuring** CDPP staff have access to key legal resources and harness their combined knowledge and experiences in the most efficient way possible
- **encouraging** early and efficient preparation and management of cases, including appropriate digital solutions and engagement of counsel
- **continuing** to foster a team-based approach to the way we manage our matters
- **continuing** our deep engagement with partner agencies when it comes to liaison, pre-brief advice and court work
- **continuing** to improve our service to partner agencies, including in relation to timeliness
- **developing** a strong culture and agile workforce by embracing more flexible ways of doing our work
- **developing** staff via diverse work experiences (within and outside our organisation) and ensuring access to relevant and high-quality training and education.

The Commonwealth Solicitor for Public Prosecutions leads the Legal Business Improvement Group. Elevating this function to the Commonwealth Solicitor in 2017 reinforced the Director's emphasis on transforming the CDPP, improving day-to-day operations of the legal practice, and achieving national consistency.

### The role of the Executive Leadership Group

The Executive Leadership Group (ELG) provides a broad range of strategic and specialist legal expertise in support of CDPP outcomes. Chaired by the Director, the group comprises the Commonwealth Solicitor for Public Prosecutions, the Deputy Directors who lead each of the CDPP's specialist practice groups and our Chief Corporate Officer.

## Our leaders

### Commonwealth Director of Public Prosecutions, Sarah McNaughton SC



On 5 May 2016, the former Attorney-General, Senator the Hon George Brandis QC, announced the appointment of Ms Sarah McNaughton SC as Commonwealth

Director of Public Prosecutions for five years.

Ms McNaughton has more than 30 years' experience as a legal practitioner, having held a range of roles in private practice and with the CDPP. She has been a respected member of the New South Wales Bar since 1996 and was appointed Senior Counsel in 2011. With specialist expertise in offences related to taxation, corporate crime, drug importation and terrorism, Ms McNaughton has appeared as prosecution and defence counsel in complex criminal trials. She has degrees in Arts (Hons) and Law (Hons), and a Master of Laws from the University of Sydney.

**Commonwealth Solicitor  
for Public Prosecutions,  
Andrea Pavleka**



In February 2017, the Director appointed Ms Andrea Pavleka as the Commonwealth Solicitor for Public Prosecutions. Prior to her appointment, Ms

Pavleka was Deputy Director of the Illegal Imports and Exports practice group, and the Human Exploitation and Border Protection practice group.

In her career as a criminal prosecutor, spanning 28 years, Ms Pavleka has managed a range of functions across the CDPP's practice, including prosecutions related to drug importations, tax fraud, people smuggling, organised crime and counter terrorism. As a Federal Prosecutor, she managed major criminal litigation, including some of the CDPP's most complex and long-running trials.

Ms Pavleka has been a member of the senior executive since 2004 and worked in both the Melbourne and Sydney offices of the CDPP. She holds a Law degree from the Australian National University.

**Deputy Director National  
Business Improvement,  
David Adsett**



As a Federal Prosecutor with more than 30 years' experience, Mr Adsett has been responsible for successfully prosecuting a wide range of offence types. These

include money laundering, tax fraud, commercial fraud, drug importation, people smuggling and terrorism.

He currently leads the CDPP's National Business Improvement area, focusing on developing the skills, and delivering the tools and infrastructure required to drive our digital transformation.

Mr Adsett's ongoing interest in innovation in the legal practice has led to a range of improvements that support our prosecutors, our investigative partners and our ability to measure performance.

Mr Adsett holds degrees in Law and Arts from the University of Queensland, and a Master of Laws degree from the University of Sydney. Mr Adsett is also a graduate of the Australian Institute of Company Directors.

## Deputy Director Organised Crime and Counter Terrorism, Scott Bruckard PSM



Mr Bruckard joined the CDPP in 1987 and has been a member of the senior executive since 2014. He leads the Organised Crime and Counter Terrorism Practice Group, responsible

for prosecutions related to terrorism, large-scale drug and tobacco importation, firearms trafficking, money laundering, war crimes and national security.

Mr Bruckard is committed to improving law enforcement outcomes and developing better ways to manage large criminal litigation, particularly through more effective partnerships and the application of new technology.

In June 2016, Mr Bruckard was awarded a Public Service Medal in recognition of his distinguished service to the law enforcement and justice community, particularly his role in leading significant counter terrorism prosecutions.

He holds degrees in Arts and Law from the University of Melbourne.

## Deputy Director Revenue and Benefits Fraud, and International Assistance and Specialist Agencies, James Carter



Mr Carter has extensive experience in Commonwealth criminal law, having commenced his legal career at the CDPP in 1987. After prosecuting matters in

the Australian Capital Territory and New South Wales, he worked in the areas of law reform and practice management. He then became the Deputy Director for Revenue and Benefits Fraud and in 2019 also assumed responsibility for International Assistance and Specialist Agencies.

Mr Carter has worked extensively with partner agencies across a wide range of criminal offences, prosecuting matters relating to tax, social security and identity fraud, helping to protect the integrity of Commonwealth programs. He has also contributed to the work of the Australian Law Reform Commission, particularly in relation to sentencing federal offenders and the development of Commonwealth criminal law.

Mr Carter has been a member of the senior executive of the CDPP since 2004 and a Deputy Director since 2007. He holds degrees in Law and Arts from the Australian National University, and is a graduate of the Australian Institute of Company Directors.

**Deputy Director Illegal Imports and Exports, and Human Exploitation and Border Protection,  
Mark de Crespigny**



Mr de Crespigny has national responsibility for prosecuting a large variety of crime types, including general drug, precursor and tobacco importation

offences, money laundering, child exploitation offences, human trafficking, slavery and people smuggling.

He joined the CDPP in 1989 and has worked in our Sydney, Canberra and Adelaide offices. Mr de Crespigny's experience in successfully prosecuting a range of crime types and managing relationships with key stakeholders underpins his ability to coordinate a broad and complex area of national practice.

As a member of the senior executive for more than 12 years, Mr de Crespigny became responsible for the Illegal Imports and Exports practice group and the Human Exploitation and Border Protection practice group in 2017.

Mr de Crespigny holds degrees in Law and Commerce from the Australian National University.

**Deputy Director Commercial, Financial and Corruption,  
Berdj Tchakerian**



Mr Tchakerian joined the CDPP in 1986 and has prosecuted a wide range of cases including fraud and drug matters. He was the CDPP's representative on Project Wickenby,

a whole-of-government taskforce focused on combatting tax fraud. In this role he worked closely with partner agencies over a number of years to contribute to the success of the taskforce, and maintains strong links in this area of law enforcement.

Mr Tchakerian became a member of the CDPP's senior executive in 2000, and in 2017 he became responsible for the Commercial, Financial and Corruption practice group.

He holds degrees in Law and Arts from Monash University.

## Chief Corporate Officer, Simon Ash



Mr Ash has had a long and accomplished career in the Australian Public Service. As a senior economic adviser to two Prime Ministers, he was instrumental in

preparing Federal Budget and Financial Statements, and has been the Chief Financial Officer of five Commonwealth agencies.

Mr Ash has extensive experience in leading corporate services, introducing innovative information and communications technology solutions, automated purchasing and procurement systems, and assimilating all corporate functions following the merger of two departments.

He was a key participant in the Australian Government's movement to accrual budgeting in 1999 and the introduction of the *Financial Management and Accountability Act 1997*. Mr Ash has also provided extensive strategic policy and budgeting advice to the Expenditure Review Committee of Cabinet.

He has been a member of the Senior Executive Service within the Australian Public Service for more than 20 years, and joined the CDPP in 2017.

He holds degrees in Commerce and Economics from the Australian National University.



# CHAPTER 3

## OUR NATIONAL PRACTICE

### National Practice Group model

Our current operating model has allowed prosecutors to specialise in a range of crime types, while having flexibility to explore work in different jurisdictions and practice groups when the opportunity or need arises.

The *Prosecution Policy of the Commonwealth* outlines the principles, factors and considerations our prosecutors must take into account when prosecuting offences against the laws of the Commonwealth. It provides the framework for decision-making for all our prosecutions, which means our prosecutors can move seamlessly between practice groups.

#### Commonwealth Director of Public Prosecutions

Independent responsibility for conducting prosecutions against Commonwealth law

#### Commonwealth Solicitor for Public Prosecutions

Lead role in supporting the Director and overseeing the operations of the legal practice and improvements to the legal business via the Legal Business Improvement Group



### **Commercial, Financial and Corruption**

Prosecutes serious financial crimes and corruption offences



### **International Assistance and Specialist Agencies**

Prosecutes matters referred by specialist agencies and provides international assistance



### **Human Exploitation and Border Protection**

Prosecutes child exploitation, people trafficking, people smuggling, migration offences and more



### **Illegal Imports and Exports**

Prosecutes offences associated with protecting Australia's borders, including drug offences



### **Organised Crime and Counter Terrorism**

Prosecutes counter terrorism and large-scale organised crime offences



### **Revenue and Benefits Fraud**

Prosecutes general tax, social security, Medicare and identity fraud



### **National Business Improvement**

Fosters innovation and drives technology-related business improvements across the legal practice



### **Legal Business Improvement**

Focuses on operational aspects of the business to enable, support and modernise our legal practice



### **Corporate Services Group**

Enables and supports the activities of the legal practice through a range of services: Finance, Technology, People, Communications, Records, Library, Governance, Risk and Audit

## Structure of the practice groups

The legal practice groups conduct prosecutions on behalf of the Director.

Each practice group is led by a Deputy Director (Practice Group Leader) who is responsible for:

- prosecutions conducted by the practice group across Australia
- national liaison and prosecution services delivered by the practice group
- policy development for issues that concern the practice group
- the CDPP's contribution to law reform related to the crime types prosecuted by the practice group.

The Legal Business Improvement Branch provides crucial support to the Commonwealth Solicitor for Public Prosecutions, while the National Business Improvement Group fosters innovation and drives technology-related business improvements.

Our legal practice groups are supported by our customer-focused and collaborative Corporate Services Group, led by our Chief Corporate Officer. This group provides essential services in support of the efficient operation of our busy legal practice.

# FINANCIAL ADVISER SENTENCED TO 10 YEARS' IMPRISONMENT

On 15 March 2019, former financial planner Gabriel Nakhl (39) was sentenced to 10 years' imprisonment with a non-parole period of six years, after he used more than \$5 million of his clients' investment funds for his own purposes. The court made reparation orders totalling more than \$4.5 million in favour of Mr Nakhl's victims.

The court found that while Mr Nakhl was a representative of Australian Financial Services Limited, which was in liquidation, and the sole director of SydFA Pty Ltd, which was deregistered, he advised clients to set up self-managed superannuation funds and to invest their superannuation and other funds in products such as shares, managed funds and high interest rate bank accounts.

However, rather than investing his clients' funds in these products, Mr Nakhl used them to pay some of his personal and business expenses, and to invest in shares and options his clients had not authorised. Mr Nakhl then lied to investors by providing them with regular reports that falsely stated he had invested their funds in accordance with his advice, and that their investments were performing well.

The 12 investors allowed Mr Nakhl to invest approximately \$6.7 million on their behalf. He lost approximately \$5.1 million of the invested funds, and most of his clients lost all their life savings and superannuation.

In September 2013, Mr Nakhl became a bankrupt and placed SydFA Pty Ltd into liquidation. In November 2013, he was permanently prevented from providing financial services. He pleaded guilty to eight counts of engaging in dishonest conduct while carrying on a financial services business, contrary to s1041G(1) of the *Corporations Act 2001* (Cth). He is not allowed to manage a company until 2028.

Deputy Director of the Commercial, Financial and Corruption practice group, Berdj Tchakerian, said the CDPP works closely with partner agencies, including the Australian Securities Investments Commission, to provide advice and training to investigators about brief preparation in such large-scale cases.

'The CDPP often provides pre-brief advice to investigators, which can be of immense value during complex and sensitive investigations,' he said.

'Such advice may relate to the elements of the offences in question, the sufficiency of evidence to support particular charges prior to a formal brief being submitted, or issues relating to accomplice witnesses. This service is greatly valued by investigative agencies.'

Mr Tchakerian said the CDPP also has extensive legal and related resources that partner agencies can access through the online Partner Agency Portal, which contains a wealth of information designed to assist investigators in many different facets of their work.

# Commercial, Financial and Corruption

Deputy Director: Berdj Tchakerian

## TOP FIVE REFERRING AGENCIES

Australian Securities and Investments Commission	68%
Australian Federal Police	14%
Australian Taxation Office	5%
Australian Competition and Consumer Commission	4%
State and territory departments of corrective services	3%

**126 REFERRALS**    **284 MATTERS ON HAND**

## MATTERS MANAGED

- Complex tax fraud, often with an international dimension
- Fraud by company directors and employees, other breaches of company directors' duties
- *Corporations Act 2001* offences, including: insider trading, market manipulation, insolvent trading, and publishing false or misleading information about company affairs
- Offences involving financial services or consumer credit, such as operating unregistered managed investment schemes or breaches of relevant licensing requirements
- Bribery of foreign public officials and corruption involving Commonwealth officials
- Serious cartel offences, including price fixing, rigged tenders and restricting outputs
- Money laundering linked to financial crime

## Role

The Commercial, Financial and Corruption (CFC) practice group prosecutes serious financial crimes, focusing on offences involving corporations, financial markets and services, large-scale tax fraud, criminal cartel conduct and bribery and corruption of Commonwealth and foreign officials.

These white collar crimes are typically complex, difficult to detect and challenging to investigate, while prosecutions are often hard-fought by well-resourced defendants.

### Trends in 2018–19 prosecutions

CFC is seeing a consistent increase in referrals from the Australian Competition and Consumer Commission (ACCC) relating to criminal cartel offences, which is a relatively new but very important area of work for the CDPP.

Since undertaking Australia's first prosecution for cartel offences in 2017, CFC has commenced prosecutions in a number of matters. The following cases were currently before the courts as at 30 June 2019:

- an Australian company, its director and a former employee: charged in relation to alleged bid rigging and price fixing in the course of government tenders to supply 'assistive technology' products used in hospitals, rehabilitation and aged care facilities
- three banks and six of their senior executives: charged in relation to a series of alleged agreements reached between the parties in the days following an institutional share placement in August 2015

- a union and the Assistant Secretary of one of the union's branches: charged in relation to an attempt to induce a number of companies to enter into cartel agreements. It is alleged that, in the course of enterprise bargaining negotiations with a number of companies operating in the steel fixing and scaffolding industries, the defendants attempted to induce the companies in each sector to enter into agreements with each other to fix minimum prices for their services
- an Australian company and five individuals: charged in relation to criminal cartel conduct engaged in by money remittance businesses in Sydney and Melbourne, where they agreed to match each other's exchange rates, constituting a price fixing agreement.

During 2018–19, CFC prosecuted Kawasaki Kisen Kaisha Ltd in the Federal Court. The company pleaded guilty to offences related to market sharing agreements in the international motor vehicle shipping industry and, in August 2019, was convicted and fined \$34.5 million.

Foreign bribery cases continue to be a major focus for CFC, with a number of complex prosecutions currently underway. The most significant of these involves the prosecution of a company and six of its employees in relation to the alleged payment of bribes to officials in the Philippines and Vietnam to obtain work on various infrastructure programs.

CFC is also currently prosecuting 14 individuals (Operation Elbrus) in relation to a large-scale tax fraud. The operation relates to an alleged failure to remit Pay as You Go tax instalments to the Australian Taxation Office, involving more than \$100 million.

Cases arising from Project Wickenby, a multi-agency operation to combat international tax evasion, continue to be prosecuted by CFC. Although this project formally ended on 30 June 2015, a number of significant cases remain to be finalised.

CFC is an active member of the multi-agency Serious Financial Crime Taskforce, which was established after Project Wickenby ended in 2015. The Taskforce was extended for a further four years from 1 July 2019. It will continue to focus on offshore tax evasion and illegal phoenix activity, as well as expand its activities to deal with transnational and technology-enabled crime.

## Law reform

On 23 March 2019, the Australian Government announced the jurisdiction of the Federal Court would be expanded to include corporate crime. The finer details, such as which offences will be covered and the type of committal process are yet to be determined, and remain of great interest to the CDPP. We continue to provide feedback and information on this project.

On 10 April 2019, the Australian Government commissioned the Australian Law Reform Commission to undertake a comprehensive review of the corporate criminal responsibility regime. CFC is providing assistance to the Commission, including meeting with members and responding to requests for information. The Commission's report will be delivered by 30 April 2020.

## Stakeholder engagement

CFC continues to play an active role in providing pre-brief advice to partner agencies, including legal advice during active investigations. We engage with investigators early to provide feedback and guidance about what is required for potential briefs to meet the requirements of the *Prosecution Policy of the Commonwealth*. Advice covers a diverse range of topics, which might include identifying evidentiary gaps and the steps needed to address them.

We meet our partner agencies on a regular basis at the national and state and territory levels. Our regular collaboration often involves the delivery of training and, increasingly, law reform initiatives. We also provide information sessions on a variety of topics to representatives of our client agencies.

### **Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry**

*The Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry* included focusing attention on how regulatory agencies failed to prevent or deter such misconduct from occurring.

The Royal Commission delivered its final report on 1 February 2019 and the Government committed to taking action on all the Commission's recommendations. The Commission recommended that the Australian Securities and Investments Commission (ASIC) should adopt an approach to enforcement that takes, as its starting point, the question of whether a court should determine the consequences of a contravention.

On 16 November 2018, the Government announced funding for the CDPP over eight years to prosecute cases highlighted by the Royal Commission, and resulting from ASIC's increased enforcement activity. The CDPP anticipates receiving referrals during 2019–20.

## International engagement

### Foreign bribery

Between January and June 2019, CFC participated in the fourth phase of a peer evaluation of Japan's implementation of the Convention on Combatting Bribery of Foreign Public Officials in International Business Transactions. We were part of the Australian team assisting the Organisation for Economic Co-operation and Development's (OECD) Working Group on Bribery.

The Working Group on Bribery comprises representatives from signatories to the Convention, who meet on a regular basis to review international compliance with the Convention. The purpose of the fourth phase review of Japan was to evaluate and make recommendations in relation to its implementation and enforcement of the Convention through its domestic foreign bribery laws. In particular, the review focused on the achievements and continuing challenges since the phase three evaluation in 2011.

Australia and Norway were the appointed peer examiners for Japan. A CDPP lawyer was part of the examination team that conducted an onsite visit in Tokyo between 28 January and 1 February 2019. In June 2019, the examination team attended the OECD in Paris to finalise the draft report, which was adopted by the Working Group on Bribery on 28 June 2019.

### Cartels

In October 2018, a CDPP lawyer attended the International Competition Network Cartel Workshop in Israel with representatives of the ACCC. This was a valuable opportunity to discuss a range of issues related to cartel enforcement and prosecutions with international counterparts.

The International Competition Network is an international body devoted exclusively to competition law enforcement. A range of activities and conferences are conducted through this network, including the development of best practices, recommendations and the development of bilateral or multilateral arrangements.

Representatives from more than 60 countries attended the Cartel Workshop. The CDPP was part of a panel discussion on the topic of indictments. The workshop covered all aspects of cartel investigation and enforcement, from intelligence gathering, investigation and enforcement.

# DISTRICT COURT OF WESTERN AUSTRALIA



# PERTH INSURANCE BROKER STOLE MONEY OWED TO CLIENTS

In April 2019, company director Sergio Amaranti (57) was sentenced to two years and nine months' imprisonment, with a non-parole period of 18 months, after pleading guilty to seven counts of dishonest conduct.

Between 6 January 2009 and 14 October 2015, Mr Amaranti diverted nearly \$200,000 in refunds he owed to clients into personal accounts held in his name. The 51 refunds were owed to 35 clients from Phoenix Insurance Brokers Pty Ltd (Phoenix). The money was to be repaid as a result of cancellations to, and adjustments of, their insurance policies.

Mr Amaranti was employed as a Director of Phoenix from 25 January 2002 to 25 February 2016 and was a senior insurance broker with Phoenix from 2000 to 2015.

In sentencing, Justice Vernon of the District Court of Western Australia emphasised how important it is for company directors to retain the trust of those they deal with.

'Offending of this type undermines the trust of the community, and customers of Phoenix and the trust that the community has in members of your profession,' he said. 'This is a breach of trust of clients, employers, co-directors and co-workers. When this trust is misplaced, this is the most important factor in sentencing.'

As a result of Mr Amaranti's conviction, he is automatically disqualified from managing companies for five years.

Deputy Director of the Commercial, Financial and Corruption practice group, Berdj Tchakerian, said the case reflects the complexity of this type of prosecution.

'Many corporate or white collar matters such as Mr Amaranti's are inherently difficult to prosecute as they involve offending over a long period of time, involve huge amounts of documentary evidence and are complex,' he said.

To ensure prosecutors working in the CFC practice group are able to analyse and assess evidence effectively and efficiently, they work in teams and use technology where possible to manage the volume of materials associated with financial offences.

Mr Tchakerian said it is also important for prosecutors to ensure they present complex and voluminous matters in a way that makes it easier for a jury to understand.

'Understanding these issues means that, to date, we have achieved successful outcomes in many large complex financial prosecutions,' he said.

'We believe we have an important role as prosecutors in turning our minds to how the allegations might be streamlined and presented to the jury in a comprehensible form, and how trials might be shortened, so that the case appropriately reflects the criminality.'

Case study

# PAEDOPHILE JAILED FOR 40 YEARS FOR ABUSING CHILDREN IN AUSTRALIA AND THAILAND

In May 2019, an Adelaide paedophile described as ‘a child’s worst nightmare’ by Judge Chapman in the District Court of South Australia, was jailed for 40 years and three months, with a non-parole period of 28 years.

Ruecha Tokputza (31) abused at least 13 children and pleaded guilty to 50 charges, including the persistent sexual abuse of children and possessing tens of thousands of images and videos of child exploitation material.

Mr Tokputza abused children in Adelaide and Thailand, including a 15-month-old, between June 2011 and his arrest in January 2018. He filmed the abuse, often using his mobile phone, and later shared some of the recorded material with others via a messaging app. He also covertly recorded children getting changed while he was at a local swim centre.

An investigation began when South Australia’s Joint Anti Child Exploitation Team (JACET) received a report from Interpol. It included the details of an Internet Protocol (IP) address being used to access an email account, which was associated with the administrator of a child exploitation website on the dark web.

With this information from international law enforcement, JACET was able to identify the IP’s subscriber as Mr Tokputza. On 16 January 2018, the Australian Federal Police (AFP) searched Mr Tokputza’s homes, and in one found several digital storage devices with videos and images of him engaged in sexual activity with a number of children.

Child exploitation matters often involve extensive amounts of digital evidence that is offensive and graphic. In such cases, it is imperative that CDPP prosecutors and police limit the amount of exposure they have to damaging materials, and that evidence is collected in a way that protects authorities and the courts from unnecessary viewing of offensive content.

The CDPP worked closely with JACET to determine how they could ensure fair court proceedings, while handling the evidentiary material in an appropriate way.

As a result, the CDPP’s prosecutor viewed a sample of the material provided by JACET to confirm the elements of the proposed charges could be proved, and to understand the seriousness and nature of the offending in relation to each of the 13 victims.

The next challenge facing the prosecution team was striking the right balance between a series of charges that adequately reflected the gravity and depravity of the offending, while providing the court with the proper sentencing scope to impose an appropriate penalty. To address this, the prosecutor categorised the evidence into groups of offending, then into sets of charges that related to individual victims.

Approaching the evidence in this way helped to limit those involved in the case to unnecessary exposure to child exploitation materials, while ensuring the prosecution’s case accurately reflected the criminal behaviour.

This case highlights the importance of partner agency involvement in prosecutions, to ensure the facts ultimately put before the sentencing Judge accurately capture the extensive criminality involved.

# Human Exploitation and Border Protection

Deputy Director: Mark de Crespigny

## TOP FIVE REFERRING AGENCIES

State and territory police	47%
Australian Federal Police	33%
State and territory departments of corrective services	11%
Australian Border Force	8%
Department of Foreign Affairs and Trade	1%

**455** REFERRALS      **583** MATTERS ON HAND

## MATTERS MANAGED

- Child exploitation
- Trafficking in persons and slavery
- People smuggling
- Passport, visa and other migration fraud
- Telecommunications offences
- Communications offences
- Aircraft and airport offences
- Federal community policing

## Role

The Human Exploitation and Border Protection (HEBP) practice group prosecutes a wide variety of offence types including child exploitation offences, trafficking in persons and slavery, people smuggling, passport and migration offences, and offences committed by way of telecommunications services or computers.

A significant proportion of the work involves victims, including child victims. CDPP prosecutors in this area work closely with investigators and the CDPP's Witness Assistance Service to ensure that, in the course of dealing with this very challenging work, victims are consulted and are treated with courtesy, compassion, cultural sensitivity and respect for their dignity.

### Trends in 2018–19 prosecutions

HEBP continues to see a steady increase in victim-based crime. There is a general trend towards child exploitation prosecutions becoming more complex, as investigators target sophisticated offending involving a mix of state and Commonwealth offences. These cases often involve international offending including pay per view offending over the internet and physical contact offending. We are also seeing an increase in the volume of material detected.

These developments have led to a greater emphasis on digital forensics, mutual assistance requests and the amount of time allocated to dealing with vulnerable witnesses, both from an evidential point of view and providing support through our Witness Assistance Service.

Of particular note has been an increase in the number of referrals related to Australian citizens committing sexual offences against significant numbers of child victims overseas. During the reporting period, we prosecuted around 217 people for crimes related to online child sexual abuse, child sex offences outside Australia or other forms of child sexual exploitation both within and outside Australia.

Another significant trend is increased levels of community awareness about crimes such as forced marriage, labour exploitation and human trafficking. There has been an increase in the number of referrals for these challenging matters. In 2018–19, there was a notable conviction in a slavery matter and the first convictions for forced labour charges.

### **The impact of digital offending**

The use of social media by offenders is a disturbing trend, as it enables offenders to mask their identity to target and groom victims regardless of where they live. It is how convicted child sex offender Gareth Hopkins (36) identified new victims and lured them into committing sexual acts for him.

Mr Hopkins created a closed group on a social media platform, encouraging boys aged between 10 and 16 to become members. He followed some 5,000 boys on the platform, and took steps to preserve his anonymity from them and the 98 children in his group. He then began a systematic and planned campaign to groom boys he selected into doing what he wanted.

His interactions with the children lasted several months, escalating from him requesting sexual images in exchange for virtual gifts, to directing one of his victims to live-stream videos while they were performing sexual acts. He encouraged some of his victims to engage in sexual activity with other children and raised the possibility of meeting one of his victims. He also offended online by communicating sexually with other children outside the group and by transmitting sexual descriptions and images of children to other adults.

While police were able to identify two Australian-based victims, the nature of this crime type means it can be hard to know how many victims are affected or where they come from. This can make it challenging to provide support to victims.

In this case, Mr Hopkins engaged in the criminal activity while he was on parole for other sexual offences against children. He pleaded guilty to the charges laid against him, and will not be eligible for parole until 2028.

***The good news ...*** conviction rates for people charged with child sex offences are high. During 2018–19, all of those prosecuted to finality by the CDPP for this crime type were convicted. 61 per cent received an immediate custodial sentence, and a further 24 per cent received a suspended custodial sentence.

## Prosecution services

Providing pre-brief advice to investigative agencies continues to be a significant aspect of HEBP's prosecution service. Early and timely advice is beneficial to both the CDPP and investigative agencies. The provision of our pre-brief advice assisted in the successful prosecution of two juveniles for significant cybercrime offences, which were finalised in 2019.

Liaising with our partner agencies about emerging issues also enables us to focus our resources effectively.

HEBP organised the 2018 AFP/CDPP Child Abuse Investigations and Prosecutions Workshop, and continues to be involved in developing solutions to how we can best manage increased volumes of child abuse material and data, the need for victim identification, and the risks posed to those working in this area.

## Law reform

Our practice group continues to work closely with the Attorney-General's Department and the Department of Home Affairs regarding new legislation and the operation of existing laws.

During 2018–19, significant law reform work was undertaken in the areas of child sexual exploitation, forced marriage, vulnerable witness protections, non-consensual sharing of intimate images of adults, and the transmission of abhorrent material online.

In the child exploitation area, HEBP provided input on draft Bills regarding: the grooming of third parties to assist in the sexual exploitation of children; aggravated offences; a Commonwealth offence for possessing child abuse material; responses to the *Royal Commission on Institutional Responses to Child Sexual Abuse*; and important changes to wording within legislation to reflect that all child pornography material offences involve the abuse of children.

Reform also continues in the human trafficking area, and HEBP has contributed to the discussion on Bills relating to the forced marriage of persons under the age of 16, as well as the relevant evidence and additional protections needed for vulnerable witnesses.

## Stakeholder engagement

HEBP continues to have close liaison relationships with the Australian Federal Police (AFP) and Australian Border Force (ABF). The practice group meets regularly with investigators in regional offices, and meets quarterly at a national level.

We receive a high number of referrals from the state and territory police forces, particularly in relation to child exploitation offending. HEBP has a high level of interaction with police who specialise in child exploitation matters. In many jurisdictions the CDPP meets regularly with the Joint Anti-Child Exploitation Team (JACET), a joint initiative between the AFP and state and territory police forces.

In June 2018, HEBP launched a guide to preparing briefs of evidence in straightforward child exploitation matters. The guide is designed to support police in handling these matters efficiently and effectively, so they can focus more of their resources on investigating and managing more complex matters.

HEBP contributes to the Australian Government's National Action Plan to Combat Human Trafficking and Slavery by providing domestic and international training and engagement, and through membership of the Operational Working Group and the Labour Exploitation Working Group.

The HEBP practice group has a Human Trafficking and Slavery focus group, and also a Cybercrime Focus Group, that bring together prosecutors particularly interested in these prosecutions, and provides a point of contact for liaison in relation to these types of offending.

### International engagement

The HEBP practice group participated in international engagement in 2018–19, including:

- **Sri Lanka 18–19 October 2018:** A prosecutor delivered two presentations at the Roundtable on Victim and Witness Protection in Colombo. The first addressed victim and witness participation in the Australian criminal justice process. The second focused on the use of vulnerable witness protections in a human trafficking case study. The Roundtable was organised by the Australian Government

Department of Home Affairs and attended by representatives from Sri Lanka's Ministry of Justice, Attorney-General's department, police, National Authority for the Protection of Victims of Crime and non-government organisations supporting and protecting human trafficking victims.

- **Vietnam 24–29 March 2019:** A prosecutor gave presentations at two human trafficking conferences in Ho Chi Minh City and Da Nang about the Australian criminal trial process, evidence, and case studies of Australian human trafficking prosecutions. The conference was attended by members of the judiciary, police and prosecuting bodies in Vietnam. It was supported by the Australian Government following the implementation of human trafficking offences in Vietnam.

### Visiting delegations

- **Thailand 19 September 2018:** At the request of the AFP, prosecutors in Melbourne participated in discussions with a visiting Thai delegation about child exploitation and human trafficking prosecutions.
- **Sri Lanka 28 March 2019:** Officials from the Sri Lankan National Authority for the Protection of Victims of Crime and Witnesses met with our prosecutors and a Witness Assistance Officer in Melbourne for further information on CDPP practices.

# COUPLE JAILED FOR KEEPING WOMAN AS A SERVANT

In April 2019, a Brisbane couple was sent to jail, the first people in Australia's history to be convicted on forced labour charges. In sentencing, the judge described their behaviour towards a Fijian woman who had worked as their domestic servant for eight years as calculated and criminal.

The jury also found Malavine Pulini (48) guilty of human trafficking after she deceived the victim and confiscated her passport shortly after the victim arrived in Australia.

The victim, who cannot be named, worked six days a week from 6am to 10pm as a nanny and domestic servant, and was paid on average \$200 per fortnight. She was unable to see a doctor or dentist despite having chronic health conditions. She was allowed only limited contact with her family in Fiji and was unable to visit them. Although she had a key to the house and was allowed to attend church, the couple restricted her social contact.

The victim only came to understand that she had a way out when a friend passed her information from a television program. She secretly packed her things and ran away, and was later assisted by the Salvation Army and the AFP.

In sentencing the couple, Judge Clare SC said, 'We live in an age of international mobility, where people can bring others from lower socioeconomic communities into the country to exploit them. There ought to be a clear message that this will not be tolerated.'

Judge Clare said the conditions and the poor manner in which the victim was treated caused her to feel voiceless, broken and hopeless. She said that the eight years had taken a terrible toll on the victim.

Ms Pulini was sentenced to six years' imprisonment for forced labour, five years' imprisonment for human trafficking and five years' imprisonment for harbouring an unlawful non-citizen. All sentences are to be served concurrently.

Isikeli Pulini (57) was sentenced to five years' imprisonment for forced labour and five years' imprisonment for harbouring an unlawful non-citizen. All sentences are to be served concurrently.

A non-parole period of two years' imprisonment was set for both offenders.

Both offenders have appealed against their convictions and sentence. The Queensland Court of Appeal has reserved its decision following the hearing of the appeal on 25 July 2019.

## Victims and witnesses

In February 2019, the Commonwealth Attorney-General launched the CDPP's new online resource for victims and witnesses. We developed materials for the site in response to recommendations from the *Royal Commission into Institutional Responses to Child Sexual Abuse*.

The site was developed after extensive research including speaking to victims and witnesses. It provides essential information to victims, their caregivers and witnesses about the prosecution process in easily understood language, and includes video presentations. The site is available in more than 100 languages.

## Victims of Crime Policy

The CDPP believes that in all prosecutions, victims of crime should be treated with courtesy, compassion, cultural sensitivity and respect for their dignity and entitlements.

The CDPP *Victims of Crime Policy* sets out our obligations towards victims, including our responsibility to keep them informed of the progress of their case and to consult with them where appropriate.

In addition to establishing effective processes and procedures linked to the *Prosecution Policy of the Commonwealth* and the work of our lawyers in interacting with victims, we have a dedicated and valued Witness Assistance Service to support the most vulnerable victims and witnesses involved in the matters we prosecute.

## Witness Assistance Service

We celebrated the tenth anniversary of our Witness Assistance Service (WAS) in November 2018.

The WAS is a national service with dedicated staff who have social work backgrounds. Team members are located in our Sydney and Melbourne offices, and in 2018–19 there were 3.8 full-time equivalent positions. In response to the increasing number of Commonwealth prosecutions involving victims of crime and our associated policy obligations, four new positions, including an Assistant Manager role, have been created.

Our WAS staff provide a range of information and support services, including updates on the progress of a prosecution, general information about the prosecution process, court tours, referrals to support services, support at court and during conferences with legal staff, and information concerning victim impact statements.

The WAS delivers these services in accordance with the *Prosecution Policy of the Commonwealth* and *Victims of Crime Policy*.

## Referrals to the service

The WAS Referral Guidelines require that all identifiable child victims and victims of slavery, servitude and forced marriage offences be referred to the WAS by prosecutors. Such matters, known as 'Category A' matters, must be referred within 21 days of their arrival. During 2018–19, the guidelines were reviewed, and 'Category A' matters were expanded

to include any direct family member of a person who has died as a result of any alleged offence, or any victim suffering serious physical or psychological harm as a result of alleged offences.

In 2018–19, the WAS received and accepted 376 new victim/witness referrals, relating to 91 new prosecution matters and four previously referred matters. A total of 174 (46 per cent) of all new victims/witnesses referred were children. There were 4,427 instances of contact with victims/witnesses referred to the service.

### Training and education

The WAS provides presentations and training in relation to victims’ issues to CDPP staff and external stakeholders. The training aims to raise awareness and knowledge regarding our obligations towards victims of crime, promote a high quality nationally consistent approach to our work with victims of crime, and promote effective working relationships.

In October 2018, the WAS provided victim-related training to staff from Anglicare, which provides support to victims of crime on Norfolk Island.

In March 2019, the WAS delivered a presentation to a visiting Sri Lankan delegation on the *CDPP Victims of Crime Policy*, the WAS Referral Guidelines and the role of the Witness Assistance Officer.

### National Victims of Crime Liaison Group

The National Victims of Crime Liaison Group is co-chaired by the Witness Assistance Manager and the Assistant Director (Illegal Imports and Exports, and Human Exploitation and Border Protection). This group includes staff from each office around the country, and meets quarterly for the purpose of assisting the CDPP to provide the best possible support for victims of crime. It provides an important channel to share information and identify opportunities for ongoing improvement.

**Table 1: New Witness Assistance Service Referrals in 2018–19**

Offence type	Matters	Victims/witnesses*
Online child sex exploitation	60	301
Child sex offences outside Australia	5	22
Human trafficking	3	6
Work health and safety	2	5
Miscellaneous	21	42
<b>Total</b>	<b>91</b>	<b>376</b>

\*Includes parents/caregivers of child victims. Information resources for victims including the WAS Referral Guidelines are available on our website at [www.victimsandwitnesses.cdpp.gov.au](http://www.victimsandwitnesses.cdpp.gov.au).

# LAUNCH OF VICTIMS AND WITNESSES WEB RESOURCE

In response to recommendations from the *Royal Commission into Institutional Responses to Child Sexual Abuse*, in February 2019 the CDPP launched a new internet resource to provide support for victims and witnesses of crime.

The new site was developed in consultation with victims, witnesses, non-government organisations and CDPP prosecutors. The result provides a tailored communication channel that explains the court and prosecution process, as well as providing information about the support services available to victims and witnesses of Commonwealth crime.

The CDPP has provided specific information for victims and witnesses on our website for a number of years. However, in response to the recommendations, we formally reviewed this material and how it was presented.

Using videos, simple graphics and plain English that can be instantly translated into more than 100 languages, we have designed the new victims and witnesses web resource to demystify the prosecution process.

The site also provides information on one of the most important services the CDPP offers: the WAS. Our prosecutors are required to refer all identifiable child victims, as well as victims of slavery, servitude and forced marriage offences to the WAS within 21 days of the matter being received by the CDPP.

During the course of its 10-year history, the WAS has worked with more than 2,600 victims, witnesses and caregivers. Of these, more than 800 have been children.

The mother of a victim of online child sexual exploitation wrote to the WAS to say thank you for the support provided.

'The kindness, empathy, professionalism and respect shown to my daughter and myself has been unwavering,' she said. 'We felt very supported and understood. While I wish my daughter never had to endure the process of the last three years, I am totally grateful for the way in which it was handled [by the CDPP].'

Victims and witnesses supported by the WAS are predominantly Australian, but some do live outside Australia. In addition, the WAS liaises with more than 200 different partner agencies at the state and Commonwealth level.

In launching the new resource, the Attorney-General, the Hon Christian Porter MP, said the service highlighted the need to keep the needs of victims in mind when prosecuting crimes against vulnerable people.

'An important dimension of the prosecution work the CDPP does is treating victims and witnesses of crime with courtesy, compassion, cultural sensitivity and respect,' he said. 'This site demonstrates our ongoing commitment to those who have been affected by crime, providing clear and easy to understand advice about what can be an intimidating and difficult process.'

Case study

# DEFENCE CONTRACTOR FINED FOR SAFETY BREACHES

The CDPP continues to experience an increase in the number and complexity of matters related to our Work, Health and Safety Practice. During 2018–19 a Department of Defence contractor was prosecuted for safety breaches, which had resulted in a man being crushed by an army vehicle at the Damascus Barracks in Brisbane.

In 2015, a Linfox employee was operating a tow motor to move a damaged Bushmaster vehicle using a chain.

A worker from another defence contractor was crushed between the two vehicles while he was trying to remove the chain, when the Bushmaster rolled forward onto him. The worker suffered serious injuries and spent two months being treated in hospital for a fractured leg and internal injuries.

A Comcare investigation found Linfox had failed to provide a safe system of work and training for workers on how to carry out the towing operation safely.

Linfox pleaded guilty to a single charge of failing to ensure the health and safety of workers under section 32 of the *Work Health and Safety Act 2011 (Cth)* (WHS Act). The company was convicted and fined \$200,000 in the Brisbane Magistrates Court in October 2018.

In sentencing, the court found that the risks in the job were foreseeable and serious. It ruled that Linfox did not implement a safe system of work and provide the information and training required.

Linfox provides warehousing and distribution services to the Department of Defence. As a result of the accident, investigation and prosecution, Bushmasters vehicles are now loaded onto the tow truck recovery vehicle using a crane.

# International Assistance and Specialist Agencies

Deputy Director: James Carter

## TOP FIVE REFERRING AGENCIES

Australian Financial Security Authority	25%
Australian Federal Police	20%
Great Barrier Reef Marine Park Authority	9%
State and territory police	6%
Office of the Registrar of Indigenous Corporations	5%

**501 REFERRALS** **404** **MATTERS ON HAND**

## MATTERS MANAGED

- Administration of justice offences
- Aviation compliance
- Bankruptcy
- Building and construction industry
- Census offences
- Crimes at sea
- Criminal justice certificates and visas
- Defence
- Education and training compliance
- Electoral offences
- Environment
- Extradition
- Family day care fraud
- Fisheries
- Indigenous corporations
- Industrial chemicals
- Intellectual property
- Marine safety
- Mutual Assistance
- Offences against Commonwealth officials and property
- Radio communications
- Royal Commissions Act offences
- Secrecy, browsing and unauthorised disclosure
- Specific regulatory offences
- Therapeutic goods
- Tobacco advertising and plain packaging
- Work, Health and Safety compliance

## Role

The International Assistance and Specialist Agencies (IASA) practice group is responsible for international assistance including extradition and mutual assistance, and prosecuting matters referred by specialist agencies. Our partners refer diverse offences spanning a variety of complex legislative schemes.

### Trends in 2018–19 prosecutions

In 2018–19, IASA saw a continued expansion of our Work, Health and Safety (WHS) practice. To assist investigators working in this area, in April 2019 the CDPP and Comcare launched a joint Engagement Framework. The Framework is an interactive tool hosted on the CDPP's Partner Portal, which provides access to information and resources. It encourages investigators and prosecutors to explore traditional and innovative approaches to communication.

### Prosecution services

Much of IASA's work is specialised and compliance-focused. To ensure we respond effectively and efficiently to this diverse caseload, we use a Centralised Referral Model (CRM) for many matters. Matters are assessed by prosecutors with specialist expertise and prosecuted in courts across Australia.

The practice group coordinates the CDPP's proceeds of crime functions and *Freedom of Information Act 1982* (Cth) work. It also has responsibility for prosecutions in the Jervis Bay Territory and Norfolk Island.

### Jervis Bay Practice

Matters prosecuted are usually referred as a result of community policing efforts and include driving offences, assault, family violence and theft.

### Norfolk Island Prosecution Service

In conjunction with the Department of Infrastructure, Transport, Cities and Regional Development, the CDPP continues to advise on legislative reforms applicable to Norfolk Island.

On August 5 2018, the CDPP marked the first anniversary of our role providing an independent prosecution service for Norfolk Island. Prosecutors rely on a combination of Commonwealth laws, continued Norfolk Island laws and applied New South Wales laws when prosecuting matters in this jurisdiction.

The practice is conducted from our Brisbane office. In addition to regular travel to the island for court appearances, our prosecutors often appear via video link. During the reporting period, 38 Norfolk Island matters were completed before the courts.

During 2018–19, the CDPP’s role on Norfolk Island was expanded to include providing assistance to the Coroner in inquests and inquiries.

The CDPP provided support to one coronial inquest during the reporting period.

## Stakeholder engagement

### Pre-brief engagement

The past year has seen the IASA practice group focus on pre-brief engagement. The CDPP regards the provision of pre-brief advice to investigative agencies as a valuable practice that is in the interests of both the CDPP and our partners. During 2018–19, we implemented tailored pre-brief arrangements to guide the referral of work from two key partners, Comcare and the Department of Education.

### Bankruptcy workshop

Prosecuting bankruptcy matters forms a significant part of our practice. These cases cover a wide range of offending including failure to file a bankrupt’s statement of affairs, the provision of false statements, and disposal of property with intent to defraud creditors. In June 2019, the CDPP hosted a workshop with the Australian Financial Security Authority. This forum afforded both agencies an opportunity to share knowledge and strategies to best deter illegal activity in this area.

## Family day care

The CDPP is a member of the Family Day Care Payment Integrity Interdepartmental Committee. IASA has been working closely with the Department of Education as part of the multi-agency Family Day Care Integrity Surge Initiative. The secondment of a CDPP Senior Federal Prosecutor to the Department remains a successful initiative, providing key support to investigation teams. This partnership ensures the efficient referral of matters relating to family day care service operators, educators and parents who engage in collusive fraud.

## Training

IASA delivered targeted training to a range of our specialist partners during the reporting period, including sessions covering disclosure obligations and brief preparation. The practice group also collaborated with the Forensics Foundation to provide training to the AFP.

Our international assistance team continues to be involved in the AFP International Liaison Officers Pre-Embarkation Program, providing training on the admissibility of foreign evidence to officers being deployed to a range of foreign countries.

IASA remains committed to supporting our stakeholders to develop expertise and will continue to seek opportunities to build capability in our partner agencies and the CDPP.

## International engagement

During 2018–19, we participated in a number of events, including:

- **Asia-Pacific Cross-Regional Workshop on International Cooperation:** This workshop recognised the good practice of the CDPP in centralising skills and knowledge with respect to obtaining evidence across borders within a specialised team.
- **Bilateral meetings with Vietnam:** The purpose of these meetings was to discuss developments in Australia’s mutual legal assistance regime. The opportunity to engage in this ongoing collaboration with our international partners means our international assistance team is well placed to ensure mutual assistance requests can be used to successfully obtain the relevant and admissible evidence required by prosecutors to present their cases before the courts.
- **Australia-Indonesia International Crime Cooperation Study Visit Program:** This visit was attended by officers from the Indonesian Ministry of Justice and experienced prosecutors, and provided an important opportunity for CDPP representatives to further foster collaboration with our Indonesian counterparts.

## International assistance

A dedicated International Assistance team in IASA provides a vital service to prosecutors facilitating evidence from overseas.

Extradition and mutual assistance is crucial for the effective investigation and prosecution of serious offences such as terrorism, people smuggling, drug trafficking, sexual servitude, bribery of foreign officials, money laundering, and offences relating to child exploitation and abuse material.

The primary responsibility for international assistance rests with the Attorney-General’s Department, Australia’s central authority for mutual assistance in criminal matters and extradition. The CDPP’s international assistance team plays a critical role in enabling requests to be made.

### Mutual assistance underpins the international cooperation framework

Mutual assistance is a formal process countries use to assist each other to investigate and prosecute criminal offences and recover the proceeds of crime.

The International Assistance team in IASA collaborates with prosecutors during the mutual assistance process to seek required foreign evidence material that meets Australia’s evidentiary needs and conforms to Australia’s admissibility

requirements. The team also assesses the foreign material received, to ensure the evidence is relevant and admissible in criminal proceedings.

In 2018–19, the International Assistance team engaged with CDPP prosecutors and the Attorney-General’s Department in the preparation of 62 outgoing requests by Australia to 25 foreign countries.

Requests are often made in conjunction with Commonwealth investigative agencies or joint taskforces comprising law enforcement officers from Commonwealth, state and territory agencies.

The formal mutual assistance regime runs parallel with the less formal system of international cooperation between investigating agencies, known as ‘agency-to-agency’ assistance. Formal mutual assistance channels are most commonly used when the request for assistance involves the use of coercive powers, or when the material requested is required in a form that is admissible in criminal proceedings.

The mutual assistance regime rests on a network of international relations and obligations, together with the willingness of participating countries to assist each other. Australia has ratified 30 bilateral mutual assistance treaties and a number of multilateral conventions, which bind

the signatories to provide mutual assistance to each other. Countries that are not signatories to mutual assistance treaties or conventions may also request assistance under the principle of reciprocity.

### **Extradition ensures criminals cannot evade justice by crossing borders**

Extradition is a formal process where offenders outside the jurisdiction are returned to the country requesting extradition to be prosecuted or to serve a sentence of imprisonment.

The Attorney-General’s Department has sole responsibility for international extradition for all countries, except New Zealand. The CDPP’s role in extradition proceedings is requesting extradition be sought in Commonwealth matters and executing incoming requests from New Zealand.

The International Assistance team in IASA collaborates with CDPP prosecutors to formulate an effective extradition strategy, to meet country specific extradition requirements, and to prepare documentation in support of requests for extradition in serious cases where a person is wanted for prosecution for an offence against Commonwealth law or to serve a sentence of imprisonment.

### Outgoing requests

During 2018–19, the CDPP made no requests to the Attorney-General’s Department seeking extradition from foreign countries. The CDPP was involved in making one request to New Zealand.

Three people were surrendered to Australia during 2018–19 as a result of extradition requests made in previous years. A further 14 requests from previous years remain ongoing, including one request to New Zealand.

### Incoming requests

Requests from New Zealand are made on a police-to-police basis and are referred to us by the AFP. The International Assistance team provides extensive assistance to the AFP to give effect to these requests, including the preparation of documents essential to the extradition process.

The CDPP appears on behalf of New Zealand in extradition proceedings before a magistrate to determine whether a person will be surrendered, or in any review or appeal arising from those proceedings. In 2018–19, the CDPP appeared on behalf of New Zealand in relation to extradition proceedings for nine people, which resulted in the surrender of eight people to New Zealand.

## Confiscation of criminal assets

### Proceeds of Crime Act 2002

Following the establishment of the Criminal Assets Confiscation Taskforce in 2012, the AFP has primary responsibility for confiscation and recovery action under the *Proceeds of Crime Act 2002* (Cth).

Under a Memorandum of Understanding signed in 2014, the CDPP has responsibility for conducting applications for:

- a forfeiture order pursuant to section 48 of the *Proceeds of Crime Act 2002* (Cth) where no restraining order has been sought at the time the application is made
- a pecuniary penalty order pursuant to section 116 of the *Proceeds of Crime Act 2002* (Cth) relating to a person’s conviction where no restraining order has been sought at the time the application is made.

In 2018–19, a total of \$2,413,430 was recovered through CDPP actions under the *Proceeds of Crime Act 2002* (Cth).

### Corruption offences and superannuation orders

Pursuant to the *Crimes (Superannuation Benefits) Act 1989* (Cth), the CDPP is responsible for bringing applications seeking forfeiture of the employer-funded component of superannuation payable to the Commonwealth. Under Part VA of the *Australian Federal Police Act 1979* (Cth), the CDPP can seek forfeiture of the employer-funded component of superannuation funds of AFP employees who have been convicted of corruption offences.

In 2018–19, superannuation orders were made against two people pursuant to the *Crimes (Superannuation Benefits) Act 1989* (Cth).

No forfeiture action was taken in relation to Part VA of the *Australian Federal Police Act 1979* (Cth).

### Freedom of information (FOI)

IASA is responsible for producing national FOI guidance, coordinating reporting responsibilities, and liaising with the Office of the Australian Information Commissioner to ensure the CDPP complies with our obligations pursuant to the *Freedom of Information Act 1982* (Cth).

In 2018–19, the CDPP received 39 FOI requests, an increase of 56 per cent.

FOI Officers spent approximately 106 days completing FOI related activities, almost double the amount of effort directed to FOI during the previous reporting period.



# OFFENDERS JAILED FOR FAMILY DAY CARE FRAUD

During 2018–19 the CDPP prosecuted a number of family day care operators and educators for frauds perpetrated against the Commonwealth. The AFP charged 13 offenders with various offences in 2015 and 2016 as part of Operation Caulis.

Operation Caulis, was an investigation into alleged frauds against the Commonwealth by self-employed educators and family day care providers. The AFP was assisted in Operation Caulis by the (then) Department of Education and Training and other Commonwealth and state regulatory authorities.

On 29 August 2018, Rosa Riak (51) and her two children Kuol Deng (27) and Achai Deng (25) were sentenced in the County Court of Victoria in Melbourne for conspiracy to defraud the Commonwealth of nearly \$1 million.

In handing down the sentence, Judge McInerney said it was beyond reasonable doubt that the loss to the Commonwealth was 'much greater' than \$955,000.

'I congratulate the Commonwealth DPP and the AFP for the degree of professionalism involved in protecting the revenue of the community,' he said.

Rosa Riak and Kuol Deng were each sentenced to four years' imprisonment with a non-parole period of two years. Achai Deng was sentenced to 18 months' imprisonment but released to be of good behaviour for 18 months.

The three were arrested in December 2015, after an investigation into false claims submitted to the Department of Education and Training for child care services between 1 May 2015 and 16 December 2015, through various family day care businesses they controlled.

The AFP investigation established that Rosa Riak and her two children knew that claims for child care, submitted by educators through their businesses, Hello Children Family Day Care, Manhal Family Day Care and Dorsy's Family Day Care FDC, were false because the child care had not been provided as claimed.

In a separate Operation Caulis prosecution, in August 2018, Clement Iheng was sentenced to 18 months' imprisonment, to be released after serving six months, for fraudulent claims amounting to approximately \$135,000.

Commenting on the cases, Deputy Director of the International Assistance and Specialist Agencies practice group, James Carter, said the successful prosecutions are a testament to the strong collaboration between the AFP, the Department and the CDPP.

'By working closely together and combining specialist skills, these three agencies were able to successfully investigate and prosecute a major fraud against the Commonwealth,' he said.

# DRUG DUO JAILED FOR IMPORTING HALF A TONNE OF MDMA

In May 2019, two men were sentenced following a joint operation that intercepted nearly half a tonne of 3,4-Methylenedioxyamphetamine (MDMA) that was imported into Australia.

Three years earlier, on 9 October 2016, Australian Border Force officers examined a container at Port Botany in Sydney and found 493.27 kilograms of MDMA, with a total pure weight of 367.93 kilograms, hidden inside 20 pallets of aluminium rolls.

The AFP substituted the hidden drugs with an inert substance that contained a unique tracer material and commenced a surveillance operation.

One of the sentenced men, Wai Lam Chan (42), began to access the substance in the storage facility over a number of days—cutting open the aluminium rolls, removing some of the substituted drugs and packing them into 70-litre plastic containers. He gave at least one of the containers to Wai Kit Leung (37).

The pair were arrested and nearly 50 kilograms of the substituted MDMA was located in the boot of Mr Leung's car. Police also found a backpack containing approximately 1.3 kilograms of ephedrine.

The men were charged with one count each of jointly attempting to possess a commercial quantity of a border controlled drug, namely MDMA, contrary to s307.5 with ss11.1(1) and 11.2A of the Criminal Code (Cth).

Mr Leung was also charged with one count of possessing a controlled precursor, namely ephedrine, contrary to section 308.2 of the Criminal Code (Cth), which was taken into account at sentence.

On 16 May 2019, Mr Leung was sentenced to 14 years' imprisonment with a non-parole period of eight years and six months. Mr Chan was sentenced to 11 years' imprisonment with a non-parole period of six years and six months. Both men had pleaded guilty.

In sentencing, her Honour Judge Wass SC of the District Court of New South Wales described the operation as sophisticated, and said the offenders were trusted underlings who knew they were to receive a substantial amount of drugs.

Both Mr Chan and Mr Leung were in Australia on student visas and will be deported once released from prison.

# Illegal Imports and Exports

Deputy Director: Mark de Crespigny

## TOP FIVE REFERRING AGENCIES

Australian Federal Police	41%
State and territory Police	30%
Australian Border Force	19%
Department of Agriculture	6%
State and territory departments of corrective services	2%

**547** REFERRALS

**751** MATTERS ON HAND

## MATTERS MANAGED

- Serious drug and precursor importations
- Tobacco importation
- Firearms importation
- Money laundering
- Other importation and exportation offences

## Role

The Illegal and Exports (IIE) practice group prosecutes crimes relating to the integrity of Australia's borders, including drug and drug-precursor importation, money laundering, firearms importation, quarantine breaches, wildlife smuggling, and other import and export contraventions including illicit tobacco, agriculture products and steroids.

The impacts of these offences on the Australian community and economy can be devastating. The CDPP prosecutes IIE matters across all our 10 offices. The crime type is high-volume and arrest-driven, and IIE prosecutes the largest number of trials of any CDPP practice group.

## Trends in 2018–19 prosecutions

There has been a marked increase in the complexity of matters referred to IIE, especially in relation to importations where offenders are becoming more aware of law enforcement techniques, and are adjusting their activities accordingly.

The destruction of evidence by offenders, and increasing levels of sophistication by syndicates in managing the roles and activities of their members, makes it much harder to prove cases. As a result prosecutors have to be innovative in how they think about, and present, cases.

During 2018–19, IIE experienced a steady number of referrals in relation to the illegal importation of firearms, including fully automatic assault rifles.

We are experiencing an increase in the number of referrals from state and territory police in relation to drug importation matters. The emergence of referrals related to the illegal importation of Fentanyl and Carfentanil is of particular concern as these pharmaceutical opioids are responsible for significant numbers of overdose deaths overseas.

## Law reform

During 2018–19, IIE continued to work collaboratively with the Department of Home Affairs and the Attorney-General’s Department, providing significant input into legislative reform proposals. These included:

- the *Customs Amendment (Illicit Tobacco Offences) Act 2018*, which introduced offences of importing or conveying tobacco products being reckless as to whether the revenue was defrauded
- the Criminal Code Amendment (Agricultural Protection) Bill 2019, which will introduce two new offences into the Criminal Code (Cth) relating to the use of a carriage service to incite trespass, property offences or other offences against agricultural land
- possible reform of serious drug offences, including consideration of moving away from a purity-based regime to a regime based on the gross weight of the substance, and possible reforms related to facilitating the proof of continuity for exhibits in Commonwealth matters.

## Stakeholder engagement

A key strategic theme for IIE during 2018–19 was building strong and effective partnerships with our partner agencies and stakeholders, fostering cooperation, collaboration and innovation across the criminal justice system. We work closely with partner agencies at all stages of the prosecution process. Our prosecutors’ strong relationships with stakeholders are of significant benefit in this area, especially as matters are often complex, time-critical and fluid.

Our partner agencies include the AFP, ABF, the Department of Agriculture, and state and territory police. IIE receives regular requests from partner agencies for the development of National Offence Guides and other resources made available through our Partner Agency Portal.

Apart from providing core prosecution services to partner agencies, the IIE practice group also engaged in regular national and regional liaison meetings to ensure a comprehensive understanding of the strategic objectives of each agency. These forums provide a valuable opportunity to discuss trends, identify systemic issues within investigative or prosecution processes, and identify potential law reform and training requirements.

As a result of this liaison work, IIE developed and delivered targeted training to the AFP, ABF and state and territory police.

## International engagement

In May 2019, IIE representatives attended the Pacific Island Law Officers Network (PILON) Cybercrime Workshop in Vanuatu. A prosecutor presented a paper on electronic evidence and alternatives to mutual assistance, and co-led and facilitated practical workgroup sessions on obtaining electronic evidence and making and processing mutual assistance requests.

## Taskforce participation

As an active member of the Illicit Tobacco Taskforce, the CDPP maintains an ongoing focus on matters involving the illegal importation of tobacco products. Taskforce activities are expected to lead to an increase in the number and complexity of briefs of evidence being referred to the CDPP for consideration and prosecution, along with an increase in requests for pre-brief advice.

The Taskforce aims to disrupt organised and systemic illicit tobacco through a multi-disciplinary approach. This includes working with international partners and law enforcement agencies, and collaborating with international partners to facilitate the production of evidence to support prosecutions.

The National Illicit Tobacco Management Group meets monthly and the National Illicit Tobacco Senior Management Group meets quarterly.

The Taskforce hosted its first domestic conference in Sydney from 18 to 20 March 2019. The conference focused on Australia's law enforcement strategy to combat illicit tobacco, and provided the first opportunity for state and federal agencies to meet to discuss the issue. A key theme of the discussions was how to best identify capabilities across agencies to effectively investigate, prosecute and otherwise disrupt the trade.

# PEOPLE SMUGGLER JAILED FOR 14 YEARS

This year's resolution of a case dating back to 2009 involving the extradition and prosecution of a people smuggler illustrates the complexities involved in prosecuting crimes that cross jurisdictional and international boundaries. Afghan national Sayed Abbas (37) played a pivotal role in smuggling asylum seekers on boats from Indonesia to Australia between March 2009 and August 2011. In 2015, he was extradited to Australia from Indonesia to face 27 charges relating to people smuggling offences.

Mr Abbas organised and facilitated three boats, the SIEV 38, SIEV 41 and SIEV 260, which carried 209 asylum seekers to Australia. Passenger witnesses from each of the boats gave evidence of their direct dealings with Mr Abbas. They identified him as the person they negotiated prices with to travel to Australia on the boats, and as the person who collected payment. The cost of the journey ranged from US\$5,000 to US\$10,000.

Witnesses also said Mr Abbas arranged their accommodation in and transport to and around Indonesia, gave them instructions about their departure, and told them to destroy their passports before arriving in Australia.

Other witnesses said they were given Mr Abbas' name and number as the person who could organise their travel from Indonesia to Australia by boat, before they had departed their country of origin. The witnesses giving evidence came from Afghanistan, Pakistan and Iran.

Prosecuting this offence presented a number of challenges for the CDPP, including a lengthy extradition process. The request to extradite Mr Abbas was made in 2010. He was finally surrendered to Australian officials on 13 August 2015, who escorted him back to Perth where he was formally arrested.

Another challenge for prosecutors was proving Mr Abbas' identity, particularly because much of the offending had taken place almost 10 years earlier. Passenger witnesses had identified the accused from photo boards in 2009 and 2012.

In addition, very few passenger witnesses could speak English. This meant a number of translators were required across different language groups, both in the lead up to the trial and during the hearings.

Mr Abbas' involvement in facilitating three illegal boat arrivals to Australia was motivated by substantial financial reward.

In March 2018, Mr Abbas was sentenced to 12 years' imprisonment, with a non-parole period of seven years and three months, backdated to start on 8 May 2012.

The CDPP successfully appealed this decision, and on 24 April 2019, Mr Abbas' sentence was increased to 14 years' with a non-parole period of nine years, backdated to start on 8 May 2012.

This means Mr Abbas will first be eligible for parole on 8 May 2021, rather than 8 August 2019.

# LANDMARK TERRORISM SENTENCES HANDLED DOWN ON THE SAME DAY

In two unrelated but strikingly similar terrorism cases, radicalised individuals were jailed for 42 and 36 years on 5 June 2019, after carrying out stabbing attacks.

In Victoria, Momena Shoma (26) was sentenced to 42 years' jail with a non-parole period of 31 years and six months, after she pleaded guilty to stabbing her homestay host, Roger Singaravelu, with a knife in Melbourne's Mill Park on 9 February 2018.

In Sydney, Ihsas Khan (25) was sentenced to 36 years' jail, with a non-parole period of 27 years, after he was found guilty of stabbing a neighbour, Wayne Greenhalgh, with a knife in the Sydney suburb of Minto on 10 September 2016.

These were the first terrorist attacks perpetrated in Australia by individuals, and CDPP prosecutors knew both cases would be ground breaking. What they didn't realise was just how many challenges and complications would arise.

In contrast to the majority of counter-terrorism cases prosecuted in Australia previously, both matters were wholly reactive in the way they were investigated. As police were not previously aware of the individuals, no evidence had been gathered in the lead-up to the attacks to fill gaps in the prosecution cases, clarify motives or provide links to accomplices.

In both cases, CDPP prosecutors needed to rely on witness statements from traumatised victims who had been involved in vicious attacks. Managing the witnesses' experiences, expectations and frustrations, particularly in relation to long delays between plea hearings and sentencing, was a confronting experience for the prosecutors.

Throughout the aftermath of the attacks and criminal prosecution, prosecutors were in close contact with the CDPP's Witness Assistance Service and wellbeing services, to ensure adequate support was available for those managing the CDPP's case, and the witnesses involved.

The WAS worked closely with the AFP to ensure the victims, their families and other witnesses directly affected by the attacks had the support, advice and information they needed throughout the prosecution process.

The CDPP's Deputy Director responsible for Organised Crime and Counter Terrorism, Scott Bruckard, said the substantial sentences imposed in each case reflected the very serious nature of the offending and the need to protect the community from such attacks.

'The cases have striking similarities in the way the offenders were radicalised and carried out their attacks,' Mr Bruckard said.

'This includes the way they were exposed to extremist materials, their commitment to carrying out acts of violent jihad and the nature of the attacks themselves. It also highlights the changing nature of Australia's security environment and the increasing presentation of cases involving lone actors using relatively unsophisticated methods of attack.'

'I would like to commend the efforts of the Joint Counter Terrorism Teams who, together with their partner agencies, worked closely with Federal Prosecutors to assemble and present the evidence, which resulted in both offenders being brought to justice.'

# Organised Crime and Counter Terrorism

Deputy Director: Scott Bruckard PSM

## TOP REFERRING AGENCIES

Australian Federal Police	81%
State and territory police	18%
Australian Criminal Intelligence Commission	1%

**116 REFERRALS**      **378 MATTERS ON HAND**

## MATTERS MANAGED

- Terrorism
- Organised crime offending such as transnational drug importations, firearms trafficking and money laundering
- Security of the Commonwealth
- War crimes

## Role

The Organised Crime and Counter Terrorism (OCCT) practice group is responsible for the prosecution of terrorism offences, as well as more serious organised crime and national security offences.

The matters assessed and prosecuted by the OCCT are routinely large, complex and resource intensive. They often involve multiple offenders, undercover police operatives, highly sensitive or national security classified information and voluminous briefs of evidence.

## Trends in 2018–19 prosecutions

Trials relating to organised crime and terrorism matters are becoming increasingly complex, and taking longer to resolve, which increases the resourcing burden on the CDPP.

In 2018–19, the CDPP managed 12 terrorism trials before juries in New South Wales, Victoria and South Australia. A number of these trials ran for many months and represented a substantial body of work for OCCT prosecutors and counsel. In all, 20 individuals were convicted of terrorism offences. This includes two offenders who were sentenced on the same day for separately engaging in a terrorist act on Australian soil. Both matters involved attacks inspired by Islamic State and were the first convictions in Australia for this offence.

OCCT conducted a number of lengthy organised crime trials in 2018–19. While numerous convictions were recorded, one substantial matter was discontinued in Western Australia before a jury verdict could be returned. In that case, the late disclosure of electronic material hampered the prosecution.

As the volume of electronic material relevant to these joint agency investigations grows, so do the challenges associated with managing such large data sets across disparate partner and stakeholder agency platforms.

The OCCT practice group's team-based operating model helps the CDPP respond to developments and challenges in this complex area of work in an effective and timely way. This approach enables us to leverage the experience within the team and build our prosecution capability.

OCCT prosecutors have embraced the CDPP's digital transformation to find more efficient and effective ways of responding to the challenges of big data, and to interrogate large volumes of relevant evidence.

Several OCCT trials in 2018–19 were run as 'e-trials' using electronic devices that enabled evidence to be presented to juries in a digital form.

### Prosecution services

OCCT prosecutors often work with police in the early stages of investigations. On occasions, we are called on to provide qualified pre-brief legal advice to police on a limited selection of relevant materials. This specialist and independent advice is often delivered within tight timeframes and aims to assist police in operational decision-making.

The OCCT practice group also provides training to help police stay up-to-date with current legal developments, particularly in the practical application of Australia's terrorism laws. OCCT prosecutors provided training presentations and took part in panel discussions at a number of workshops during 2018–19.

### Law reform

OCCT is committed to supporting the important legislative and policy work of government. The practice group regularly liaises with staff at the Attorney-General's Department and the Department of Home Affairs to provide feedback on the practical application of federal criminal laws.

In 2018–19, OCCT prosecutors continued to support the Government's policy and law reform work, and also provided significant input into the Independent National Security Legislation Monitor's review into the prosecution and sentencing of children for terrorism offences.

### Stakeholder engagement

We regularly liaise with key partner agencies, including the AFP, Australian Security Intelligence Organisation and state and territory police. Our engagement aims to support the work of our partner agencies, while strengthening inter-agency partnerships. The OCCT practice group regularly provides information and feedback on prosecution cases to help better inform policy development.

Practice group prosecutors also engage with staff from state and territory prosecution agencies, legal aid commissions, corrective services and the courts to promote collaboration on significant legal and policy issues.

The OCCT practice group hosts an annual conference for key stakeholders. In 2018, the conference focused on the challenges of digital transformation. Conference attendees heard from various law enforcement, government and academic experts on topics such as artificial intelligence and the impact of social media on violent extremism.

## International engagement

OCCT prosecutors participated in several international engagements in 2018–19, including:

- **August 2018:** An OCCT prosecutor travelled to Bangkok, Thailand, to deliver a presentation at a workshop titled 'Use of Electronic Evidence in Terrorism and Transnational Crime Cases'.
- **November 2018:** An OCCT prosecutor travelled to the Philippines to participate in a two-day roundtable, which aimed to enhance cooperation between law enforcement and prosecutors.
- **May 2019:** The head of OCCT Sydney Branch attended a meeting in London to discuss the use of battlefield evidence. Representatives attended this meeting from the United States, United Kingdom, Germany, Belgium, France, the Netherlands and the Eurasian Economic Union.

# WOULD-BE FOREIGN FIGHTER JAILED FOR SEVEN YEARS

The ringleader of a group of extremist Muslims who planned to sail to the southern Philippines and encourage others to violently overthrow its government, was sentenced to seven years' imprisonment on 3 May 2019.

The sentence was handed down after Robert Cerantonio (34) pleaded guilty to preparing to sail a fishing boat from Cape York in North Queensland to the region of Mindanao in the Philippines, in order to encourage a violent Islamist insurgency. Mr Cerantonio was an influential extremist preacher and supporter of Islamic State with connections to the Philippines.

In early May 2016, Mr Cerantonio and four co-offenders set off from Melbourne for the Cape York Peninsula. They were driving a 4WD, towing a seven-metre fishing boat. Each of the men had previously been prevented from travelling on their passports.

The AFP had the men under surveillance for a considerable period of time as they searched for a boat and car, purchased equipment, discussed finance and even the types of fruit available in the Philippines.

When the AFP arrested the men outside Cairns, they had navigational equipment, travel guides, language books, a list of code words, camouflage clothing and a portable toilet. Tellingly, there were no fishing rods in their luggage.

Mr Cerantonio's sentencing brought to an end a number of successful prosecutions arising from this police investigation. His five co-accused were each sentenced in February 2019 on a single charge of preparing to engage in hostile activities in a foreign country contrary to s119.4(1) of the Criminal Code (Cth):

- Paul Dacre (34), Antonino Granata (28) and Kadir Kaya (24) were each sentenced to four years' imprisonment with a non-parole period of three years.
- Murat Kaya (28) was sentenced to three years and eight months' imprisonment with a non-parole period of two years and nine months.
- Shayden Thorne (31) was sentenced to three years and 10 months' imprisonment with a non-parole period of two years, 10 and a half months.

His Honour Justice Croucher found that the offence involved substantial and sustained acts preparatory to departure from Australia, and that the group was motivated by an adherence to extremist, misguided and dangerous religious thinking.

'It is a belief system that is very difficult for the criminal justice system to combat, because, among other things, it is often held with unyielding fervour and causes otherwise decent and intelligent persons to behave in such extreme and irrational ways,' he said.

A dedicated team of CDDP prosecutors worked closely with the Victorian Joint Counter Terrorism Team throughout the prosecution of this matter.

# MAN JAILED FOR SCAMMING THE NDIS

The National Disability Insurance Scheme (NDIS) Fraud Taskforce was established in July 2018 to tackle fraud committed against the scheme. It is a joint operation involving the National Disability Insurance Agency, Services Australia and the AFP, with the CDPP participating as an advisory member.

The first case the Taskforce referred to the CDPP was that of Mohamed Osman Omar (36). Following a Taskforce investigation, he was prosecuted by the CDPP and sentenced in the Victorian County Court to four years' imprisonment for defrauding the NDIS of more than \$370,000 between June and August 2018, and trying to obtain a further \$85,000 from the scheme.

A registered NDIS service provider, Mr Omar accessed 230 NDIS participant accounts and submitted 392 payment requests for services he didn't provide. Mr Omar used the fraudulently obtained funds to buy luxury items including a BMW, a Toyota Hilux and expensive watches.

The CDPP provides a range of support to the Taskforce, including:

- pre-brief advice in matters that are significant, complex, major or of particular importance to the Taskforce
- general legal advice in relation to the competence and compellability of witnesses, along with other issues such as whether evidence can be compulsorily obtained from state and territory police under the National Disability Insurance Scheme Act 2013
- strategic and legal advice in relation to the evidence required to successfully prosecute NDIS cases, as well as potential opportunities and barriers to prosecuting cases.

The Revenue and Benefits Fraud practice group regularly liaises with partner agencies, and during 2018–19 carried out a number of practical workshops with Taskforce investigators aimed at building their capacity in this new and emerging crime type.

In February 2019, members of the practice group also provided training to National Disability Insurance Agency investigators at a Fraud and Compliance Induction week in Melbourne. This training focused the CDPP's role, fraud offences generally, briefs of evidence and disclosure.

Capturing lessons learned from the Omar matter, the practice group provided advice to the National Disability Insurance Agency about issues that may arise in future prosecutions and the importance of addressing these in future briefs.

In June 2019, the CDPP received its second referral from the Taskforce in relation to Operation Apus, which saw six defendants arrested for defrauding the NDIS of at least \$3 million.

# Revenue and Benefits Fraud

Deputy Director: James Carter

## TOP FIVE REFERRING AGENCIES

Services Australia (Centrelink) <sup>1</sup>	62%
Australian Taxation Office	11%
Services Australia (Medicare)	11%
State and territory police	8%
Australian Federal Police	2%

**835 REFERRALS** **1,094** **MATTERS ON HAND**

## MATTERS MANAGED

- General tax fraud and tax compliance including income tax and goods and services tax (GST) fraud
- Social security fraud
- Medifraud
- Fraud-related money laundering
- Identity fraud
- Child support offences
- Counterfeit currency offences
- Other frauds against the Commonwealth

<sup>1</sup> Following the release of the new Administrative Arrangements Orders, with effect from 29 May 2019, the Department of Human Services was renamed Services Australia.

## Role

The Revenue and Benefits Fraud (RBF) practice group is responsible for prosecuting fraud against the Australian Government, including general tax fraud, social security fraud, Medicare fraud (patient and provider fraud), NDIS fraud, postal, grants, counterfeit currency and identity fraud. The practice group also prosecutes fraud-related money laundering.

Commonwealth revenue and benefit systems rely heavily on the integrity and honesty of all Australians. Briefs typically relate to allegations that people have intentionally engaged in conduct and, as a result, received money they knew they were not entitled to. RBF prosecutions play an essential role in protecting Commonwealth resources and ensuring support is provided where it is needed most in the community.

### Trends in 2018–19 prosecutions

Services Australia (Centrelink) remains the source of most RBF referrals. There has been an increase in referrals of more complex cases, including those involving online offending and the use of multiple identities. These cases require evidence of Centrelink online systems including digital and financial forensic analysis, which increases the complexity of briefs of evidence. This has been an area of focus for the practice group in 2018–19.

Fraud in the family day care context has also been an area of focus for Services Australia (Centrelink), and as a result we have seen an increase in these referrals. Typically, these offences involve benefit recipients failing to correctly declare their income to Centrelink, to obtain benefits they are not entitled to. The prosecution of matters involving people falsely claiming single parent benefit payments when they were in relationships also continues to form part of the practice group's work.

RBF has seen an increase in referrals from Services Australia (Medicare) as it investigates offending against the Pharmaceutical Benefits Scheme and Medicare system (patient fraud).

Department of Health medifraud (provider fraud) referrals often involve medical practices operating via complex corporate structures and claiming benefits they were not entitled to. We are continuing to work closely with Department of Health to effectively prosecute in this area.

In 2018–19, RBF worked closely with the National Disability Insurance Agency and the NDIS Fraud Taskforce as they investigated fraud against the NDIS. This is a new area of prosecution. The first referral from the Taskforce also resulted in its first conviction. The offender was sentenced to four years' imprisonment for defrauding more than \$370,000 from the scheme.

In 2018–19, we prosecuted a variety of matters referred by the Australian Taxation Office involving frauds against the taxation system. These matters may involve intermediaries such as tax agents and accountants who use their clients' taxation accounts and details to obtain benefits they are not entitled to.

The prosecution of GST fraud continues to form a significant part of the group's practice. Prosecuting these matters is integral to ensuring compliance with the GST system and protecting Australia's revenue system through effective deterrence.

### Prosecution services

RBF regularly liaises with partner agencies. During 2018–19 the practice group undertook training activities including practical workshop sessions aimed at addressing new and emerging crime types such as NDIS fraud and Centrelink fraud involving family day care educators.

During the year we held joint annual conferences with the Australian Taxation Office, Services Australia and the Department of Health. These conferences enable us to gain insight into our partner agencies' strategic goals and processes, and identify areas of investigative and prosecutorial capability development. We also continued to focus on investigative and prosecutorial capability development through the work of joint committees with Services Australia and the Australian Taxation Office.

The practice group has continued to support the work of Australian Taxation Office in-house prosecutors who prosecute less complex summary matters under the *Taxation Administration Act 1953* (Cth) through liaison and training activities.

An identified area of focus for the practice group this year was illicit tobacco. As a joint initiative with the IIE practice group, we established an Illicit Tobacco Focus Group. This group draws on the expertise of prosecutors from across the office to focus on issues relating to illicit tobacco investigations and prosecutions including legal issues, law reform, resources and training.

The RBF practice group also worked with partner agencies in relation to electronic briefs of evidence, the Digital Referrals Gateway and the use of digital tools and databases to manage our cases. In 2018, Centrelink moved to submitting all briefs of evidence via the CDP's Digital Referrals Gateway.

### Law reform

This year RBF worked closely with the Department of Home Affairs, the Treasury and the Australian Taxation Office. We provided input and comment from a prosecution perspective on a number of legislative proposals, such as new illicit tobacco offences introduced into the *Taxation Administration Act 1953* in August 2018, and other new offences arising from recommendations made in the Black Economy Taskforce Final Report.

## Stakeholder engagement

We are increasingly working with our partner agencies in taskforce settings. The CDPP is represented by RBF as an advisory member of the Illicit Tobacco Taskforce, the Black Economy Taskforce and the NDIS Fraud Taskforce. While operational decisions are a matter for investigative agencies, our membership of these multi-agency taskforces provides us with the opportunity to contribute practical advice in relation to prosecuting criminal offences. It also allows us to prepare a coordinated and consistent prosecution response, linked to the overall goals and objectives of the taskforces.

This year, RBF prosecutors focused on training and implementation in the areas of litigation plans, teams and digital tools. We held workshops on specific cases and general issues with lawyers from across the country. This has been an effective way to share knowledge across our offices in complex matters and in new and emerging crime types such as NDIS fraud and fraud in the family day care sector.

The CDPP is also a member of the Family Day Care Fraud Interdepartmental Committee. Fraud and non-compliance in the family day care sector affects several partner agencies including Services Australia, the Australian Taxation Office and the Department of Education. These frauds can involve multiple accused, and present risks to multiple agencies. RBF has been working closely with Services Australia and the CDPP's IASA practice group to address this significant risk to Australia's revenue and benefit systems.

# TAX AGENT CREATED ‘WEB OF FRAUD’

The Australian Tax Office is an important partner agency, accounting for 11 per cent of all Revenue and Benefits Fraud practice group referrals. Taxation matters can be complex and long-running, and we work closely with the Australian Taxation Office to identify areas of investigative and prosecutorial capability development.

In December 2018, registered tax agent Emile George El Soury (57) was sentenced in the District Court of New South Wales for fraudulently claiming GST refunds of \$207,098 over four-and-a-half years.

Between October 2009 and June 2014, Mr El Soury lodged 77 false Business Activity Statements (BAS) with the Australian Taxation Office in the name of two sole traders he had no connection with, three entities associated with two of his clients, and eight entities formed and controlled by him.

As a result of the false BAS, the Australian Taxation Office made 48 refund payments totalling \$127,366 into accounts controlled by Mr El Soury, but stopped 29 claims for GST refunds totalling \$79,732. Mr El Soury used the refunds he received to pay credit card debts, overdrafts and to buy luxury items.

The court sentenced Mr El Soury to four years' imprisonment, with a non-parole period of one year and 10 months.

In sentencing, his Honour Judge Montgomery DCJ described Mr El Soury's offending as deliberate and conscious, with no regard for the 'stress and inconvenience suffered by those who fell into the web of his fraud'. He said Mr El Soury was only able to carry out the fraud because he had specialist knowledge in accounting matters, which was obtained through the privilege of tertiary education intended to qualify him to work in a position of trust as a professional in the community.

'He used his specialist knowledge to criminally abuse that trust,' the Judge said. 'He deliberately achieved taxation agent registration only to defraud the community.'

Deputy Director of the Revenue and Benefits Fraud practice group, James Carter, said that in 2018–19, the CDPP prosecuted a variety of matters referred by the Australian Taxation Office.

'Some of these, such as Mr El Soury's, involved intermediaries such as tax agents and accountants using their clients' taxation accounts and details to obtain benefits they were not entitled to,' he said. 'Such frauds against the taxation system represent not only a significant loss to the Commonwealth, but to the Australian community as well.'

During 2018–19, we held joint annual conferences with the Australian Taxation Office, gaining insight into our partner agency's strategic goals and processes.

The practice group also continued to support the work of Australian Taxation Office's in-house prosecutors who prosecute less complex summary matters under the *Taxation Administration Act 1953* (Cth) through liaison and training activities.

Case study



# Legal Business Improvements

The Legal Business Improvement (LBI) branch focuses on the many operational aspects of enabling, supporting and modernising a busy legal practice. The branch also supports the Director by providing specialist advice and support in the areas of policy development, law reform, partner agency engagement, training and post-trial analysis.

Key activities include:

- developing and maintaining key resources, internal policies and guidelines relating to the legal practice
- maintaining and refreshing a list of experienced barristers appointed to the CDDP's External Counsel Panel
- maintaining resources integral to the work of partner agencies, including various warrant manuals
- managing content and proactively communicating time-critical information to partner agencies through our secure Partner Agency Portal
- managing and developing induction resources and the continuing legal education program for all prosecutors
- coordinating external advocacy training

- providing partner agencies and CDDP prosecutors with analysis of post-trial reports to identify systemic issues arising in investigations and prosecutions
- liaising and engaging with the Attorney-General's Department regarding law reform issues.

## Legal learning and professional development

The LBI branch incorporates the Legal Learning and Professional Development team. This team delivers a coordinated and structured education program designed to build the knowledge and skills of our Federal Prosecutors.

Our legal learning and professional development programs and activities align with our strategic objectives and our goals of:

- providing the skills to build legal capability for all lawyers and levels
- delivering sustainable continuous improvement both as prosecutors and public servants
- instilling confidence so lawyers perform their work knowing they are supported
- reinforcing national consistency of approach in our prosecution work.

We aim to embed a learning culture across the legal practice, encouraging our lawyers to adopt this approach throughout their career with the CDPP. We do this by providing information and training at induction, comprehensive e-resources, on-the-job learning, and targeted activities and training programs.

Developing a learning culture helps to build and maintain an agile, diverse, healthy and highly-skilled legal workforce, and ensures the CDPP is able to attract, manage, and retain high-performing legal staff. This will enable us to continue to provide a high-quality prosecution service now and into the future.

Through our national programs and activities, we support and encourage a healthy and resilient legal workforce that is collaborative, innovative and diverse. We support our employees in their career pathways by building their capabilities and confidence to enable them to reach their full potential.

In 2018–19, LBI organised the following events:

- **August 2018 and March 2019:** Advocacy Workshops presented by the Australian Advocacy Institute. The majority of CDPP employees attending these workshops had joined the CDPP over the previous six months. Three lawyers from the Attorney-General's Department also attended a workshop. Feedback about the workshops has

been extremely positive. The case scenarios are continually being developed to align more closely with the CDPP's practice.

- **November 2018 and May 2019:** Federal Prosecutor Induction Workshops. These workshops are integral for newly-recruited Federal Prosecutors, and run in conjunction with our induction program for new starters. Each workshop includes a pre-event dinner hosted by the Director, Deputy Directors (Practice Groups Leaders) and other senior lawyers within the CDPP. This is followed by a full-day workshop of various presentations and practical sessions. These events provide an opportunity for our newest Federal Prosecutors to meet, engage with and learn from the Director, executive leaders and other CDPP lawyers.

During the year LBI also:

- helped deliver a Continuous Legal Education program for lawyers on a diverse range of topics in line with the legal training needs identified by staff
- supported the work of auditors reviewing some of CDPP's internal processes including legal decision-making (Axiom), compliance with the *Prosecution Policy of the Commonwealth* (Deloitte) and procurements including external counsel (KPMG)
- delivered a half-day workshop to lawyers from the Attorney-General's Department on the range of prosecution services CDPP provides to partner agencies, and aspects of criminal law and procedure highlighted by CDPP case studies.

## External counsel

One of the most significant stakeholders we partner with is the private bar, as the CDPP engages counsel to appear and advise on some of our more complex cases. External counsel can seek to join the CDPP's panel, which is used to select counsel with appropriate expertise as required. There are now more than 550 members on the external junior counsel panel, and more than 60 senior counsel, who we brief to carry out our most complex work.

Our panel approach has helped us to improve gender equity and diversity in our briefing practices, while providing a simple application process for junior counsel seeking to work with the CDPP.<sup>2</sup>

In February 2019, we completed our inaugural (biennial) review of counsel fees. This review is designed to ensure the CDPP achieves greater consistency and equity in how we brief counsel, regardless of the jurisdiction in which they appear.

The Commonwealth Solicitor for Public Prosecutions has also established a regular e-newsletter for our external counsel, which allows us to keep them informed of developments, initiatives and events relevant to their work.

## Complaints and feedback

In November 2018, the LBI branch established a dedicated feedback and complaints page on the CDPP website. The page sets out the process for making a complaint or providing feedback to either a dedicated email address, or via a web form. The page also includes a link to the CDPP complaints policy and summarises what an accused person, witness, victim of crime or member of the public can expect when they lodge a complaint.

The improvement in our complaints and feedback handling processes is a direct response to recommendations made by the *Royal Commission into Institutional Responses to Child Sexual Abuse*.

Statistics of complaints received for the first full year will be reported in our 2019–20 annual report.

<sup>2</sup> In 2017, the CDPP adopted the National Model Gender Equitable Briefing Policy set out by the Law Council of Australia. The Legal Business Improvement branch provides both internal and external reporting on gender diversity.

# National Business Improvement

The National Business Improvement (NBI) practice group is responsible for fostering innovation and driving business improvements across the legal practice. It continues to initiate and support some of the most transformative projects in the CDPP's history.

The practice group enables our practice to operate efficiently and sustainably, promotes new ways to improve our prosecution processes and outcomes, builds digital literacy and capability across our workforce, and delivers projects consistently to meet business standards.

## caseHQ

In August 2018, we launched caseHQ, the CDPP's new business management system. It combines a suite of tools, including SharePoint 2016, to deliver a secure, flexible and contemporary system that offers end-to-end case management with embedded document and workflow management functions. All new matters are now initiated in caseHQ, which synthesises a number of previously separate systems.

Prosecutors are now able to record their work effort allocation and decision-making, open new files and configure workflow tasks in the one place. caseHQ also enables access to the document library and other CDPP resources.

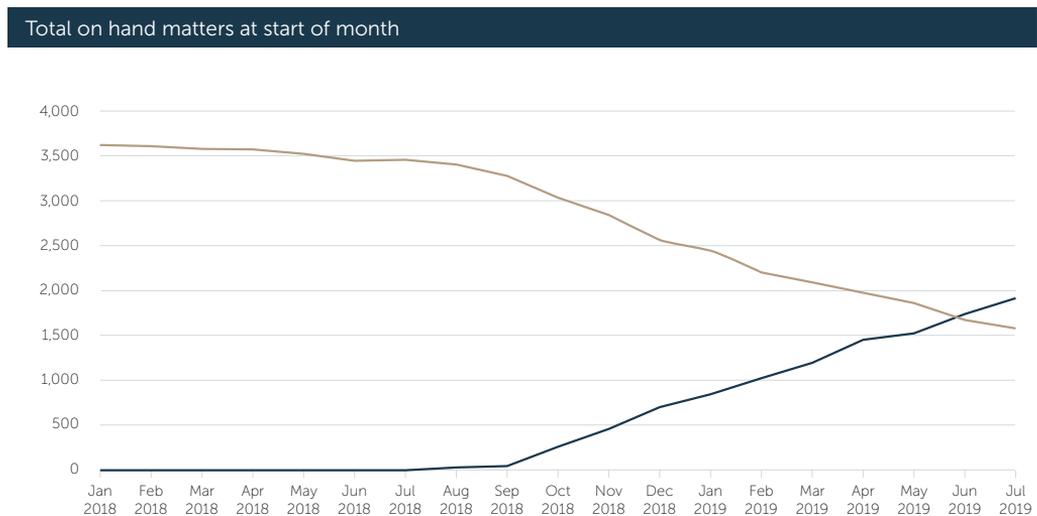
caseHQ was developed through customisation and configuration of commercial off-the-shelf products, including through:

- analysis and design workshops with key stakeholders to shape the solution design
- an iterative build and testing process to refine application screens
- a pilot to highlight pain-points for resolution.

Despite its ambitious scope, caseHQ was successfully delivered under budget and within 11 months of selecting a vendor. The project demonstrates the value of embedding dedicated resources from user groups and IT to ensure that business needs are prioritised and industry-standard patterns are followed. We now also recognise that the implementation phase could have benefited from an even greater emphasis on previewing early development builds.

The CDPP reached a major milestone in June 2019, with more than half of all cases on hand being managed in caseHQ.

**Figure 2: Total matters on hand caseHQ/CRIMS**



caseHQ was launched with a suite of support products including fact sheets, guides and instructional videos. Training workshops were also provided to staff in all CDPP offices across Australia, and a help desk is available to assist all users. Enhancements and updates continue to be implemented post-launch, to ensure the system is providing the tools and accessibility required by the legal practice.

The CDPP has reached agreement with McGirr Technologies, which built caseHQ, to provide three major update releases each year. This facilitates improved planning and testing for each build, and aligns with caseHQ’s transition

to a business-as-usual system. Critical issues and changes will continue to be addressed when required.

### Enabling digital referrals

The CDPP continues to work towards more closely integrating our Digital Referrals Gateway with the caseHQ business system. The Digital Referrals Gateway enables partner agencies to submit electronic briefs of evidence (e-briefs) to the CDPP for assessment. We continue to engage with our partner agencies to encourage referral of e-briefs.

By 30 June 2019:

- approximately 40 per cent of all briefs of evidence received by the CDPP were in electronic format
- more than 80 per cent of the briefs of evidence received by our Brief Assessment Practice were e-briefs.

## Data migration

In the 2018–19, the CDPP commenced a major project to move all current cases that remained in our legacy case management system to caseHQ.

The scope of the project is to move all live prosecutions to caseHQ on a case-by-case basis, 'cutting over' at a point in time. The history of the case prior to the migration date will be retained in the old system and a summary of that history will be available from caseHQ for easy reference.

After the cut over, data in the legacy system related to the case will remain available in a read-only format. The project is scheduled for completion during 2019–20.

## Dashboard reporting

In 2018–19, we established a new internal reporting tool using PowerBI dashboards. The capability enables staff to better monitor workloads, court commitments, brief assessment deadlines and other key performance measures.

The newly-created Data and Reporting team is responsible for delivering the new internal reports, which are produced from the CDPP's legacy case management system and caseHQ. The team's name also reflects its role in supporting the CDPP's digital transformation agenda. New dashboard reports are:

- Executive Leadership Group
- Prosecution Team Leader
- Briefs Approaching 90 days
- Next in Court
- National Matters.

## Digital capability team

The CDPP established a Digital Capability Team (DCT) during 2018–19 to build organisational capability in the use of digital litigation tools, as well as support staff through building digital awareness and capability. The team employs experts in the use of digital tools that support litigation, who provide support for a series of training modules and digital awareness training sessions.

Since its inception the DCT team has:

- initiated a project to deliver an e-trial court presentation system enabling jury members to view evidence on tablets
- delivered 64 training sessions to CDPP staff in the use of modern digital support tools and products
- advised partner agencies at the stage of pre-brief engagement to support them in formulating e-briefs and using digital litigation tools
- started engaging with courts in various jurisdictions regarding e-trials.

### Performance measures

During 2018–19, the National Business Improvement practice group assumed responsibility for reporting on Prosecution Policy Declaration (PPD) compliance.

To meet Performance Measure 1 in the Performance Reporting Framework for the CDPP Annual Performance Statement, the CDPP is required to report on its compliance with the *Prosecution Policy of the Commonwealth*. Where the policy is applied, a PPD is completed.

To report meaningfully on Performance Measure 1, the Data and Reporting team conducts exception reporting on the PPD, which isolates matters where a PPD is required but has not yet been completed. In 2018–19, we achieved the goal of 100 per cent compliance with PPD completion.

The Data and Reporting team also compiles data on CDPP Performance Measure 3 (the number of successful prosecution outcomes) in our Performance Reporting Framework.



# CHAPTER 4 PERFORMANCE AND REPORTING

## Annual Performance Statement



**CDPP**

*Australia's Federal Prosecution Service*

Sarah McNaughton SC  
Director

Commonwealth Director  
of Public Prosecutions

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I, Sarah McNaughton SC, as the accountable authority of the Commonwealth Director of Public Prosecutions, present the 2018–19 annual performance statements of the Commonwealth Director of Public Prosecutions, as required under paragraph 39(1)(a) of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act).

In my opinion, the annual performance statements are based on properly maintained records, accurately reflect the CDPP's performance in the reporting period and comply with subsection 39(2) of the PGPA Act.

Sarah McNaughton SC  
Commonwealth Director of Public Prosecutions

## ENTITY PURPOSE

To prosecute crimes against Commonwealth law through an independent prosecution service that is responsive to the priorities of our law enforcement and regulatory partners, and that effectively contributes to the safety of the Australian community and the maintenance of the rule of law.

## ENTITY OUTCOME 1

Contribute to a fair, safe and just society by delivering an effective, independent prosecution service in accordance with the *Prosecution Policy of the Commonwealth*.

# Analysis of performance against our purpose

Figure 3: CDDP performance criteria

PERFORMANCE CRITERION— NUMBER 1: PROSECUTION POLICY COMPLIANCE	PERFORMANCE CRITERION— NUMBER 2: PARTNER AGENCY SATISFACTION	PERFORMANCE CRITERION— NUMBER 3: PROSECUTIONS RESULTING IN A CONVICTION
<p>Compliance in addressing the terms of the test for prosecution in the <i>Prosecution Policy of the Commonwealth</i>, namely existence of a <i>prima facie</i> case, reasonable prospects of conviction and that prosecution is required in the public interest, when deciding to commence or continue a prosecution.</p>	<p>Quantitative and qualitative evidence is gathered about partner agency satisfaction with CDDP timeliness, relevance to partner agency business, responsiveness and level of communication via a biennial survey. The results deliver a comprehensive evidence base to inform continuous improvement.</p>	<p>The conviction/finding of guilt rate is calculated by taking the number of defendants convicted as a percentage of defendants convicted or acquitted. The calculation does not include defendants where the CDDP discontinued the prosecution against them in its entirety. It does include findings of guilt that do not result in a conviction.</p>
<p><b>Criterion source:</b></p> <p><i>Portfolio Budget Statements 2018–19</i>, Program 1.1: pages 203–204</p> <p><i>Corporate Plan 2018–22</i>, page 15</p>	<p><b>Criterion source:</b></p> <p><i>Portfolio Budget Statements 2018–19</i>, Program 1.1: pages 203–204</p> <p><i>Corporate Plan 2018–22</i>, page 16</p>	<p><b>Criterion source:</b></p> <p><i>Portfolio Budget Statements 2018–19</i>, Program 1.1: pages 203–204</p> <p><i>Corporate Plan 2018–22</i>, page 17</p>
<p><b>Result against performance criterion:</b></p> <p><b>2018–19</b></p> <p>Target: 100% Result: 100%</p> <p><b>2017–18</b></p> <p>Target: 100% Result: 100%</p>	<p><b>Result against performance criterion:</b></p> <p><b>2018–19</b></p> <p>Target: N/A Result: The next survey will take place in Q1 2020</p> <p><b>2017–18</b></p> <p>Target: 90% Result: 87%</p>	<p><b>Result against performance criterion:</b></p> <p><b>2018–19</b></p> <p>Target: 90% Result: 97%</p> <p><b>2017–18</b></p> <p>Target: 90% Result: 97%</p>
<p>This performance measure has been in place since 2015. From just before 2017–18, the collection system became wholly electronic and Prosecution Policy Declarations (PPDs) were generated at five decision points (one for each phase) within the CDDP’s case management system, CRIMS. With the advent of a new case management system, caseHQ, in August 2018, PPDs are now generated at up to 18 decision points, providing a far richer data set for monitoring compliance.</p>	<p>The independent biennial survey is sent out in March/April every two years, and reported in the annual report covering to the 12-month collection period.</p> <p>The next survey will be activated in March/April 2020 and results published in our 2019–20 annual report.</p>	

### **Performance criterion 1: Compliance in addressing the terms of the test for prosecution in the *Prosecution Policy of the Commonwealth***

This performance measure has been in place since November 2015. The prosecution test under the Prosecution Policy requires the prosecutor to determine whether there is a *prima facie* case and reasonable prospects of a conviction, and whether a prosecution is required in the public interest, when deciding to commence or continue the prosecution. Compliance for this measure occurs via a Prosecution Policy Declaration (PPD), which must be completed by the decision-maker, confirming the application of the prosecution test.

The PPD is directed at providing assurance that the prosecution test has been addressed and also references information on the file that supports the decision made (for example, summaries, file notes, minutes, submissions). The test set out in the Prosecution Policy is integral to all cases considered and prosecuted by the CDPP. It is of fundamental importance to the manner in which we undertake our work, and its proper application reinforces the independence of the CDPP. Consequently, assurance that the policy is being applied at key junctures in the prosecution process is vital.

Shortly before the start of 2017–18, the CDPP moved from a paper file based internal audit and compliance framework to a more reliable wholly electronic one. During 2017–18, PPDs were generated

at five decision points (one for each phase) within the CDPP's Case Recording Information Management System (CRIMS) database and were used throughout the prosecution process. The move to electronic PPDs streamlined reporting and allowed us to measure the application of the Prosecution Policy at a greater number of points in the prosecution process than in the previous financial year.

From August 2018, the CDPP launched a new electronic case and document management system known as caseHQ. caseHQ replaced several legacy business systems, including CRIMS. All new legal files received by the CDPP are now opened in caseHQ, with CRIMS currently maintaining files created prior to 29 August 2018. As CDPP prosecution files are currently managed across two case management systems, PPD reports are generated from both CRIMS and caseHQ. PPDs are generated within caseHQ at 18 decision points in the prosecution process. An electronic PPD is generated and required to be completed by the decision-maker.

The system is designed so that it is not possible to finalise key legal decision-making tasks in caseHQ until a PPD is completed. This has given us a far richer data set, which has increased the overall reliability and completeness of the measure. It has also enhanced the CDPP's capacity to monitor and audit performance against this measure on an ongoing basis, and address any potential lack of timely compliance.

Throughout this period, there has been oversight by the Audit Committee and publication of results in the annual reports.

## Performance criterion 2: Partner agency satisfaction with CDPP service delivery

The CDPP's first partner agency satisfaction survey was conducted in 2015–16. This survey established a methodology and baseline to track satisfaction on an ongoing basis. Understanding partner agency perceptions of the CDPP across a range of service areas provides valuable insights that help shape and improve processes, procedures and performance, thereby allowing us to be responsive to the priorities of our law enforcement and regulatory partners. To align with the introduction of the biennial satisfaction survey in 2015–16, the CDPP set a partner agency satisfaction target of 90 per cent<sup>3</sup> and achieved an initial satisfaction rating of 83 per cent, based on a 60 per cent response rate.

While this result fell slightly short of the target, it captured valuable feedback to assist the CDPP to meet the target in the future.

Following analysis of that feedback from our first stakeholder survey in 2016, we delivered a number of initiatives to improve our services, including:

- reducing our brief assessment timeframe from 120 days to 90 days, and eliminating our backlog of unassessed files
- strengthening our regular liaison meetings
- holding national conferences where partner agencies can take part, to explore topical issues, share knowledge and improve communication
- redeveloping our Partner Agency Portal, including updating a large number of National Offence Guides and Manuals
- launching our National Legal Direction on Prosecution Services for Partner Agencies to ensure that expectations of CDPP lawyers around service delivery are clear and service delivery is consistent
- developing e-brief Referral Guidelines and our new Digital Referrals Gateway
- continuing to actively participate in local, national and international engagements with partner agencies
- providing more training to frontline investigators
- participating in secondments, out-postings and other mechanisms designed to give CDPP and investigative agency staff an opportunity to work directly side-by-side.

<sup>3</sup> Agencies are asked to score the CDPP on a scale of 0–10, where 10 is 'extremely satisfied' and 0 is 'extremely dissatisfied'. For the purposes of the survey results and Performance Criterion 2, the CDPP regards a score of between 7–10 as evidencing 'satisfaction'.

The effectiveness of these measures was apparent in the 2018 Partner Agency Satisfaction Survey. The survey was developed by the Communications team, the Legal Business Improvement Branch and the Commonwealth Solicitor for Public Prosecutions, and was again carried out by independent research agency Woolcott Research Services. The 87 per cent overall satisfaction score was just under the target set of 90 per cent, and represented a four per cent increase on the results of the 2016 survey. The agency response rate also increased from 163 in 2016 to 284 in 2018 (an increase of 74 per cent). Moreover, the 2018 survey included participants randomly selected from our CRIMS database, as well as participants nominated by CDPP staff.

The 2018 survey provided a thorough and reliable snapshot of what our main partner agencies were thinking about critical issues such as our timeliness, and the quality of information and service we provide. Importantly, the increased level of engagement from our partner agencies and more randomised selection means the three-week survey was more statistically robust than the 2016 survey, allowing more weight to be placed on the findings.

This survey comprehensively assessed partner agency satisfaction with our day-to-day dealings and our service delivery. The results were very positive across the board and showed a definite improvement on 2016. The CDPP will analyse the outcomes and continue to look for areas where we can strengthen and improve our service delivery to agencies in the future.

A formal report was developed and presented to the CDPP Executive Leadership Group (ELG) for endorsement. The findings have been shared in full with staff.

Following analysis of the feedback from the 2018 survey, the practice groups and prosecution teams were asked to explore their individual results and discuss ideas and strategies that can be adopted to further improve satisfaction levels of our partners.

### Performance criterion 3: Prosecutions resulting in a conviction

The CDPP has consistently exceeded the target of 90 per cent set for this measure. This measurement of court outcomes evidences the CDPP's contribution to ensuring the safety of the Australian community and the maintenance of the rule of law. This year's result of 97 per cent was achieved through the commitment and hard work of CDPP staff working in collaboration with partner agencies.

This measure is calculated by taking the number of defendants convicted as a percentage of defendants convicted or acquitted within a prosecution phase. The calculation does not include defendants where the CDPP discontinued the prosecution against them in its entirety<sup>4</sup>. There can be a variety of reasons why a matter might be discontinued after it has commenced, including evidence no longer being available (for example, the death of a witness) or factors changing such that it is no longer in the public interest to prosecute.

'Conviction' includes any finding of guilt by a jury or tribunal of fact including but not limited to where a conviction is recorded. As to the latter, a court may proceed to impose a 'non-conviction' disposition. This most commonly occurs in less serious matters, where extenuating circumstances exist.

A 'prosecution phase' means summary, committal, trial and sentence phases.

Defendants may be prosecuted for more than one offence; a defendant is counted as being 'convicted' if at least one offence is recorded with an outcome of 'proven'.

Progress reports are provided monthly to the Executive Leadership Group. There is also oversight by the Audit Committee and results are published each year in the annual report.

This measure is inter-related with Performance criterion 1, in that a proper application of the Prosecution Policy test should inevitably link to prosecution outcomes, including the level of convictions.

From 2019–20, the CDPP will be moving to more comprehensive reporting. We will measure and report on finding of guilt rates as a total number of concluded matters (as we do now) and also measure and report on a subset of that data, being the finding of guilt rate in defended matters.

4 Information relating to discontinuances can be found at pp109-110.

## Prosecution statistics

**Table 2: Outcomes of successful prosecutions in 2018–19**

Description	No.
Defendants convicted of offences prosecuted summarily	1,003
Defendants convicted of offences prosecuted on indictment	688
Defendants committed for trial or sentence	550

**Table 3: Summary prosecutions in 2018–19**

Description	No.
Defendants convicted after a plea of guilty	917
Defendants convicted after a plea of not guilty	33
Defendants convicted <i>ex parte</i>	53
Total defendants convicted	1,003
Defendants acquitted after a plea of not guilty	15
<b>Total defendants convicted and acquitted</b>	<b>1,018</b>

**Table 4: Committals in 2018–19**

Description	No.
Defendants committed after a plea of guilty	309
Defendants committed after a plea of not guilty	241
Total defendants committed	550
Defendants discharged after a plea of not guilty	5
<b>Total defendants committed and discharged</b>	<b>555</b>

**Table 5: Prosecutions on indictment in 2018–19**

Description	No.
Defendants convicted after a plea of guilty	609
Defendants convicted after a plea of not guilty	79
Total defendants convicted	688
Defendants acquitted after a plea of not guilty	30
<b>Total defendants convicted and acquitted</b>	<b>718</b>

**Table 6: Prosecution appeals against sentence in 2018–19**

Appeal type	Outcome	Summary	Indictable
Appeals against sentence	Upheld	2	6
	Dismissed	1	6
<b>Total</b>		<b>3</b>	<b>12</b>

**Table 7: Defence appeals in 2018–19**

Appeal type	Outcome	Summary	Indictable
Against conviction only	Upheld	1	3
	Dismissed	5	3
Against sentence only	Upheld	32	19
	Dismissed	12	19
Conviction and sentence	Upheld	2	1
	Dismissed	3	4
<b>Total</b>		<b>55</b>	<b>49</b>

## Prosecution performance indicators

**Table 8: Prosecution performance indicators for 2018–19**

Description	Target	Outcome	No. successful (total)
Prosecutions resulting in a conviction*	90%	97%	1,691 (1,736)
Defendants in defended summary hearings resulting in conviction	60%	69%	33 (48)
Defendants in defended committals resulting in a committal order	80%	98%	241 (246)
Defendants tried on indictment and convicted	70%	72%	79 (109)
Prosecution sentence appeals in summary prosecutions upheld	60%	67%	2 (3)
Prosecution sentence appeals in a prosecution on indictment upheld	60%	50%	6 (12)

\* The conviction rate is calculated by taking the number of defendants convicted as a percentage of defendants convicted or acquitted. The calculation does not include defendants where the CDPP discontinued the prosecution against them in its entirety or where a prosecution has commenced and the court has issued a warrant to bring the defendant before the court.

**Table 9: Prosecution performance indicators for 2016–17 to 2018–19**

Description	Target	2016–17 outcome	2017–18 outcome	2018–19 outcome
Prosecutions resulting in a conviction*	90%	99%	97%	97%
Defendants in defended summary hearings resulting in conviction	60%	73%	81%	69%
Defendants in defended committals resulting in a committal order	80%	99%	99%	98%
Defendants tried on indictment and convicted	60%	85%	59%	72%
Prosecution sentence appeals in summary prosecutions upheld	60%	100%	100%	67%
Prosecution sentence appeals in a prosecution on indictment upheld	60%	45%	56%	50%

\* The conviction rate is calculated by taking the number of defendants convicted as a percentage of defendants convicted or acquitted. The calculation does not include defendants where the CDPP discontinued the prosecution against them in its entirety or where a prosecution has commenced and the court has issued a warrant to bring the defendant before the court.

## Brief assessments

The table below lists the finalised brief assessment decisions made by the CDPP under the *Prosecution Policy of the Commonwealth* during 2018–19.

**Table 10: Brief assessments outcomes 2018–19\***

Description	Number
Decision to commence proceedings	1,121
Decision not to commence due to insufficient evidence	163
Decision not to commence due to public interest factors	32

\* This data does not include finalisation of brief assessments where no decision was made by CDPP under the Prosecution Policy, for example, due to the defendant dying, termination of the investigation by the investigative agency, the investigating agency seeking return of the brief of evidence, where matters are transferred to a state agency to consider prosecution action, or for other relevant reasons.

## Statistics about relevant legislation and partner agencies

The following tables provide statistics covering relevant legislation and referring agencies in relation to matters dealt with in 2018–19.

**Table 11: Legislation under which charges dealt with summarily and on indictment 2018–19**

Legislation	Summary (charges)	Indictable (charges)
<i>A New Tax System (Australian Business Number) Act 1999</i>	1	-
<i>A New Tax System (Family Assistance) (Administration) Act 1999</i>	2	-
<i>Agricultural and Veterinary Chemicals Code Act 1994</i>	2	-
Airports (Control of On-Airport Activities) Regulations 1997	1	-
<i>Anti-Money Laundering and Counter Terrorism Financing Act 2006</i>	13	82
<i>Australian Citizenship Act 2007</i>	4	-
<i>Australian Federal Police Act 1979</i>	3	-
<i>Australian Passports Act 2005</i>	11	4
<i>Australian Securities and Investments Commission Act 2001</i>	5	1
<i>Aviation Transport Security Act 2004</i>	6	-
Aviation Transport Security Regulations 2005	10	-
<i>Bankruptcy Act 1966</i>	174	21
<i>Biosecurity Act 2015</i>	9	1
<i>Child Support (Assessment) Act 1989</i>	2	-
<i>Child Support (Registration and Collection) Act 1988</i>	2	-
<i>Civil Aviation Act 1988</i>	11	10
<i>Civil Aviation Regulations 1988</i>	25	-
<i>Civil Aviation Safety Regulations 1998</i>	5	-
<i>Commonwealth Electoral Act 1918</i>	12	-
<i>Corporations (Aboriginal and Torres Strait Islander) Act 2006</i>	28	-
<i>Corporations Act 2001</i>	71	46
<i>Crimes (Aviation) Act 1991</i>	17	4
<i>Crimes (Currency) Act 1981</i>	99	82
<i>Crimes (Foreign Incursions and Recruitment) Act 1978</i>	-	9
<i>Crimes (High Risk Offenders) Act 2006</i>	-	2

Legislation	Summary (charges)	Indictable (charges)
<i>Crimes Act 1914</i>	50	27
Criminal Code (Cth)	2,343	2,101
Criminal Code 2007 (Norfolk Island)	8	1
<i>Customs Act 1901</i>	87	72
<i>Dangerous Drugs Act 1927 (Norfolk Island)</i>	1	-
<i>Environment Protection and Biodiversity Conservation Act 1999</i>	2	18
<i>Environment Protection and Biodiversity Conservation Regulations 2000</i>	2	-
<i>Excise Act 1901</i>	9	2
<i>Export Control Act 1982</i>	-	1
<i>Extradition Act 1988</i>	1	-
<i>Family Law Act 1975</i>	2	-
<i>Financial Transaction Reports Act 1988</i>	2	-
<i>Fisheries Management Act 1991</i>	38	-
<i>Foreign Passports (Law Enforcement and Security) Act 2005</i>	8	19
<i>Great Barrier Reef Marine Park Act 1975</i>	12	-
<i>Great Barrier Reef Marine Park Regulations 1983</i>	29	-
<i>Health Insurance Act 1973</i>	9	-
<i>Marine Safety (Domestic Commercial Vessel) National Law Act 2012</i>	6	-
<i>Marriage Act 1961</i>	1	-
<i>Migration Act 1958</i>	50	50
<i>Motor Vehicle Standards Act 1989</i>	9	-
<i>National Consumer Credit Protection Act 2009</i>	15	-
<i>National Measurement Act 1960</i>	1	-
<i>Navigation Act 2012</i>	3	-
<i>Passports Act 1938</i>	3	-
<i>Proceeds of Crime Act 2002</i>	1	-
<i>Public Order (Protection of Persons and Property) Act 1971</i>	2	-
<i>Quarantine Act 1908</i>	2	152
<i>Radiocommunications Act 1992</i>	6	1
<i>Royal Commissions Act 1902</i>	-	1

Legislation	Summary (charges)	Indictable (charges)
<i>Social Security (Administration) Act 1999</i>	40	-
<i>Social Security Act 1947</i>	57	-
<i>Social Security Act 1991</i>	50	-
<i>Statutory Declarations Act 1959</i>	6	1
<i>Student Assistance Act 1973</i>	1	-
<i>Taxation Administration Act 1953</i>	327	-
<i>Therapeutic Goods Act 1989</i>	36	-
<i>Torres Strait Fisheries Act 1984</i>	1	-
<i>Traffic Act 2010 (Norfolk Island)</i>	39	-
<i>Work Health and Safety Act 2011</i>	13	-
Non-Commonwealth Legislation	163	329
Other	-	5
<b>Total</b>	<b>3,948</b>	<b>3,042</b>

The table below contains names of Commonwealth agencies as of 30 June 2019. In addition to the matters listed, there was one private prosecution, which the Director took over and discontinued as there was insufficient evidence for the charge to proceed.

**Table 12: Referring agencies—defendants dealt with summarily and on indictment\***

Agency	Summary	Indictable
Australian Border Force (ABF)	37	59
Australian Building and Construction Commission	1	-
Australian Bureau of Statistics (ABS)	5	-
Australian Commission for Law Enforcement Integrity (ACLEI)	2	1
Australian Communications and Media Authority (ACMA)	4	-
Australian Electoral Commission (AEC)	6	-
Australian Federal Police (AFP)	240	385
Australian Financial Security Authority (AFSA)	114	6
Australian Fisheries Management Authority (AFMA)	10	-
Australian Maritime Safety Authority (AMSA)	2	-

Agency	Summary	Indictable
Australian Securities and Investments Commission	30	15
Australian Taxation Office	41	29
Civil Aviation Safety Authority	7	2
COMCARE	2	1
Department of Agriculture	11	4
Department of Defence	2	4
Department of Education	3	-
Department of Employment, Skills, Small and Family Business	3	-
Department of Foreign Affairs and Trade	4	1
Department of Health	5	3
Department of Home Affairs	2	-
Department of Industry, Innovation and Science	1	-
Department of Infrastructure, Transport, Cities and Regional Development	1	-
Department of the Prime Minister and Cabinet	1	-
Department of the Environment and Energy	1	1
Department of Veterans' Affairs	1	-
Director of National Parks	2	-
Great Barrier Reef Marine Park Authority	36	-
National Measurement Institute	1	-
Non Commonwealth Agencies	129	244
Office of the Registrar of Indigenous Corporations	21	-
Services Australia	4	-
Services Australia—Centrelink	529	30
Services Australia—Child Support Agency	2	-
Services Australia—Medicare	53	1
Therapeutic Goods Administration	2	-
<b>Total</b>	<b>1,315</b>	<b>786</b>

\*'Defendants dealt with' includes not only convictions and findings of guilt, but also: matters resulting in acquittals; prosecutions that are discontinued in accordance with the *Prosecution Policy of the Commonwealth* based on evidentiary or public interest considerations; discontinuances as part of a charge negotiation; when there is a hung jury; a warrant has been issued and the defendant has absconded; and determinations that a defendant is unfit to be tried. It also includes matters where a charge is issued but is unable to be served, and prosecutions commenced in one jurisdiction and recommenced in another because a defendant has moved. It does *not* include: matters where the CDPP has provided pre-brief advice to an investigative agency; brief assessments that do not proceed to prosecution on evidentiary or public interest grounds; breach proceedings; or matters determined on appeal.

## Prosecution appeals

**Table 13: Prosecution appeals and outcomes**

Description of appeal	2017–18 outcome	2018–19 outcome
Prosecution sentence appeals in summary prosecutions	2 appeals upheld	3 appeals, of which 2 were upheld
Prosecution sentence appeal in a prosecution on indictment	9 appeals, of which 5 were upheld	12 appeals, of which 6 were upheld
Prosecution appeals to High Court in respect of an acquittal on appeal	1 appeal, which was upheld	No appeals

\* The successful appeal resulted in the conviction being reinstated by the High Court and the case being remitted back to the Victorian Court of Appeal for determination of the prosecution appeal against sentence.

The *Prosecution Policy of the Commonwealth* provides that the Director’s right to appeal against sentence should be exercised with appropriate restraint. Factors we may consider when deciding to appeal include whether:

- the sentence is manifestly inadequate
- the sentence reveals an inconsistency in sentencing standards
- the sentence proceeded on the basis of a material error of law or fact requiring appellate correction
- the sentencing is substantially and unnecessarily inconsistent with other relevant sentences
- an appeal to a Court of Appeal will enable the court to lay down some general principles for the governance and guidance of sentencing courts
- an appeal will enable the court to establish and maintain adequate standards of punishment for crime
- an appeal will ensure, so far as the subject matter permits, uniformity in sentencing
- an appeal will enable an appellate court to correct an error of legal principle
- we only institute appeal proceedings when there are reasonable prospects of success.

The CDPP’s appellate practice plays an important role in providing an effective prosecution service. It also contributes to maintaining public respect in the justice system by seeking to remedy sentences that are significantly out of touch with sentencing standards.

In some cases, CDDP appeals may not be upheld, despite the court finding there has been an error in law or in the application of sentencing principles. In all appeal cases, the appellate courts have a residual discretion not to intervene and re-sentence, if the court believes that to do so would result in an injustice to the offender due to other circumstances. Such cases are still critically important as they provide future guidance about the proper application of legal principles in the sentencing of Commonwealth offenders.

In 2018–19, a total of 12 prosecution sentence appeals were decided for indictable matters. Six of the appeals were successful, which in the majority of cases resulted in significant increases to the offender’s sentence.

The 2018–19 outcome of 50 per cent of appeals being upheld was somewhat short of our target of 60 per cent. While appellate intervention did not occur in six of the appeals brought by the CDDP, the judgments provided useful guidance in relation to sentencing principles, and in the exercise of the residual discretion on appeal.

**Table 14: Prosecution appeals in indictable matters by practice group**

Practice group	Offence	Total number of appeals	Number of appeals upheld	Number of appeals not allowed
Illegal Imports and Exports	Drug, firearm and tobacco importation offences	3	3 <sup>1</sup>	0
Human Exploitation and Border Protection	Online child sexual exploitation and people smuggling	4	2 <sup>2</sup>	2 <sup>3</sup>
Commercial, Financial and Corruption	Fraud	1	0	1 <sup>4</sup>
Organised Crime and Counter Terrorism	Drugs and foreign incursion	4	1 <sup>5</sup>	3 <sup>6</sup>
<b>Totals</b>		<b>12</b>	<b>6</b>	<b>6</b>

Notes:

1. Appeals upheld were in New South Wales (1) Victoria (1) and South Australia (1).
2. Appeals upheld were in Tasmania (1) and Western Australia (1).
3. Appeals not allowed were in New South Wales (1) and Victoria (1)
4. Appeal not allowed was in Queensland (1)
5. Appeal upheld was in New South Wales (1)
6. Appeals not allowed were in New South Wales (3)

## Examples of CDDP appeals

### **R v ABBAS [2019] WASCA 64**

Sayed Abbas Azad (37), who is from Afghanistan and married to an Indonesian citizen, was charged with 27 counts of people smuggling, including three main counts of facilitating the bringing of unlawful non-citizen passengers from Indonesia to Australia on three separate vessels. The remaining 24 counts on the indictment were alternate counts to the three main counts, which fell away when the jury found Mr Abbas guilty of the three substantive people smuggling charges. The maximum penalty for each of those substantive charges is 20 years' imprisonment.

Taking into account Mr Abbas' personal circumstances, antecedents and remorse, the trial judge sentenced Mr Abbas to a head sentence of 12 years' imprisonment with a single non-parole period of seven years and three months.

The Director appealed to the Western Australian Supreme Court on the grounds that the sentence was manifestly inadequate. The Court of Appeal allowed the appeal and, taking into consideration the seriousness of the offending, the maximum and minimum penalties, and the importance of personal and general deterrence, agreed that the sentence was substantially less than the sentence that was open to the sentencing judge on a proper exercise of his discretion.

The Western Australian Supreme Court increased the original sentence of 12 years' imprisonment with a non-parole period of seven years and three months, backdated to commence on 8 May 2012, to a sentence of 14 years imprisonment with a non-parole period of nine years, backdated to commence on 8 May 2012. Mr Abbas may be released on parole on or about 8 May 2021.

### **DPP (Cth) v MUNRO [2019] VSCA 89**

Paul Munro (65), pleaded guilty to importing 48 automatic and semi-automatic firearms and attempting to import a further 102 firearms from the United States into Australia over a period of three years. The offending comprised six counts, the maximum penalty for each count being 10 years imprisonment. Taking into consideration general deterrence, the serious and sustained offending, Mr Munro's health and his motivation of greed the sentencing judge sentenced him to 10 years and three months imprisonment with a non-parole period of six years.

The Director appealed to the Victorian Supreme Court on the grounds that the total effective sentence and the non-parole period were manifestly inadequate given the objective seriousness of the offending.

The Court of Appeal accepted the Director's submission that the fully automatic machine guns imported by the offender were capable of firing up to 1,000 rounds a minute, and thus capable of mass murder in a very short time frame. The Court of Appeal found that given the objective gravity of the

offending, and in particular, given the seriousness and the persistent, planned and sophisticated nature of the offending, the total effective sentence and non-parole period were manifestly inadequate.

The Court of Appeal allowed the appeal, set aside the original sentence and resentenced Mr Munro to a total effective sentence of 15 years' imprisonment and a non-parole period of 11 years.

### **R v MEDALIAN [2019] SASCFC 40**

Mohammad Medalian (54), pleaded guilty on the eve of his trial to importing 1,080 kilograms of molasses tobacco with the intention of defrauding the Commonwealth. The maximum penalty for this offence is 10 years' imprisonment and/or a fine of \$3,627,072.

In considering the personal circumstances of Mr Medalian and the need for general deterrence the sentencing, the judge noted that a short custodial sentence was appropriate, and did not think a recognisance order with immediate release would sufficiently reflect the seriousness of the offending. The sentencing judge determined it would be appropriate that some time should be served in home detention, following which Mr Medalian was to be released on a recognisance order.

The total effective sentence handed down was one year and nine months; nine months' imprisonment being served in home detention before being released on a recognisance to be of good behaviour for a period of 12 months.

The Director appealed to the South Australian Supreme Court on the grounds that the sentence imposed was not authorised by law and that the sentence was also manifestly inadequate. The appeal was allowed and the original sentence set aside. The Supreme Court agreed that there was no scope for a home detention order to be imposed in addition to a Commonwealth recognisance order, as they are each stand-alone sentencing options.

Mr Medalian was re-sentenced to imprisonment for one year, nine months and 19 days. The court took into consideration that he had already spent nine months in home detention, and ordered he be released forthwith on a recognisance order to be of good behaviour for a period of one year, nine months and 19 days.

### **R v BIBER [2018] NSWCCA 271**

Mehmet Biber (27), an Australian citizen of Turkish heritage, entered a guilty plea to one count of intending to engage in hostile activity in a foreign state (foreign fighter offence). Mr Biber travelled with three other Australian men to join Ahrar al-Sham (AAS) to fight against the Assad government during the Syrian civil war. Mr Biber stayed in Syria for three months, during which time he undertook training but did not engage in armed hostilities. The maximum penalty for this offence is 20 years' imprisonment.

Taking into consideration the objective seriousness of the offence, the prospects of rehabilitation and deterrence the sentencing court imposed a jail term of four years and nine months, with a non-parole period of two years and six months. The Director appealed the sentence on the grounds that the court erred in the characterisation of the objective seriousness of the offending, Mr Biber's prospects of rehabilitation, and that the sentence was manifestly inadequate.

The Supreme Court of New South Wales dismissed the appeal. The Supreme Court found that the sentencing court's assessment of the objective seriousness of the offence was reasonably open given that Mr Biber's intentions were not the result of detailed planning. It found that the assessment of Mr Biber's reasonable prospects of rehabilitation was also open to the court. The Supreme Court also found that there was no misapplication of principle, and therefore the sentence was not manifestly inadequate. Mr Biber's non-parole period expired on 2 May 2019.

### **R v FELLOWES [2018] QCA 238**

Financial advisor Lewis Fellowes (45), pleaded guilty to three counts of 'dishonest use of position' whereby he had caused clients' funds to be transferred, without their authorisation, into personal accounts to which he had access. The conduct occurred in 2008 and the value of the advantage derived totalled \$1,595,000.

Mr Fellowes used the funds to reduce the incidence and value of margin calls, and to pay personal debts. All of the funds had been repaid, with interest, to the victims, prior to the charges being filed. The maximum penalty for each offence is five years imprisonment and/or a fine of \$220,000.

Taking into consideration the breach of trust, the difficulty in detection, the harm caused, the need for general deterrence and the defendant's personal circumstances, Mr Fellowes was convicted and sentenced to five years imprisonment, to be released immediately on a five year recognisance. The Director appealed the sentence to the Queensland Court of Appeal on the grounds that releasing Mr Fellowes without any term of imprisonment was manifestly inadequate.

The appeal was dismissed. The Queensland Court of Appeal held that while it was within the court's discretion to impose a custodial component to the sentence, it did not render the sentence manifestly inadequate not to do so. The court ruled this was particularly the case because the loss had been repaid with interest seven years before the charges had been laid, Mr Fellowes had not reoffended over the ensuing seven years, and he had offered extensive cooperation to investigators.

## Statutory functions and powers

The Director has various statutory functions and powers.

### Discontinuance of a prosecution following commitment to trial or the filing of an indictment

After a defendant has been committed for trial, the question sometimes arises whether the prosecution should continue. This can arise either as a result of an application by the defendant or on the CDPP's own initiative. In these circumstances, the Director's power to discontinue a prosecution in its entirety is derived from section 9(4) of the *Director of Public Prosecutions Act 1983* (DPP Act). A submission made to the Director, or her delegate, to discontinue such a matter is known as a 'no bill' application.

In 2018–19, 31 prosecutions of which the CDPP had carriage were discontinued with no further charges continuing against the particular defendant in any jurisdiction. These prosecutions were discontinued, following commitment to trial or filing an indictment, because there was either insufficient evidence to proceed, or for compelling public interest reasons. Of those discontinuances, five were initiated by defence applications and the remaining 26 were discontinued on the basis of a recommendation from a CDPP prosecutor.

For completeness, a further two prosecutions involving Commonwealth offences, for which a state DPP had carriage, were discontinued.

### Taking matters over and discontinuing private prosecutions

Traditionally, it has been open to any person to bring a private prosecution for a criminal offence. That right is protected in Commonwealth matters by section 13 of the *Crimes Act 1914* and is expressly preserved under section 10(2) of the DPP Act.

Under section 9(5) of the DPP Act, the Director has the power to take over a prosecution for a Commonwealth offence that has been instituted by another person. The Director is empowered to either carry on the prosecution or, if appropriate, to discontinue it.

The Director was required to exercise this power on one occasion during 2018–19. In that case, the Director took over the prosecution and discontinued it as the evidence was insufficient for the charges to proceed.

## Discontinuances in the summary jurisdiction

Apart from those cases that were discontinued in the circumstances outlined above, the CDPP also discontinued 165 matters in the summary jurisdiction in 2018–19.<sup>5</sup> The discontinuances occurred on either evidentiary or on public interest grounds. These matters were largely in the RBF, HEBP and IASA practice groups.

A significant proportion of the discontinuances (approximately 20) represented cases involving unexecuted arrest warrants. By way of general observation, most of the defendants in the CDPP's summary practice are not initially arrested by investigators, rather, they are served with a summons to appear in court to answer a charge. Warrants to arrest are issued in relation to defendants who fail to attend court after being served with court process. Those warrants can often remain unexecuted by police because the defendant's whereabouts are unknown. The prosecution can be in abeyance for many years. The CDPP keeps such files under review and after an appropriate period has elapsed, it may be appropriate to cancel the warrant and discontinue the prosecution as no longer being in the public interest (which would include a consideration of the staleness of the offence.)

## Indemnities

The DPP Act empowers the Director to give an undertaking, often referred to as an indemnity, to a potential witness in three circumstances:

- section 9(6) authorises the Director to give an indemnity to a potential witness in Commonwealth proceedings that any evidence the person may give, and anything derived from that evidence, will not be used in evidence against the person, other than in proceedings for perjury
- section 9(6B) empowers the Director to give an indemnity to a person that any evidence he or she may give in proceedings under state or territory law will not be used in evidence against them in a Commonwealth matter
- section 9(6D) empowers the Director to give an indemnity to a person that he or she will not be prosecuted under Commonwealth law in respect of a specified offence.

In the past year, the Director provided indemnities under s9(6) to eight persons and granted 14 indemnities under s9(6D). Those granted under s9(6D) were in respect of co-accused in two separate prosecutions.

<sup>5</sup> For these purposes, a discontinuance in the summary jurisdiction has not been taken to include matters where the case has been discontinued in one jurisdiction in order to be transferred and recommenced in another jurisdiction (for example, due to the defendant moving residence).

## Ex officio indictments

The Director has the function under section 6(2A)–(2D) of the DPP Act to institute prosecutions on indictment, referred to as *ex officio* indictments. The functions in sections 6(2A)–(2C) are used in circumstances where a defendant consents to a prosecution on indictment without being examined or committed for trial, or where a defendant having been committed on either Commonwealth, state or territory offences, is indicted on different charges from those on which they were committed.

Section 6(2D) of the DPP Act provides that in any other case, where the Director considers it appropriate to do so, the Director may institute a prosecution of a person on indictment for an indictable offence against the laws of the Commonwealth, in respect of which the person has not been examined or committed for trial.

In certain circumstances the decision to present an *ex officio* indictment is delegated to the Commonwealth Solicitor for Public Prosecutions, Practice Group Leaders and branch heads. In 2018–19, the Director, a Practice Group Leader exercised *ex officio* powers on three occasions.

## Consent to conspiracy proceedings

The Director's consent is required before proceedings for Commonwealth conspiracy offences can commence. In 2018–19, the Director consented to the commencement of conspiracy proceedings against eight defendants in relation to five alleged conspiracies.

### Consent under section 121(8) of the Family Law Act 1975

The Director's consent is required before proceedings are commenced for an offence against section 121 of the *Family Law Act 1975*, which restricts publication of court proceedings.

During 2018–19, the Director gave consent to commence proceedings in one such matter.



# CHAPTER 5 GOVERNANCE, AUDIT AND ACCOUNTABILITY

## Governance

The Governance team is responsible for both organisational governance and internal audit. The team provides strategic and operational advice and support to the Executive Leadership Group and senior management on all aspects of public sector governance, in accordance with the relevant legislation and government policy, and independent assurance on compliance with procedures and systems of internal control, and helps management improve business performance.

In 2018–19, the team continued to strengthen our governance practices and relationships with our stakeholders in the Attorney-General’s Department and the Department of Finance.

### Guiding policies

The legislative and policy framework establishes the role of our organisation and the statutory position of Director.

Key elements include:

- *Director of Public Prosecutions Act 1983* (DPP Act)
- *Public Governance, Performance and Accountability Act 2013* (PGPA Act)
- *Public Governance, Performance and Accountability Rule 2014* (PGPA Rule)
- *Public Service Act 1999*
- *Prosecution Policy of the Commonwealth*.

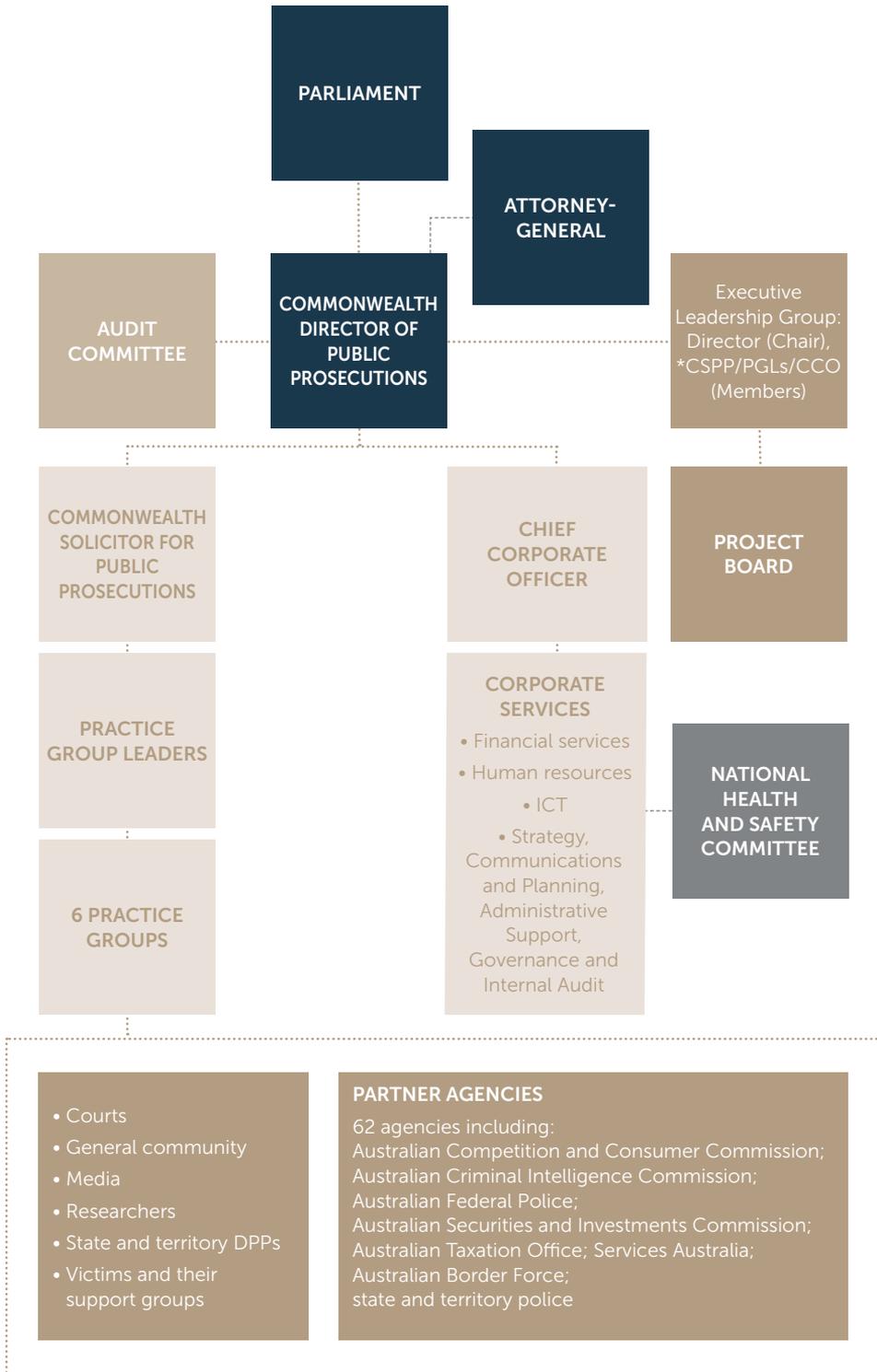
### Corporate governance

Governance in the CDPP provides a framework to ensure we meet the standards of fairness, openness, consistency, accountability and efficiency in prosecuting offences against the Commonwealth and, in meeting these standards, maintain the confidence of the public we serve.

Good governance considers both performance and accountability within a risk management framework, rather than trading one off against the other.

We continually refine our governance arrangements to ensure they are fit-for-purpose and clear to everyone. Our governance structure provides clarity on accountabilities, and aligns our work and relationships with our stakeholders. This enables us to work with our partners to achieve the outcome and purpose expressed in our Corporate Plan.

**Figure 4: CDPP governance structure at 30 June 2019**



## Executive Leadership Group

The Executive Leadership Group is the key advisory group to the Director. The Executive Leadership Group meets monthly to:

- identify and consider emerging strategic issues
- monitor and consider legal practice performance and outcomes
- consider, endorse and oversee the strategies and policies of the CDPP on such matters as human resource management, communications, planning, ICT, information management, security and governance
- oversee budget reporting and financial strategy
- ensure national consistency in legal practice and corporate policies and processes
- oversee strategic planning, including risk identification and management
- oversee implementation, evaluation and improvement of the CDPP's governance structures and processes
- consider and approve work plans and outcomes of its sub-committees.

## Audit Committee

The Audit Committee provides independent advice and assistance to the Director on the CDPP's financial and performance reporting responsibilities, system of risk oversight and management, and system of internal control under the PGPA Act and Rule.

The Committee is chaired by independent member, Mr Ken Moore, and includes two independent members. CDPP representatives who attend regular meetings are the Commonwealth Solicitor for Public Prosecutions, the Chief Corporate Officer, the Chief Financial Officer and the Chief Audit Executive. Representatives from the Australian National Audit Office and other presenting officers attend meetings to address particular agenda items or as agreed with the Chair.

The Audit Committee met four times in 2018–19.

## National Health and Safety Committee

In accordance with the *Work Health and Safety Act 2011*, the CDPP takes all reasonably practicable steps to protect the health, safety and wellbeing of our staff and other workers. This includes consulting with workers who are, or are likely to be, directly affected by a work health or safety matter.

The CDPP's National Health and Safety Committee is the consultative mechanism between management, staff and other workers on work health and safety

matters. The Committee assists and advises the CDPP on matters affecting the health, safety and wellbeing of staff and other workers in our workplace. The Committee is also responsible for disseminating work health and safety (WHS) information, in a regular and timely way. The Committee has membership drawn from management and employees with representatives from across the practice group functions and office locations.

In 2018–19, the Committee monitored the completion of initiatives to meet requirements of the Comcare Work Health and Safety Management System Corrective Action Plan, including the First Aid and WHS Incident Notification Guidelines. The Committee has also been a key forum to promote the identification, management and mitigation of WHS risks.

The National Health and Safety Committee met four times in 2018–19.

## Project Board

The Project Board is chaired by the Commonwealth Solicitor for Public Prosecutions, and provides focused oversight of the feasibility and achievement of agreed outcomes for major projects across the CDPP. It monitors, evaluates and reports on project progress and risk profiles to the Executive Leadership Group. The Project Board meets monthly and provides a status update to the Executive Leadership Group on a quarterly basis.

## Risk

Risk management is part of our strategy and planning processes and is seen as a preventative measure, rather than a back-end control.

In compliance with the PGPA Act and Rule, as well as the Commonwealth Risk Management Policy, the Director has established an internal risk management policy.

The Executive Leadership Group and Audit Committee actively monitor and manage our Strategic Risk Register and Management Plan, ensuring risk management is effective and continues to support organisational performance.

During the reporting period the Executive Leadership Group undertook a series of Strategic Risk Management workshops to facilitate a revised Strategic Risk Register and Management Plan. In addition the Executive Leadership Group reviewed and updated the CDPP Risk Appetite and Tolerance Statement.

We are actively building a proactive risk management culture where operational risks are identified in our Business Plan and then assessed and analysed, with treatments recorded and monitored in the Strategic Risk Register and Management Plan. We also take a proactive risk management approach in our Litigation Management Plans, which help us to manage complex cases. Litigation Management Plans promote active planning of case activities and are updated regularly as matters proceed through the prosecution process.

## Fraud management and control

We work diligently to minimise the potential for fraud and corruption through continuous improvement of our fraud control framework and mechanisms. Our Fraud Control Policy helps employees, contractors, consultants and the public understand what fraud is, and encourages employees at all levels to participate in protecting public resources.

During the year, we updated the Fraud Control Policy and Plan to reflect changes to the *Resource Management Guide No. 201 Preventing, detecting and dealing with fraud*.

Through the Audit Committee we assure senior management that fraud prevention, detection, investigation and reporting mechanisms are in place to meet the requirements of the *Commonwealth Fraud Control Framework 2017*, and specifically section 10(b) of the PGPA Rule.

### Fraud reporting

During the period 1 July 2018 to 30 June 2019 there were no reported incidents of fraud.

## Public Interest Disclosure

We are committed to the highest standards of ethical and accountable conduct, encouraging, supporting and protecting public officials who report disclosable conduct in accordance with the *Public Interest Disclosure Act 2013*.

We recognise it is important to have an effective system for reporting and investigating disclosable conduct. We provide training for our Authorised Officer network, and have a dedicated email address for disclosures to be made to Authorised Officers, who report to the Director.

Our Public Interest Disclosure Policy and supporting documents are published on our intranet and on our external website at [www.cdpp.gov.au](http://www.cdpp.gov.au).

## Ethical standards

Part of developing strong leadership for an organisation like the CDPP is bringing an ethical framework to our decision-making. Everyone at the CDPP undertakes to follow these standards on joining our organisation, and is expected to adhere to the standards throughout their time with us.

The Australian Public Service Commission's Ethics Advisory Service is available to all employees who wish to discuss and seek advice on ethical issues that occur in the workplace and make sound decisions around these issues. Our people can also access policies, guidance and support from our People team and through the Employee Assistance Provider.

We rigorously pursue disclosure and management of conflicts of interest.

Our Governance team reviews and strengthens the conflicts policy and related guidance and procedures each year to enable all officials under the PGPA Act, including the Director as the accountable authority, to meet their disclosure requirements.

## Internal audit

CDPP's internal audit function is undertaken independently from the business areas subject to audits and seeks to improve our operations. It is a major component of our governance framework and helps to achieve objectives by bringing a systematic, disciplined approach to risk management,

improvement of controls, and the effectiveness of governance processes.

The activities of our internal auditor are risk-based and detailed in an annual audit plan endorsed by the Audit Committee and approved by the Executive Leadership Group. The internal audit plan seeks to coordinate internal audit activity with other assurance activities and mechanisms, including external audits.

During the year, a range of audits were undertaken by our internal audit service providers. The internal auditors did not identify any serious control breakdowns.

## Privacy

Our obligations under the *Privacy Act 1988* and the Australian Privacy Principles are guided by our Privacy Policy and National Legal Direction. This covers all privacy considerations in relation to the CDPP's collection and release of personal information.

During the year the Executive Leadership Group appointed a Privacy Champion for the CDPP and approved the Privacy Management Plan. This plan identifies specific, measurable privacy goals and targets and sets out how we will meet our privacy compliance obligations. This includes the registering and publication of Privacy Impact Assessments on the external website.

No notifiable data breaches were reported in 2018–19.





# CHAPTER 6

## CORPORATE SERVICES

### Our people

Our People branch supports the CDPP to develop an agile, diverse, healthy and highly skilled workforce, responsive to the challenges of the future. The wellbeing of our people is integral to our work and the operations of the CDPP.

The branch achieves outcomes through supporting workforce planning in the CDPP, developing and implementing strategic workforce measures and providing effective client-focused Human Resources (HR) services, advice and support.

At 30 June 2019, the CDPP had 403 employees, with 383 operative employees. This equated to 389.2 and 370.6 full-time equivalent employees respectively.

Seventy-two per cent of our employees were lawyers assigned to legal roles across our practice groups. Our prosecution function is supported by a range of corporate functions, including legal administrative support, finance and business services, information technology, people services, communications and governance.

CDPP employees are employed under the *Public Service Act 1999* or the *Director of Public Prosecutions Act 1982* (DPP Act). As at 30 June 2019, all employees were employed under the *Public Service Act 1999*. The Commonwealth Director is a statutory appointment under the DPP Act.

# A MODERN AND FLEXIBLE WORKPLACE

The CDPP's digital transformation is not just about the tools and technology we use. It is about how those tools help us modernise our work practices and ensure the best outcomes, both in terms of our prosecution results and the wellbeing of our staff. During 2018–19, we introduced a range of initiatives that help staff achieve balance in their working lives and succeed in their professional endeavours.

Underpinning the development of policies to support flexible and modern work practices is the understanding that our systems and support networks need to be effective and efficient in delivering the capabilities we need. As such, the CDPP has upgraded the digital platforms staff use to conduct their work, and introduced software and hardware solutions that enable staff to work remotely on secure systems. In conjunction with these technological tools, our policies were developed to guide and support flexible work practices.

These policies are broad ranging in their intent, designed to recognise that work/life balance doesn't always lend itself to a traditional '9-to-5' working pattern.

A year on from introducing new flexible arrangements, we're pleased that 33 people have adopted formal remote working arrangements, we have 54 staff working part-time and 231 staff are remotely accessing their desktop on a regular basis. We anticipate that we will continue to report growth in the number of successful flexible arrangements, helping the CDPP to enhance its dynamic and productive working environment, and modernise our work practices.

We have been able to successfully implement our flexible work policies based on a strong understanding of our workplace needs now and into the future. These needs are assessed and evaluated by the Workforce Planning Committee, which was established in 2018 to synthesise and steer planning decisions related to our workforce needs. Decisions are based on empirical evidence gathered from a range of sources, including our prosecution case management system, caseHQ. We also work closely with our partner agencies to understand their investigative caseload and the flow-on impact this may have on our resourcing requirements. We are now better placed to meet the challenges associated with emerging trends across the prosecution environment, which enables us to balance our staffing arrangements to ensure we achieve

greater levels of stability within the workforce.

Our Flexible Working Arrangements Framework is designed to help the CDPP achieve a more modern and agile workplace, one that enhances productivity, job satisfaction and performance. Whether our staff are looking for a formal ongoing agreement or prefer to use *ad hoc* arrangements, particularly in relation to working from home, our Framework gives all employees the opportunity to develop a working pattern that suits their needs, meets the CDPP's operational requirements and helps them achieve a better work/life balance.

# 403 EMPLOYEES

(includes inoperative employees)



68% FEMALE 32% MALE

WORKING IN

10

OFFICES  
ACROSS THE  
NATION



292

LAWYERS  
WORKING ACROSS  
ALL JURISDICTIONS  
AND LEVELS OF COURT

## HR initiatives

Our workplace is collaborative, inclusive and innovative. We have a strong focus on supporting our workforce to be high performing, healthy and engaged. Key HR initiatives and projects support our workforce to achieve CDPP's strategic objectives. Some of our notable achievements over the past year include:

- establishing the CDPP's Workforce Planning Committee to oversee and steer workforce planning decisions, including over the medium-term
- transitioning our payroll services to a shared services arrangement with the Department of Industry, Innovation and Science
- introducing a new approach to national recruitment for our junior prosecutors, reducing the time taken to complete selection exercises and commence new starters
- implementing updates to our flexible working arrangements
- improving our Workplace Wellbeing Program, including the implementation of six-monthly wellbeing checks for staff
- successfully completing our Work Health and Safety and Rehabilitation Management corrective action plans, resulting in contemporary and refreshed frameworks.

## Workforce statistics

**Table 15: Employee headcount by classification level and region at 30 June 2019**

Classification	ACT	NSW	VIC	QLD	SA	WA	TAS	NT	Total
Director	-	1	-	-	-	-	-	-	1
SES Band 3	-	-	1	-	-	-	-	-	1
SES Band 2	2	1	2	1	-	-	-	-	6
SES Band 1	1	3	3	2	1	1	-	-	11
Principal Federal Prosecutor	3	15	10	5	2	-	-	1	36
Senior Federal Prosecutor	6	42	25	15	5	4	4	1	102
Federal Prosecutor Level 2	7	32	21	13	9	8	2	2	94
Federal Prosecutor Level 1	4	17	8	7	1	5	2	-	44
Executive Level 2	9	2	-	1	-	-	1	-	13
Executive Level 1	10	1	3	-	-	-	-	-	14
APS Level 6	7	6	1	2	-	1	-	-	17
APS Level 5	2	2	3	2	1	1	-	-	11
APS Level 4	6	6	6	8	2	2	1	-	31
APS Level 3	1	13	3	-	-	-	-	-	17
APS Level 2	1	-	1	-	-	-	-	-	2
APS Level 1	-	2	1	-	-	-	-	-	3
<b>Total</b>	<b>59</b>	<b>143</b>	<b>88</b>	<b>56</b>	<b>21</b>	<b>22</b>	<b>10</b>	<b>4</b>	<b>403</b>

Notes:

- This table includes inoperative employees.
- Employees are reported at their substantive classification.

**Table 16: Workforce profile by classification at 30 June 2019**

Classification	2016–17	2017–18	2018–19
Director	1	1	1
SES Band 3	-	-	1
SES Band 2	5	5	6
SES Band 1	14	13	11
Principal Federal Prosecutor	38	43	36
Senior Federal Prosecutor	121	101	102
Federal Prosecutor Level 2	60	80	94
Federal Prosecutor Level 1	74	36	44
Executive Level 2	10	10	13
Executive Level 1	17	14	14
APS Level 6	17	23	17
APS Level 5	20	14	11
APS Level 4	28	27	31
APS Level 3	39	15	17
APS Level 2	6	3	2
APS Level 1	2	3	3
<b>Total</b>	<b>452</b>	<b>388</b>	<b>403</b>

Notes:

- This table includes inoperative employees.
- Employees are reported at their substantive classification.

**Table 17: Workforce profile by location at 30 June 2019**

Location	2016–17	2017–18	2018–19
ACT	73	58	59
NSW	153	135	143
VIC	90	90	88
QLD	70	53	56
SA	24	20	21
WA	27	22	22
TAS	8	7	10
NT	7	3	4
<b>Total</b>	<b>452</b>	<b>388</b>	<b>403</b>

Notes:

- This table includes inoperative employees.
- Employees are reported at their substantive classification.

**Table 18: Average staffing levels (ASL) by location at 30 June 2019**

Location	2017–18	2018–19
ACT	56.6	57.5
NSW	128.3	129.0
VIC	83.7	84.3
QLD	57.6	50.8
SA	18.7	18.2
WA	20.8	19.4
TAS	8.7	8.8
NT	4.2	3.4
<b>Total</b>	<b>378.6</b>	<b>371.4</b>

Notes:

- ASL includes employees who received salary or wages based on the hours they worked during the year.
- Excludes employees paid through a third party, that is employment agency or any hours associated to cash-out payments.

**Table 19: Full-time equivalent (FTE) employees by location at 30 June 2019**

Location	2017–18	2018–19
ACT	52.2	54.3
NSW	123.1	130.3
VIC	82.0	83.2
QLD	46.2	50.8
SA	18.4	18.4
WA	18.3	20.2
TAS	6.8	9.6
NT	2.0	3.8
<b>Total</b>	<b>349.0</b>	<b>370.6</b>

Notes:

- This table excludes inoperative employees.

**Table 20: Staffing by relevant legislation at 30 June 2019**

Category	2018	2019
Total staff employed under the <i>Public Service Act 1999</i>	387	402
Total staff employed under the <i>Director of Public Prosecutions Act 1983</i>	-	-
Statutory Office holders	1	1
<b>Total</b>	<b>388</b>	<b>403</b>

**Table 21: Workforce profile by category at 30 June**

Category	2018				2019			
	Full-time	Part-time	Casual	Total	Full-time	Part-time	Casual	Total
Director	1	-	-	1	1	-	-	1
SES Band 3	-	-	-	-	1	-	-	1
SES Band 2	5	-	-	5	6	-	-	6
SES Band 1	13	-	-	13	11	-	-	11
Federal Prosecutors	227	33	-	260	232	44	-	276
Executive Level Officers	24	-	-	24	26	1	-	27
APS Level 1 – APS Level 6	73	12	-	85	72	9	-	81
<b>Total</b>	<b>343</b>	<b>45</b>	<b>-</b>	<b>388</b>	<b>349</b>	<b>54</b>	<b>-</b>	<b>403</b>

Notes:

- This table includes inoperative employees.
- Employees are reported at their substantive classification.

**Table 22: Staff by employment type and gender at 30 June 2019**

Category	Ongoing		Non-ongoing		Total	
	Female	Male	Female	Male	Female	Male
Director	-	-	1	-	1	-
SES Band 3	1	-	-	-	1	-
SES Band 2	-	5	-	1	-	6
SES Band 1	6	5	-	-	6	5
Legal Officers	192	83	1	-	193	83
Executive Level Officers	14	10	2	1	16	11
APS Level 1 – APS Level 6	48	24	9	-	57	24
<b>Total</b>	<b>261</b>	<b>127</b>	<b>13</b>	<b>2</b>	<b>274</b>	<b>129</b>

Notes:

- This table includes inoperative employees.
- Employees are reported at their substantive classification.

## Workforce remuneration

Salary ranges applying to CDPP employment classifications are provided in the below table.

**Table 23: Salary scales at 30 June 2019**

Classification	Salary scales
SES remuneration ranges	
SES Band 3	\$268,596 – \$320,021
SES Band 2	\$229,726 – \$254,622
SES Band 1	\$194,240 – \$218,555
<b>CDPP Enterprise Agreement 2017–2020</b>	
Principal Federal Prosecutor	\$129,798 – \$138,068
Executive Level 2	\$118,961 – \$134,648
Senior Federal Prosecutor	\$98,730 – \$120,138
Executive Level 1	\$98,730 – \$107,750
APS Level 6	\$77,950 – \$89,546
Federal Prosecutor 2	\$71,382 – \$87,555
APS Level 5	\$70,919 – \$76,646
Federal Prosecutor 1	\$63,662 – \$70,427
APS Level 4	\$63,662 – \$70,427
APS Level 3	\$57,198 – \$62,896
APS Level 2	\$51,673 – \$56,814
APS Level 1	\$26,845 – \$50,127

## Non-salary benefits

The CDPP offers staff a number of non-salary benefits, which include:

- flexible working arrangements
- salary packaging
- onsite Continuing Legal Education sessions
- studies assistance to eligible employees
- reimbursement of practising certificate and other professional membership fees where appropriate
- 'Employee Health Initiative' reimbursement
- annual influenza vaccinations
- access to a health and wellbeing portal and a confidential 24-hour Employee Assistance Program
- regular wellbeing checks with qualified psychologists
- mentoring and coaching programs.

## Enterprise Agreement and common law contracts

The terms and conditions of non-SES staff are covered by the CDPP Enterprise Agreement 2017–2020. The terms and conditions of employment for substantive and longer term acting Senior Executive Service (SES) staff are provided under individual common law contracts. As at 30 June 2019, there were 21 of these contracts in place.

## Performance pay

The CDPP does not provide for performance pay.

## Section 24(1) determinations

In 2018–19, there were seven determinations pursuant to section 24(1) of the *Public Service Act 1999*.

## Workplace wellbeing

Information about our work health and safety arrangements (in accordance with Schedule 2, Part 4 of the *Work Health and Safety Act 2011*) is reported in Appendix 3..

The CDPP's Wellbeing Program began in 2016 as part of our commitment to investing in our people. The program is an integral part of our WHS arrangements, establishing a framework to strengthen and synchronise wellbeing policy and practice across the CDPP.

Our Wellbeing program focuses on two pillars:

- **Healthy People:** Encourages workers to adopt healthy lifestyles through education, awareness and activities.
- **Healthy Places:** Creates a healthy, supportive workplace environment through culture, policies and facilities.

In 2018–19, we streamlined our Wellbeing Checks Program so that all legal and legal support employees, as well as our

legal support labour hire workforce, have a wellbeing check every six months. Corporate employees have the option of having a wellbeing check if they wish.

Wellbeing checks are conducted by psychologists who assess our employees' wellbeing. They help to promote good mental health and provide early intervention strategies where stress or other factors are impacting on health, or the risk of vicarious trauma is identified. The psychologists support employees as required by providing strategies and assistance, or a referral pathway where there is a potential risk of psychological injury or cumulative stress. During 2018–19, a total of 622 wellbeing checks were conducted across the CDPP.

Wellbeing awareness sessions were also held for managers and staff during 2018–19. The sessions focused on: general WHS awareness; due diligence for senior managers; staff and managers' responsibilities and duty of care; and sessions on vicarious trauma, resilience, and constructive communication.

Our annual Flu Vaccination Program was undertaken in April/May 2019, offering influenza vaccinations to all employees and our labour hire workforce. A total of 214 staff registered to be vaccinated.

We recognise that staff who are fit and healthy will be more productive in the workplace. Staff are, therefore, encouraged to participate, in their own time, in activities that promote good health. To facilitate this, our enterprise agreement includes the Employee Health Initiative. As part of this initiative, 289 staff were reimbursed for personal expenditure

on approved health and wellbeing activities during the reporting period.

Our Health and Wellbeing Portal is an online resource that offers our staff health and wellbeing resources and interactive lifestyle programs to proactively assist them with their own holistic health and wellbeing journey.

## Workplace diversity and inclusion

Diversity and inclusion are integral to the CDPP and help us to provide a fair, equitable and consistent prosecution service to the community.

We recognise that diversity takes many forms, including cultural background, carer responsibilities, gender, sexual orientation, education, and professional and life experience. We celebrate this by encouraging and promoting diversity in our office.

Throughout 2018–19, we continued to implement our *Diversity and Inclusion Strategy and Action Plan 2018–2020* and our *Reconciliation Action Plan 2018–2019*.

Key achievements include:

- Nationally coordinated days of significance to celebrate National Reconciliation Week, International Women's Day and Harmony Day.
- Implementation of refreshed flexible work arrangements supported through the use of mobile technology.

**Table 24: Employees by diversity group at 30 June 2019**

	Female	Aboriginal and Torres Strait Islander	Person with disability	First language English plus another	First language other than English
Classification		-	-	-	-
Director	1	-	-	-	-
SES Band 3	1	-	-	-	-
SES Band 2	-	-	1	-	-
SES Band 1	6	-	1	1	1
Legal Officers	193	3	5	34	20
Executive Level Officers	16	-	1	1	2
APS Level 1 – APS Level 6	57	1	4	5	17
<b>Total</b>	<b>274</b>	<b>4</b>	<b>12</b>	<b>41</b>	<b>40</b>

Notes:

- This table includes inoperative employees.
- Employees are reported at their substantive classification

## Reconciliation Action Plan

Our *Reconciliation Action Plan 2018–2019* was endorsed by Reconciliation Australia in June 2018. It provides the foundations for us to build a culturally supportive, knowledgeable and responsive workforce, demonstrates our commitment to building positive relationships, and investigates employment opportunities for Aboriginal and Torres Strait Islander People.

## Agency Multicultural Access and Equity Action Plan

Our Multicultural Access and Equity Action Plan identifies the actions we will undertake to enhance our services, interactions and responsiveness to culturally and linguistically diverse employees, colleagues, witnesses and victims.

## Status of women

At 30 June 2019, 68 per cent of our staff (ongoing and non-ongoing) were female. Within the legal practice, female participation was 70 per cent. Female participation at the SES level was 39 per cent.

A Gender Equity Diagnosis was actioned in early 2019 with areas of focus to be undertaken in 2019–20.

### **National Disability Strategy**

Since 1994, non-corporate Commonwealth entities have reported on their performance as policy adviser, purchaser, employer, regulator and provider under the Commonwealth Disability Strategy. In 2007–08, reporting on the employer role was transferred to the Australian Public Service Commission's State of the Service reports and the APS Statistical Bulletin. These reports are available at [www.apsc.gov.au](http://www.apsc.gov.au). From 2010–11, entities have no longer been required to report on these functions.

The Commonwealth Disability Strategy has been overtaken by the National Disability Strategy 2010–2020, which sets out a 10 year national policy framework to improve the lives of people with disability, promote participation and create a more inclusive society. A high-level, two-yearly report was first published in 2014. These reports track progress against each of the six outcome areas of the strategy and present a picture of how people with disability are faring. The reports can be found at [www.dss.gov.au](http://www.dss.gov.au).

## **National Administrative Support**

The National Administrative Support team provides a range of specialist and general administrative support services to prosecutors. The team focuses on delivering timely, quality services to support the day-to-day needs of the legal practice, and has a physical presence in each office.

In response to the introduction of caseHQ in 2018, the National Administrative Support team undertook training and enhanced its national capabilities to meet the changing needs of the legal practice. The team participated in pre-and post-caseHQ launch testing and training, and worked closely with the caseHQ project team to define the roles and responsibilities of work flows for legal and administrative staff.

The transfer of the Administrative Request Form site to its own server resulted in further improvements in providing priority service to the legal practice nationally and allowed for more targeted workload and resource management on a national basis, and flexibility in the distribution of administrative requests across regions.

## Communications, media and parliamentary liaison

The CDPP is committed to strengthening our relationships with stakeholders through ongoing engagement and collaboration. Our communications area works with the CDPP's practice groups and corporate services, the Office of the Attorney-General, the Parliament, media, partner agencies, and the community to build understanding of the CDPP and our role.

The team is responsible for managing the CDPP's internal communications, media engagement, ministerial and parliamentary liaison, and digital platforms.

Key achievements during 2018–19 include:

- developing and launching the CDPP's Victims and Witnesses website
- supporting the transition to caseHQ
- developing and launching of the Comcare Framework Agreement.
- providing information to journalists on a range of issues. During 2018–19, the volume of requests relating to our Commercial, Financial and Corruption practice increased, which can be attributed to the findings of the *Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry*
- creating a central point of contact within the CDPP to manage ministerial and parliamentary enquiries.

## Technology

Our Information Technology team continued to support the CDPP in our digital transformation. During 2018–19, the team continued to work closely with the National Business Improvement practice group and the Communications team to enhance the agency's capabilities and functionality.

Key to this engagement is supporting enhancements for, and the ongoing roll-out of, caseHQ. The team works closely with the National Business Improvement practice group to ensure prosecutors have the tools they need to effectively and efficiently manage briefs and prosecutions. This includes ensuring platforms, such as the Partner Agency Portal and Digital Referrals Gateway, are not only accessible to our partners, but compatible with the new functionality being incorporated into CDPP systems.

## Library, research and information services

The Library and Research Services team supports the work of the legal practice by providing specialist research services and managing access to legal resources and training. The team operates a national research support helpdesk that delivers a high quality and efficient research services to all staff.

The team continued to implement enhancements to the Library Management System that improved workflow and reporting capabilities. In 2018–19, we introduced an email parsing system to automatically record requests in the system, while a complexity rating mechanism has been added to all requests, which further helps to enhance our ability to provide data about the requests received.

## Records management

The Records and Information Management Team supports the work of the CDPP through the provision of a range of records and information management activities. A national coordinator oversees the team of records and information management officers.

In 2018–19, the Executive Leadership Group endorsed a Records and Information Management Strategy. This provides an overarching approach for the CDPP to meet current and future records and information management needs. It identifies how the CDPP will reach and deliver our short, medium and long-term goals and meet the targets under the Digital Continuity 2020 Policy and digital transition.

## Finance

The Finance Services teams provide policy, reporting and advisory support to the CDPP across all areas of finance. Services provided include:

- procurement, contracts, financial delegations and approving expenditure
- payments of accounts payable and receivable, credit cards, petty cash and staff reimbursement
- travel management including bookings, movement requisitions, allowances and payments
- policy and guidance including Director's Finance Instructions and financial delegations
- administration of the Financial Management Information System
- financial reporting, budgets and asset management.

## Strategic property program

As part of our strategic property program we engage in an ongoing program to ensure our workplaces across Australia enable and facilitate improved work practices and efficiencies.

The program is being rolled out progressively as leases expire, with the Brisbane Office relocation taking place in April 2019. The Melbourne office relocation will take place in the first half of 2020.



# CHAPTER 7

## FINANCIAL SERVICES

### Financial performance

Our operations are primarily funded through parliamentary appropriations but we also receive a small component (11.2 per cent) of revenue independently. The Australian Taxation Office transfers part of its appropriation to us to cover the cost of prosecutions for offences under, for example goods and services tax (GST) legislation. The amount receipted in 2018–19 under this arrangement was \$3.7 million. This is accounted for under an arrangement pursuant to section 74 of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act) as agency revenue, and retained for our use.

### Operating results

Our operating revenue for 2018–19 was \$86.3 million, which is an increase of \$0.8 million from 2017–18.

Operating expenses for 2018–19 were \$89.3 million (excluding depreciation and amortisation expenses). This is an increase of \$5.3 million compared with 2017–18. The increase was mainly due to our expenses for employee benefits and external legal counsel across 2018–19.

The operating result for 2018–19 was a deficit of \$2.9 million, excluding depreciation and amortisation expenses (in line with the Australian Government's net cash appropriation arrangements).

### Asset management

Our major assets are office fit-out, office furniture, computer equipment, purchased software, and library holdings. We conduct an annual stocktake to ensure the accuracy of our asset records.

### Purchasing

We undertook our procurement and purchasing in 2018–19 in accordance with the principles set out in the Commonwealth Procurement Rules, which are underpinned by value for money.

We adhered to the core purchasing policies and principles in the Commonwealth Procurement Rules including encouraging competition among actual and potential suppliers, promoting the use of resources in an efficient, effective, economical and ethical manner, and being accountable and transparent during the procurement process.

We apply these principles to our procurement activities through the Director's Finance Instructions and supporting guidelines, which have been developed to ensure we undertake competitive, non-discriminatory procurement processes, use resources efficiently, effectively, economically and ethically, and make decisions in an accountable and transparent manner.

## Consultancy services

We engage consultants where we lack specialist expertise or when independent research, review or assessment is required. Typically, we engage consultants to investigate or diagnose a defined issue or problem, carry out defined reviews or evaluations, or provide independent advice, information or creative solutions to assist in our decision-making.

Before we engage consultants, we take into account the skills and resources required for the task, the skills available internally, and the cost-effectiveness of engaging external expertise. We make decisions to engage a consultant in line with the PGPA Act and related regulations (including the Commonwealth Procurement Rules and relevant internal policies).

Annual reports contain information about actual expenditure on contracts for consultancies. Information on the value of contracts and consultancies is available on the AusTender website: [www.tenders.gov.au](http://www.tenders.gov.au).

During 2018–19, we entered into 15 new consultancy contracts with a total actual expenditure of \$462,616 (including GST). In addition, one ongoing consultancy contract was active during 2018–19, involving a total actual expenditure of \$11,000 (including GST).

## Australian National Audit Office access clauses

During the reporting period, we did not let any contracts for \$100,000 or more (including GST) that do not provide for the Auditor-General to have access to the contractor's premises.

## Exempt contracts

We have exempted the publication of details of prosecution legal counsel on the basis that to do so would disclose exempt matters under the *Freedom of Information Act 1982*.

## Procurement initiatives to support small business

We support small business participation in the Commonwealth Government procurement market. Small and Medium Enterprises (SME) and Small Enterprise participation statistics are available on the Department of Finance's website: [www.finance.gov.au/procurement/statistics-on-commonwealth-purchasingcontracts/](http://www.finance.gov.au/procurement/statistics-on-commonwealth-purchasingcontracts/).

We recognise the importance of ensuring that small businesses are paid on time. The results of the survey of Australian Government Payments to Small Business are available on the Treasury's website: [www.treasury.gov.au/](http://www.treasury.gov.au/).

Some of the ways that our procurement practices support SMEs include:

- using the Commonwealth Contracting Suite for low-risk procurements valued under \$200,000

- communicating in clear, simple language and presenting information in an accessible format
- adhering to the Pay on Time Policy relating to paying small business suppliers.

## External scrutiny

The delegate of the Auditor-General issued an unqualified audit report for the CDPP's 2018–19 financial statements.

No other reports that included information on our operations were issued by the Auditor-General, a parliamentary committee, or the Commonwealth Ombudsman. There was no agency capability review of our operations during 2018–19.

During the reporting period, there were no decisions of administrative tribunals or the Australian Information Commissioner that have had or may have a significant impact on our operations.

## Legal service expenditure

The Legal Services Directions 2017 require agencies to report expenditure on legal services.

These directions are not intended to cover the handling of criminal prosecutions and related proceedings (see General Note 4 to the Directions). Therefore, our report relates to our administrative activities only.

Our total expenditure on legal services (excluding the handling of criminal prosecutions and related proceedings) during 2018–19 was \$51,020 (excluding GST). Further details are in the following table.

This is a statement of legal services expenditure published in compliance with paragraph 11.1(ba) of the Legal Services Directions 2017.

**Table 25: Legal services expenditure in 2018–19**

Expenditure	Amount
Total (external and internal) expenditure	\$51,020
Total internal legal services expenditure	-
Total external legal services expenditure	\$51,020
<b>Summary of external legal services expenditure</b>	
Total value of briefs to counsel (A)	-
Total value of disbursements (excluding counsel) (B)	\$719
Total value of professional fees paid (C)	\$50,301
Total external legal services expenditure (A + B + C)	\$51,020

Notes:

- Excludes the handling of criminal prosecutions and related proceedings.



# CHAPTER 8

# FINANCIAL STATEMENTS

## Financial statements

The audited financial statements included in this report were prepared in accordance with the Public Governance, Performance and Accountability (Financial Reporting) Rule 2015. Detailed information on the accounting policies used to prepare the audited financial statements is at Note 1 to the financial statements.

Under current Budget arrangements, the CDPP has one government outcome with one program of activities to achieve this outcome. Further information about our agency's budget can be found in the Attorney-General's Portfolio Budget Statements.

There were no significant instances of non-compliance with the finance law.

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## INDEPENDENT AUDITOR'S REPORT

### To the Attorney-General

#### Opinion

In my opinion, the financial statements of the Office of the Commonwealth Director of Public Prosecutions ('the Entity') for the year ended 30 June 2019:

- (a) comply with Australian Accounting Standards – Reduced Disclosure Requirements and the *Public Governance, Performance and Accountability (Financial Reporting) Rule 2015*; and
- (b) present fairly the financial position of the Entity as at 30 June 2019 and its financial performance and cash flows for the year then ended.

The financial statements of the Entity, which I have audited, comprise the following statements as at 30 June 2019 and for the year then ended:

- Statement by the Accountable Authority and Chief Financial Officer;
- Statement of Comprehensive Income;
- Statement of Financial Position;
- Statement of Changes in Equity;
- Cash Flow Statement; and
- Notes to and forming part of the financial statements, comprising a summary of significant accounting policies and other explanatory information.

#### Basis for opinion

I conducted my audit in accordance with the Australian National Audit Office Auditing Standards, which incorporate the Australian Auditing Standards. My responsibilities under those standards are further described in the *Auditor's Responsibilities for the Audit of the Financial Statements* section of my report. I am independent of the Entity in accordance with the relevant ethical requirements for financial statement audits conducted by the Auditor-General and his delegate. These include the relevant independence requirements of the Accounting Professional and Ethical Standards Board's APES 110 *Code of Ethics for Professional Accountants* (the Code) to the extent that they are not in conflict with the *Auditor-General Act 1997*. I have also fulfilled my other responsibilities in accordance with the Code. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

#### Accountable Authority's responsibility for the financial statements

As the Accountable Authority of the Entity, the Director is responsible under the *Public Governance, Performance and Accountability Act 2013* (the Act) for the preparation and fair presentation of annual financial statements that comply with Australian Accounting Standards – Reduced Disclosure Requirements and the rules made under the Act. The Director is also responsible for such internal control as the Director determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the Director is responsible for assessing the ability of the Entity to continue as a going concern, taking into account whether the Entity's operations will cease as a result of an administrative restructure or for any other reason. The Director is also responsible for disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless the assessment indicates that it is not appropriate.

GPO Box 707 CANBERRA ACT 2601  
19 National Circuit BARTON ACT  
Phone (02) 6203 7300 Fax (02) 6203 7777

### **Auditor's responsibilities for the audit of the financial statements**

My objective is to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with the Australian National Audit Office Auditing Standards will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of the financial statements.

As part of an audit in accordance with the Australian National Audit Office Auditing Standards, I exercise professional judgement and maintain professional scepticism throughout the audit. I also:

- identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control;
- obtain an understanding of internal control relevant to the audit 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 Entity's internal control;
- evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Accountable Authority;
- conclude on the appropriateness of the Accountable Authority's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Entity's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my auditor's report. However, future events or conditions may cause the Entity to cease to continue as a going concern; and
- evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

I communicate with the Accountable Authority regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that I identify during my audit.

Australian National Audit Office



Rebecca Reilly  
Executive Director

Delegate of the Auditor-General

Canberra  
23 September 2019

**OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS  
STATEMENT BY THE ACCOUNTABLE AUTHORITY AND CHIEF FINANCIAL OFFICER**

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In our opinion, the attached financial statements for the year ended 30 June 2019 comply with subsection 42(2) of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act), and are based on properly maintained financial records as per subsection 41(2) of the PGPA Act.

In our opinion, at the date of this statement, there are reasonable grounds to believe that the Office of the Commonwealth Director of Public Prosecutions will be able to pay its debts as and when they fall due.



Signed

Sarah McNaughton SC  
Director  
(Chief Executive)

23 September 2019



Signed

Steven Burggraaff  
Chief Financial Officer

23 September 2019

**OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS**  
**STATEMENT OF COMPREHENSIVE INCOME**

For the period ended 30 June 2019

	Notes	Actual 2019 \$'000	Actual 2018 \$'000	Original Budget \$'000
<b>NET COST OF SERVICES</b>				
<b>EXPENSES</b>				
Employee benefits	4A	49,062	46,168	47,648
Suppliers	4B	39,265	37,138	37,228
Depreciation and amortisation	7	3,785	3,598	4,318
Finance costs - unwinding discount		8	-	-
Impairment loss allowance on financial instruments		6	-	-
Write-down and impairment of other assets		19	23	-
Costs awarded against the Commonwealth		983	720	570
<b>Total expenses</b>		<b>93,128</b>	<b>87,647</b>	<b>89,764</b>
<b>OWN-SOURCE INCOME</b>				
<b>Own-source revenue</b>				
Rendering of services	5A	9,692	7,317	8,984
Other	5B	142	328	284
<b>Total own-source revenue</b>		<b>9,834</b>	<b>7,645</b>	<b>9,268</b>
<b>Gains</b>				
Other		98	569	230
<b>Total gains</b>		<b>98</b>	<b>569</b>	<b>230</b>
<b>Total own-source income</b>		<b>9,932</b>	<b>8,214</b>	<b>9,498</b>
<b>Net cost of service</b>		<b>83,196</b>	<b>79,433</b>	<b>80,266</b>
Revenue from Government	5C	76,482	77,405	75,948
<b>Deficit</b>		<b>(6,714)</b>	<b>(2,028)</b>	<b>(4,318)</b>
<b>OTHER COMPREHENSIVE INCOME</b>				
<b>Items not subject to subsequent reclassification to net cost of services</b>				
Changes in asset revaluation		-	12	-
<b>Total other comprehensive income</b>		<b>-</b>	<b>12</b>	<b>-</b>
<b>Total comprehensive income</b>		<b>(6,714)</b>	<b>(2,016)</b>	<b>(4,318)</b>

The above statement should be read in conjunction with the accompanying notes.

**Budget Variances Commentary**

Expenses

Total Expenses are \$3.4m higher than budgeted. Employee expenses increased for the revaluation of employee leave liabilities, as a result of 2018-19 bond rate movements (\$1.4m). Supplier costs increased predominately from a higher than budgeted level of prosecution work, including work funded through additional own-source income (\$0.7m) and additional appropriations (\$0.5m). Additional provisions were raised for costs awarded against the Commonwealth (\$0.4m).

Own-source income

Total own source revenue increased against budget predominately due to additional funding for prosecution services determined subsequent to the 2018-19 budget.

**OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS  
STATEMENT OF FINANCIAL POSITION**

As at 30 June 2019

	Notes	Actual 2019 \$'000	Actual 2018 \$'000	Original Budget \$'000
<b>ASSETS</b>				
<b>Financial Assets</b>				
Cash and cash equivalents		603	486	360
Trade and other receivables	6A	11,271	13,524	12,016
<b>Total financial assets</b>		<b>11,874</b>	<b>14,010</b>	<b>12,376</b>
<b>Non-Financial Assets</b>				
Buildings	7	10,505	9,712	8,952
Plant and equipment	7	2,810	3,220	5,228
Intangibles	7	3,277	2,700	1,174
Prepayments		1,227	2,063	2,000
<b>Total non-financial assets</b>		<b>17,819</b>	<b>17,695</b>	<b>17,354</b>
<b>Total assets</b>		<b>29,693</b>	<b>31,705</b>	<b>29,730</b>
<b>LIABILITIES</b>				
<b>Payables</b>				
Suppliers		3,474	3,964	3,014
Leases Incentives		8,427	7,279	7,500
Other	8A	2,569	2,559	789
<b>Total payables</b>		<b>14,470</b>	<b>13,802</b>	<b>11,303</b>
<b>Provisions</b>				
Employee leave provisions		16,465	14,539	15,672
Other	9A	811	821	1,471
<b>Total provisions</b>		<b>17,276</b>	<b>15,360</b>	<b>17,143</b>
<b>Total Liabilities</b>		<b>31,746</b>	<b>29,162</b>	<b>28,446</b>
<b>Net Assets</b>		<b>(2,053)</b>	<b>2,543</b>	<b>1,284</b>
<b>EQUITY</b>				
Contributed equity		16,010	13,892	16,010
Reserve		18,491	18,491	18,479
Accumulated deficit		(36,554)	(29,840)	(33,205)
<b>Total Equity</b>		<b>(2,053)</b>	<b>2,543</b>	<b>1,284</b>

The above statement should be read in conjunction with the accompanying notes.

**Budget Variances Commentary**

Assets

Trade and Other Receivables was \$0.7m lower than budgeted. Appropriations receivable reduced consistent with higher than budgeted expenditure for the year.

Total non-financial assets was \$0.5m higher than budgeted. In addition to asset revaluations as at 30 June 2018, acquisitions include office fit-out funded by lease incentive and software funded by rolled-over 2017-18 departmental capital budget. Prepayments reduced due to annual subscriptions services, usually paid as at 30 June, being invoiced in July 2019.

Liabilities

Total Payables increased by \$3.2m against budget, largely due to lease incentives and lease accounting adjustments. Total provisions was \$0.1m higher than budgeted. Employee provisions increased due to 2018-19 bond rate movements (\$1.4m). Other provisions decreased against budget due to revised estimates and expiration of make-good provisions (\$0.5m) and the consumption of provision for superannuation contributions (\$0.2m), offset by additional provision for costs awarded against the Commonwealth (\$0.4m).



**OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS**  
**CASH FLOW STATEMENT**

*For the period ended 30 June 2019*

	Actual 2019 \$'000	Actual 2018 \$'000	Original Budget \$'000
<b>OPERATING ACTIVITIES</b>			
<b>Cash received</b>			
Appropriations	88,978	86,321	87,270
Rendering of services	9,758	7,841	9,268
Net GST received	3,899	3,587	2,900
<b>Total cash received</b>	<u>102,635</u>	<u>97,749</u>	<u>99,438</u>
<b>Cash used</b>			
Employees	47,118	48,028	46,428
Suppliers	44,333	37,072	43,594
Other	616	720	432
Appropriation cash returned to the OPA	10,600	9,293	8,984
<b>Total cash used</b>	<u>102,667</u>	<u>95,113</u>	<u>99,438</u>
<b>Net cash from (used by) operating activities</b>	<u>(32)</u>	<u>2,636</u>	<u>-</u>
<b>INVESTING ACTIVITIES</b>			
<b>Cash used</b>			
Purchase of property, plant and equipment and intangibles	2,016	5,489	2,118
<b>Total cash used</b>	<u>2,016</u>	<u>5,489</u>	<u>2,118</u>
<b>Net cash from (used by) investing activities</b>	<u>(2,016)</u>	<u>(5,489)</u>	<u>(2,118)</u>
<b>FINANCING ACTIVITIES</b>			
<b>Cash received</b>			
Contributed equity	2,165	2,689	2,118
<b>Total cash received</b>	<u>2,165</u>	<u>2,689</u>	<u>2,118</u>
<b>Net cash from (used by) financing activities</b>	<u>2,165</u>	<u>2,689</u>	<u>2,118</u>
<b>Net increase (decrease) in cash held</b>	<u>117</u>	<u>(164)</u>	<u>-</u>
Cash and cash equivalents at the beginning of the reporting period	486	650	360
<b>Cash and cash equivalents at the end of the reporting period</b>	<u>603</u>	<u>486</u>	<u>360</u>

The above statement should be read in conjunction with the accompanying notes.

**OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS**  
**NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS**

*For the period ended 30 June 2019*

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Note 1: Overview

Note 2: Events After the Reporting Period

Note 3: Net Cash Appropriation Arrangements

Note 4: Expenses

Note 5: Own-Source Income

Note 6: Financial Assets

Note 7: Non-Financial Assets

Note 8: Payables

Note 9: Provisions

Note 10: Contingent Assets and Liabilities

Note 11: Related Party Disclosures

Note 12: Key Management Personnel Remuneration

Note 13: Financial Instruments

Note 14: Appropriations

Note 15: Aggregate Assets and Liabilities

# OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

For the period ended 30 June 2019

## Note 1: Overview

### 1.1 The Basis of Preparation

The financial statements are general purpose financial statements and are required by Section 42 of the *Public Governance, Performance and Accountability Act 2013*.

The Financial Statements have been prepared in accordance with:

- *Public Governance, Performance and Accountability (Financial Reporting) Rule 2015* (FRR) for reporting periods ending on or after 1 July 2018; and
- Australian Accounting Standards - Reduced Disclosure Requirements, and Interpretations issued by the Australian Accounting Standards Board (AASB) that apply for the reporting period.

The financial statements have been prepared on an accrual basis and in accordance with the historical cost convention, except for certain assets and liabilities at fair value. Except where stated, no allowance is made for the effect of changing prices on the results or the financial position. The financial statements are presented in Australian dollars and values are rounded to the nearest thousand dollars unless otherwise specified.

### 1.2 Significant Accounting Judgments and Estimates

In the process of applying the accounting policies listed in the notes, the CDPP has made judgements in relation to:

- The fair value of property, plant and equipment and the related makegood; and
- Employee provisions;

that have significant impact on the amounts recorded in the financial statements.

No accounting assumptions and estimates have been identified that have a significant risk of causing a material adjustment to carrying amounts of assets and liabilities within the next reporting period.

### 1.3 New Australian Accounting Standards

All new/revised/amending standards and/or interpretations that were issued prior to the sign-off date and are applicable to the current reporting period did not have a material effect on the CDPP's financial statements.

### 1.4 Taxation

The CDPP is exempt from all forms of taxation except Fringe Benefits Tax (FBT) and the Goods and Services Tax (GST).

## Note 2: Events After the Reporting Period

There have been no events that have the potential to significantly affect the ongoing structure and financial activities of the CDPP.

## Note 3: Net Cash Appropriation Arrangements

	2019	2018
	\$'000	\$'000
<b>Total comprehensive income/(loss) less depreciation/amortisation expenses previously funded through revenue appropriations</b>	<b>(2,929)</b>	1,582
Plus: depreciation/amortisation expenses previously funded through revenue appropriation	<u>(3,785)</u>	<u>(3,598)</u>
<b>Total comprehensive income (loss) - as per the Statement of Comprehensive Income</b>	<b><u>(6,714)</u></b>	<b><u>(2,016)</u></b>

**OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS**  
**NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS**

For the period ended 30 June 2019

**Note 4: Expenses**

	2019	2018
	\$'000	\$'000
<b>Note 4A: Employee benefits</b>		
Wages and salaries	35,474	35,069
Superannuation		
Defined contribution plans	3,632	3,425
Defined benefit plans	3,314	3,133
Leave and other entitlements	6,154	3,877
Separation and redundancies	216	500
Other employee benefits	272	164
<b>Total employee benefits</b>	<b>49,062</b>	<b>46,168</b>

**Accounting Policy**

See note 9A: Employee Provisions

**Note 4B: Suppliers**

**Goods and services supplied or rendered**

Prosecution legal costs	16,773	13,196
Information and Communication Technology	3,606	3,412
Property	1,782	2,482
Library	1,323	1,423
Services Advice and Training	6,547	6,748
Other	2,329	2,124
<b>Total goods and services supplied or rendered</b>	<b>32,360</b>	<b>29,385</b>

Goods Supplied	2,600	3,293
Services Rendered	29,760	26,092
<b>Total goods and services supplied or rendered</b>	<b>32,360</b>	<b>29,385</b>

**Other suppliers**

Operating lease rentals	6,337	7,152
Workers compensation expenses	568	601
<b>Total other suppliers</b>	<b>6,905</b>	<b>7,753</b>
<b>Total suppliers</b>	<b>39,265</b>	<b>37,138</b>

**Accounting Policy**

Expenses

Operating lease payments are expensed on a straight-line basis, which is representative of the pattern of benefits derived from the leased assets.

**Commitments for minimum lease payments in relation to non-cancellable operating leases are payable as follows:**

Within 1 year	7,522	8,559
Between 1 to 5 years	27,125	24,755
More than 5 years	17,893	2,534
<b>Total operating lease commitments</b>	<b>52,540</b>	<b>35,848</b>

Lease commitments are GST exclusive.

CDPP in its capacity as lessee has 11 (2018: 11) property leases. There are no purchase options with any CDPP lease or contingent rental payable. There are fixed increases in rent on each of those leases ranging between 3% and 4% annually. Eight of those leases have an option to renew at the end of the lease period.

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For the period ended 30 June 2019

**Note 5: Own-Source Income**

	2019 \$'000	2018 \$'000
<b>Note 5A: Rendering of Services</b>		
Prosecution Services	9,156	6,757
Sublease	522	503
Other	14	57
<b>Total rendering of services</b>	<u>9,692</u>	<u>7,317</u>

**Commitments for sublease rental income receivables are as follows:**

Within 1 year	383	540
Between 1 to 5 years	333	662
<b>Total sublease rental income commitments</b>	<u>716</u>	<u>1,202</u>

**Accounting Policy**

The stage of completion of contracts for services at the reporting date is determined by reference to services performed to date as a percentage of total services to be performed.

Receivables for goods and services, which have 30 day terms, are recognised at the nominal amounts due less any impairment allowance account. Collectability of debts is reviewed at end of the reporting period. Allowances are made when collectability of the debt is no longer probable.

**Note 5B: Other Revenue**

Resources received free of charge - services from external parties	61	247
Resources received free of charge - auditor's remuneration	81	81
<b>Total other revenue</b>	<u>142</u>	<u>328</u>

**Accounting Policy**

*Resources Received Free of Charge*

Resources received free of charge are recognised as revenue when, and only when, a fair value can be reliably determined and the services would have been purchased if they had not been donated. Use of those resources is recognised as an expense. Resources received free of charge are recorded as either revenue or gains depending on their nature.

**REVENUE FROM GOVERNMENT**

**Note 5C: Revenue from Government**

**Appropriations:**

Departmental appropriations	76,482	77,405
<b>Total revenue from Government</b>	<u>76,482</u>	<u>77,405</u>

**Accounting Policy**

*Revenue from Government*

Amounts appropriated for departmental appropriations for the year (adjusted for any formal additions and reductions) are recognised as Revenue from Government when the CDPP gains control of the appropriation. Appropriations receivable are recognised at their nominal amounts.

**OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS  
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS**

*For the period ended 30 June 2019*

**Note 6: Financial Assets**

	2019 \$'000	2018 \$'000
<b><u>Note 6A: Trade and Other Receivables</u></b>		
<b>Good and Services</b>		
Goods and services	<u>367</u>	<u>414</u>
<b>Total goods and services receivables</b>	<u>367</u>	<u>414</u>
<b>Appropriations receivable:</b>		
For existing programs	<u>10,549</u>	<u>12,492</u>
<b>Total appropriations receivable</b>	<u>10,549</u>	<u>12,492</u>
<b>Other receivables</b>		
GST receivable from the Australian Taxation Office	<u>340</u>	<u>578</u>
Other receivables	<u>21</u>	<u>40</u>
<b>Total other receivables</b>	<u>361</u>	<u>618</u>
<b>Total trade and other receivables (gross)</b>	<u>11,277</u>	<u>13,524</u>
<b>Less impairment loss allowance</b>		
Goods and services	<u>(6)</u>	<u>-</u>
<b>Total impairment loss allowance</b>	<u>(6)</u>	<u>-</u>
<b>Total trade and other receivables (net)</b>	<u>11,271</u>	<u>13,524</u>

Credit terms for goods and services was 30 days (2018: 30 days).

**Accounting Policy**

Cash and Cash Equivalents

Cash is recognised at its nominal amount.

Trade receivables

Trade receivables that are held for the purpose of collecting the contractual cash flows where the cash flows are solely payments of principal and interest that are not provided at below-market interest rates, are classified as subsequently measured at amortised cost using the effective interest method adjusted for any loss allowance. Receivables are assessed for impairment at the end of each reporting period. A loss allowance of \$5,848 was recognised in 2019 (2018: nil).

The fair value of CDDP's financial assets and liabilities approximate their carrying amounts. The CDDP derived no interest income from financial assets in either the current or prior year.

# OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

For the period ended 30 June 2019

## Note 7: Non-Financial Assets

### Note 7: Reconciliation of the Opening and Closing Balances of Buildings, Property, Plant and Equipment and Intangibles

	Building \$'000	Plant & equipment \$'000	Computer software \$'000	Total \$'000
<b>As at 1 July 2018</b>				
Gross book value	9,712	3,220	4,558	17,490
Accumulated depreciation/amortisation and impairment	-	-	(1,858)	(1,858)
<b>Total as at 1 July 2018</b>	<b>9,712</b>	<b>3,220</b>	<b>2,700</b>	<b>15,632</b>
Additions				
Purchase	3,003	480	1,281	4,764
Depreciation and amortisation	(2,210)	(871)	(704)	(3,785)
Disposals	-	(19)	-	(19)
<b>Total as at 30 June 2019</b>	<b>10,505</b>	<b>2,810</b>	<b>3,277</b>	<b>16,592</b>
<b>Total as at 30 June 2019 represented by</b>				
Gross book value	12,448	3,678	5,839	21,965
Accumulated depreciation/amortisation and impairment	(1,943)	(868)	(2,562)	(5,373)
<b>Total as at 30 June 2019</b>	<b>10,505</b>	<b>2,810</b>	<b>3,277</b>	<b>16,592</b>

No indicators of impairment were found for building, property, plant and equipment and computer software. Computer software includes both purchased software and internally generated software.

No significant property, plant and equipment and intangibles are expected to be sold or disposed of within the next 12 months.

#### Revaluations of non-financial assets

All revaluations were conducted in accordance with the revaluation policy. CDPP engaged the services of an independent valuer to conduct the revaluations as at 30 June 2018. No revaluation was performed for 2018-19. Management has determined that the carrying value is not materially different to the fair value for buildings and plant & equipment asset classes

#### Contractual commitments for the acquisition of property, plant, equipment and intangible assets

As at 30 June 2019 there were capital commitments of \$45,149 for intangibles (2018: nil) and nil for buildings, plant and equipment (2018: nil).

#### Accounting Policy

##### Recognition and Depreciation

Assets are recognised initially at cost on acquisition in accordance with the table below.

Depreciable property plant and equipment assets are written-off to their estimated residual values over their estimated useful lives to the CDPP using, in all cases, the straight-line method of depreciation. Software assets are amortised on a straight-line basis.

Depreciation rates applying to each class of depreciable asset are based on the following useful lives:

	Useful Life (years)	Threshold (\$)
Leasehold Improvements	lease term	20,000 or 5% of total value
PP&E	3-30 years	2,000
Software	3-6 years	5,000

# OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

For the period ended 30 June 2019

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## Revaluations

Fair values for each class of asset are determined as shown below:

<b>Asset class</b>	<b>Fair value measured at</b>
Leasehold improvements	Depreciated replacement cost
Infrastructure, plant and equipment	Market selling price and depreciated replacement cost

Following initial recognition at cost, property plant and equipment are carried at fair value less subsequent accumulated depreciation and accumulated impairment losses. Valuations are conducted with sufficient frequency to ensure that the carrying amounts of assets do not differ materially from the assets' fair values as at the reporting date. The regularity of independent valuations depends upon the volatility of movements in market values for the relevant assets. The most recent independent valuation was conducted on 30 June 2018. Impairment assessment is carried out on an annual basis.

Assets are revalued in accordance with AASB 116 *Property, Plant and Equipment* approximately every five years unless the annual fair value assessment suggests that there is a material difference between carrying value of assets and their fair value. Where there is a material difference, all assets in that category are revalued.

Revaluation adjustments are made on a class basis. Any revaluation increment is credited to equity under the heading of asset revaluation reserve except to the extent that it reversed a previous revaluation decrement of the same asset class that was previously recognised in the surplus/deficit. Revaluation decrements for a class of assets are recognised directly in the surplus/deficit except to the extent that they reversed a previous revaluation increment for that class.

Any accumulated depreciation as at the revaluation date is eliminated against the gross carrying amount of the asset and the asset restated to the revalued amount.

## Impairment

All assets are assessed annually for impairment. Where indications of impairment exist, the asset's recoverable amount is estimated and an impairment adjustment made if the asset's recoverable amount is less than its carrying amount

## De-recognition

An item of property, plant and equipment is derecognised upon disposal or when no further future economic benefits are expected from its use or disposal.

## Intangibles

CDPP's computer software includes purchased software and internally generated software for internal use. These assets are carried at cost less accumulated amortisation and accumulated impairment losses.

Software is amortised on a straight-line basis over its anticipated useful life. The useful lives of the CDPP's software are 3 to 6 years (2018: 3 to 6 years).

All software assets were assessed for indications of impairment as at 30 June 2019.

## OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

*For the period ended 30 June 2019*

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### Accounting Judgements and Estimates

#### Fair value measurement

An annual assessment is undertaken to determine whether the carrying amount of assets differs materially from the fair value. Comprehensive valuations are undertaken at least once every five years. The fair value of property, plant and equipment is determined using either the Market Approach or the Cost Approach.

#### Market Approach

The Market Approach seeks to estimate the current value of an asset in its highest and best use with reference to recent market evidence including transactions of comparable assets. Certain items of land, buildings, leasehold improvements, plant and equipment are valued using the Market Approach. Inputs utilised under the Market Approach comprise market transactions of comparable assets adjusted to reflect differences in price sensitive characteristics including:

- recent market sales of comparable land and buildings adjusted for size and location; and
- current prices for comparable or substitute items of leasehold improvements, plant and equipment available within local second-hand markets or adjusted for location.

#### Cost Approach

The Cost Approach seeks to estimate the amount required to replace the service capacity of an asset in its highest and best use. In cases where sufficient observable market evidence is unavailable, the Cost Approach is applied and determined as the Depreciated Replacement Cost (DRC).

Certain items of land, buildings, leasehold improvements, plant and equipment are valued using DRC. Under DRC the replacement costs of new assets are adjusted for physical depreciation and obsolescence such as physical deterioration, functional or technical obsolescence and conditions of the economic environment specific to the asset. This is determined based on the estimated physical, economic and external obsolescence factors relevant to the asset under consideration.

**OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS**  
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*For the period ended 30 June 2019*

**Note 8: Payables**

	2019	2018
	\$'000	\$'000
<b>Note 8A: Other payables</b>		
Wages and salaries	282	267
Superannuation	51	49
Lease straight lining	2,231	2,239
Other	5	4
<b>Total other payables</b>	<b>2,569</b>	<b>2,559</b>

**Accounting Policy**

Supplier and other payables

Supplier and other payables are recognised at cost. Liabilities are recognised to the extent that the goods or services have been received. Supplier and other payables are derecognised on payment. Supplier payables are settled within 30 days.

Lease Incentives

Lease Incentives consist of rent free periods, leasehold improvements and cash incentives. Lease payments are allocated on a straight-line basis between a reduction of the lease incentive liabilities and rental expenses to spread the rental expense in accordance with the pattern of benefits derived from the incentives.

# OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

For the period ended 30 June 2019

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## Note 9: Provisions

### Accounting Policy

Liabilities for 'short-term employee benefits and termination benefits expected within twelve months of the end of reporting period are measured at their nominal amounts.

#### Leave

The liability for employee benefits includes provision for annual leave and long service leave.

The leave liabilities are calculated on the basis of employees' remuneration at the estimated salary rates that will be applied at the time the leave is taken, including the CDPP's employer superannuation contribution rates to the extent that the leave is likely to be taken during service rather than paid out on termination.

The liability for long service leave has been determined by reference to the work of an actuary as at 30 June 2018. The estimate of the present value of the liability takes into account attrition rates and pay increases through promotion and inflation. Reviews are conducted with sufficient frequency to ensure the adequacy of the provision.

#### Separation and Redundancy

Provision is made for separation and redundancy benefit payments. There were no provision for termination as at 30 June 2019 (2018: nil).

#### Superannuation

CDPP's staff are members of the Commonwealth Superannuation Scheme (CSS), the Public Sector Superannuation Scheme (PSS) or the PSS accumulation plan (PSSap), or other superannuation funds held outside the Australian government.

The CSS and PSS are defined benefit schemes for the Australian Government. The PSSap is a defined contribution scheme.

The liability for defined benefits is recognised in the financial statements of the Australian Government and is settled by the Australian Government in due course. This liability is reported in the Department of Finance's administered schedules and notes.

CDPP makes employer contributions to the employees' superannuation scheme at rates determined by an actuary to be sufficient to meet the current cost to the Government. CDPP accounts for the contributions as if they were contributions to defined contribution plans.

The liability for superannuation recognised as at 30 June represents outstanding contributions.

**OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS**  
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**Note 9: Provisions (Continued)**

	2019 \$'000	2018 \$'000
<b>Note 9A: Other Provisions</b>		
Provisions for restoration <sup>1</sup>	325	415
Provisions for superannuation <sup>2</sup>	-	195
Provisions for surplus lease space <sup>3</sup>	111	226
Provisions for sub lease receivable	-	(15)
Provisions for costs awarded against the Commonwealth	375	-
<b>Total other provisions</b>	<b>811</b>	<b>821</b>

	Provision for Restoration \$'000	Other provisions \$'000	Total \$'000
<b>As at 1 July 2018</b>	415	406	821
Additional provisions made	8	375	383
Amounts used	-	(295)	(295)
Amounts reversed	(98)	-	(98)
<b>Total as at 30 June 2019</b>	<b>325</b>	<b>486</b>	<b>811</b>

<sup>1</sup> CDPP currently has 11 agreements (2018: 11 agreements) for leased premises. Two of these have provisions requiring CDPP to restore the premises to their original condition at the end of the lease. CDPP has made provisions to reflect the present value of these obligations.

<sup>2</sup> Additional lump sum superannuation contributions are payable where a shortfall is found in the statutory payment for an employee in the Commonwealth Superannuation Scheme. These contributions are historically paid every 3-4 years. As at 30 June 2019, CDPP recorded a payable for additional lump sum superannuation contribution invoices issued by Comsuper during the current financial period. No additional provision has been made as at 30 June 2019.

<sup>3</sup> Provision for Surplus Lease Space relates to office lease space under an onerous lease in 2018-19.

# OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

For the period ended 30 June 2019

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## Note 10: Contingent Assets and Liabilities

### Quantifiable Contingencies

As at 30 June 2019, CDPP had no quantifiable contingent assets or liabilities (2018: nil).

### Unquantifiable Contingencies

If a matter prosecuted by the CDPP is defended successfully, the court may order that the CDPP meet certain costs incurred by the defence.

If a matter is being prosecuted by the CDPP and assets are frozen under the *Proceeds of Crime Act 1987* or the *Proceeds of Crime Act 2002*, the CDPP gives an undertaking against potential losses in respect of assets administered by the Commonwealth. If the related prosecution is unsuccessful, damages can be awarded against the CDPP. Costs and damages so awarded are met from the CDPP or client organisation's annual appropriations.

Costs and damages have been awarded against the CDPP by the Courts on some occasions in past financial years. On this basis, it is anticipated that this will occur on some occasions during the next financial year. However, since awards of costs and damages are made by the Courts and the CDPP is unable to control or predict the quantum or number of such awards, the CDPP is unable to quantify its potential future liabilities in this regard. For that reason, the quantum of the anticipated future awards of costs and damages against the CDPP, has not been quantified.

### **Accounting Policy**

Contingent Liabilities and Contingent Assets are not recognised in the Statement of Financial Position but are reported in the notes. They may arise from uncertainty as to the existence of a liability or asset or represent an asset or liability in respect of which the amount cannot be reliably measured. Contingent assets are disclosed when settlement is probable but not virtually certain and contingent liabilities are disclosed when settlement is greater than remote.

# OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

*For the period ended 30 June 2019*

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## **Note 11: Related Party Disclosures**

**Related party relationships:** The Office of the Commonwealth Director of Public Prosecutions is an Australian Government controlled entity. Related parties to this entity include the Portfolio Minister and Chief Executive Officer (Accountable Authority), Executive Leadership Group, Chief Financial Officer and other Australian Government entities.

**Transactions with related parties:** Given the breadth of Government activities, related parties may transact with the government sector in the same capacity as ordinary citizens. These transactions have not been separately disclosed in this note.

Giving consideration to relationships with related entities, and transactions entered into during the reporting period by the entity, it has been determined that there are no related party transactions to be separately disclosed.

**OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS  
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*For the period ended 30 June 2019*

**Note 12: Key Management Personnel Remuneration**

Key management personnel are those persons having authority and responsibility for planning, directing and controlling the activities of the entity, directly or indirectly, including any director (whether executive or otherwise) of that entity. The CDPP has determined key management personnel to be the Director of Public Prosecutions, Commonwealth Solicitor, Deputy Directors and the Chief Financial Officer. Key management personnel remuneration is reported in the table below:

	<b>2019</b>	2018
	<b>\$'000</b>	\$'000
Short-term employee benefits	<b>2,597</b>	2,426
Post-employment benefits	<b>449</b>	447
Other long-term employee benefits	<b>58</b>	293
<b>Total key management personnel remuneration expenses<sup>1,2</sup></b>	<b><u>3,104</u></b>	<u>3,166</u>

**Notes**

<sup>1</sup> The total number of key management personnel that are included in the above table are 10 (2018:11) representing the people who individually occupied the KMP position during the year. This includes 1 (2018:3) acting arrangements.

<sup>2</sup> The above key management personnel remuneration excludes the remuneration and other benefits of the Portfolio Minister. The Portfolio Minister's remuneration and other benefits are set by the Remuneration Tribunal and are not paid by the entity.

<sup>3</sup> Annual leave is reported as a short-term employee benefit from 2018-19 (previously reported as a long-term benefit). 2017-18 comparatives report annual leave as a long term benefit.

**OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS**  
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*For the period ended 30 June 2019*

**Note 13: Financial Instruments**

	2019 \$'000	2018 \$'000
<b>Note 13: Categories of Financial Instruments</b>		
<b>Financial Assets under AASB 139</b>		
<b>Loans and Receivables<sup>1</sup></b>		
Cash and cash equivalents		486
Trade and other receivables		454
<b>Total</b>		<u>940</u>
<b>Financial Assets under AASB 9</b>		
<b>Financial assets at amortised cost<sup>1</sup></b>		
Cash and cash equivalents	603	
Trade and other receivables	388	
<b>Total</b>	<u>991</u>	
<b>Carrying amount of financial assets</b>	<u>991</u>	<u>940</u>
<b>Financial Liabilities</b>		
<b>At amortised cost:</b>		
Suppliers payable	3,474	3,964
<b>Total</b>	<u>3,474</u>	<u>3,964</u>
<b>Carrying amount of financial liabilities</b>	<u>3,474</u>	<u>3,964</u>

<sup>1</sup> All Loans and Receivables under AASB 139 were reclassified as Financial assets at amortised cost on the initial application of AASB 9 at the carrying amount as at 1 July 2018.

The CDPP has no gains or losses on financial instruments.

**OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS  
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS**

*For the period ended 30 June 2019*

**Note 14: Appropriations**

**Table A: Annual Appropriations ('Recoverable GST exclusive')**

	2019 \$'000	2018 \$'000
<b>Ordinary annual services</b>		
Annual Appropriation	76,482	77,639
Annual Departmental Capital Budget <sup>1</sup>	2,118	4,135
PGPA Act s74	<u>10,600</u>	<u>9,293</u>
<b>Total appropriation</b>	<u>89,200</u>	<u>91,067</u>
Appropriation applied (current and prior years) <sup>2</sup>	<u>91,144</u>	<u>89,013</u>
<b>Variance</b>	<u>(1,944)</u>	<u>2,054</u>

<sup>1</sup> Departmental Capital Budgets are appropriated through Appropriation Acts (No.1, 3 & 5). They form part of ordinary annual services, and are not separately identified in the Appropriation Acts.

<sup>2</sup> Appropriations applied includes payments for non-financial asset purchases which have been capitalised.

**Table B: Unspent Annual Appropriations ('Recoverable GST exclusive')**

	2019 \$'000	2018 \$'000
<b>DEPARTMENTAL</b>		
Cash	603	486
Appropriation Act (No.1) 2017-18	-	11,283
Appropriation Act (No.1) 2017-18 - DCB	-	1,443
Appropriation Act (No.1) 2018-19	9,153	-
Appropriation Act (No.1) 2018-19 - DCB	<u>1,396</u>	<u>-</u>
<b>Total</b>	<u>11,152</u>	<u>13,212</u>

**OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS**  
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*For the period ended 30 June 2019*

**Note 15: Aggregate Assets and Liabilities**

	2019 \$'000	2018 \$'000
<b><u>Note 15: Aggregate Assets and Liabilities</u></b>		
<b>Assets expected to be recovered in:</b>		
No more than 12 months	12,918	16,054
More than 12 months	<u>16,775</u>	<u>15,651</u>
<b>Total assets</b>	<u><b>29,693</b></u>	<u><b>31,705</b></u>
<b>Liabilities expected to be settled in:</b>		
No more than 12 months	10,346	10,299
More than 12 months	<u>21,400</u>	<u>18,863</u>
<b>Total liabilities</b>	<u><b>31,746</b></u>	<u><b>29,162</b></u>



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# APPENDICIES AND REFERENCES

## **Appendix 1: Information Publication Scheme**

The CDPP is subject to the *Freedom of Information Act 1982* (FOI Act) and is required to publish information to the public as part of the Information Publication Scheme (IPS).

The requirement is in Part 11 of the FOI Act and has replaced the former requirement to publish a section 8 statement in an annual report.

The CDPP website ([www.cdpp.gov.au](http://www.cdpp.gov.au)) displays a plan showing what information is published in accordance with the IPS requirements.

## **Appendix 2: Advertising and market research**

Under section 311A of the *Commonwealth Electoral Act 1918*, the CDPP is required to disclose payments of \$13,800 or more (including GST) for advertising and market research.

During 2018–19, we did not undertake any advertising or market research projects.

## Appendix 3: List of requirements 2018–19

Below is the table set out in Schedule 2 of the PGPA Rule. Section 17AJ(d) requires this table be included in entities' annual reports as an aid of access.

**Table 26: List of requirements 2018–19**

PGPA Rule Reference	Part of Report	Description	Requirement	Page
<b>17AD(g)</b>		<b>Letter of transmittal</b>		
17AI		A copy of the letter of transmittal signed and dated by accountable authority on date final text approved, with statement that the report has been prepared in accordance with section 46 of the Act and any enabling legislation that specifies additional requirements in relation to the annual report.	Mandatory	i
<b>17AD(h)</b>		<b>Aids to access</b>		
17AJ(a)		Table of contents.	Mandatory	viii-ix
17AJ(b)		Alphabetical index.	Mandatory	179
17AJ(c)		Glossary of abbreviations and acronyms.	Mandatory	175
17AJ(d)		List of requirements.	Mandatory	160-166
17AJ(e)		Details of contact officer.	Mandatory	190
17AJ(f)		Entity's website address.	Mandatory	190
17AJ(g)		Electronic address of report.	Mandatory	190
<b>17AD(a)</b>		<b>Review by accountable authority</b>		
17AD(a)		A review by the accountable authority of the entity.	Mandatory	1-5
<b>17AD(b)</b>		<b>Overview of the entity</b>		
17AE(1)(a)(i)		A description of the role and functions of the entity.	Mandatory	7-13
17AE(1)(a)(ii)		A description of the organisational structure of the entity.	Mandatory	15
17AE(1)(a)(iii)		A description of the outcomes and programmes administered by the entity.	Mandatory	iii & 11-13
17AE(1)(a)(iv)		A description of the purposes of the entity as included in corporate plan.	Mandatory	iii & 82
17AE(1)(aa)(i)		Name of the accountable authority or each member of the accountable authority	Mandatory	17

PGPA Rule Reference	Part of Report	Description	Requirement	Page
17AE(1)(aa)(ii)		Position title of the accountable authority or each member of the accountable authority	Mandatory	17
17AE(1)(aa)(iii)		Period as the accountable authority or member of the accountable authority within the reporting period	Mandatory	17
17AE(1)(b)		An outline of the structure of the portfolio of the entity.	Portfolio departments mandatory	N/A
17AE(2)		Where the outcomes and programs administered by the entity differ from any Portfolio Budget Statement, Portfolio Additional Estimates Statement or other portfolio estimates statement that was prepared for the entity for the period, include details of variation and reasons for change.	If applicable, Mandatory	N/A
<b>17AD(c) Report on the Performance of the entity</b>				
<b><i>Annual performance Statements</i></b>				
17AD(c)(i); 16F		Annual performance statement in accordance with paragraph 39(1)(b) of the Act and section 16F of the Rule.	Mandatory	81-87
<b>17AD(c)(ii) Report on Financial Performance</b>				
17AF(1)(a)		A discussion and analysis of the entity's financial performance.	Mandatory	129-131
17AF(1)(b)		A table summarising the total resources and total payments of the entity.	Mandatory	169
17AF(2)		If there may be significant changes in the financial results during or after the previous or current reporting period, information on those changes, including: the cause of any operating loss of the entity; how the entity has responded to the loss and the actions that have been taken in relation to the loss; and any matter or circumstances that it can reasonably be anticipated will have a significant impact on the entity's future operation or financial results.	If applicable, Mandatory.	N/A
<b>17AD(d) Management and Accountability</b>				
<b><i>Corporate Governance</i></b>				
17AG(2)(a)		Information on compliance with section 10 (fraud systems)	Mandatory	i
17AG(2)(b)(i)		A certification by accountable authority that fraud risk assessments and fraud control plans have been prepared.	Mandatory	i

PGPA Rule Reference	Part of Report	Description	Requirement	Page
17AG(2)(b)(ii)		A certification by accountable authority that appropriate mechanisms for preventing, detecting incidents of, investigating or otherwise dealing with, and recording or reporting fraud that meet the specific needs of the entity are in place.	Mandatory	i
17AG(2)(b)(iii)		A certification by accountable authority that all reasonable measures have been taken to deal appropriately with fraud relating to the entity.	Mandatory	i
17AG(2)(c)		An outline of structures and processes in place for the entity to implement principles and objectives of corporate governance.	Mandatory	17-21, 105-110, Appendix 7: 170-172
17AG(2)(d) – (e)		A statement of significant issues reported to Minister under paragraph 19(1)(e) of the Act that relates to noncompliance with Finance law and action taken to remedy noncompliance.	If applicable, Mandatory	N/A
<b>External Scrutiny</b>				
17AG(3)		Information on the most significant developments in external scrutiny and the entity's response to the scrutiny.	Mandatory	131
17AG(3)(a)		Information on judicial decisions and decisions of administrative tribunals and by the Australian Information Commissioner that may have a significant effect on the operations of the entity.	If applicable, Mandatory	N/A
17AG(3)(b)		Information on any reports on operations of the entity by the AuditorGeneral (other than report under section 43 of the Act), a Parliamentary Committee, or the Commonwealth Ombudsman.	If applicable, Mandatory	N/A
17AG(3)(c)		Information on any capability reviews on the entity that were released during the period.	If applicable, Mandatory	N/A
<b>Management of Human Resources</b>				
17AG(4)(a)		An assessment of the entity's effectiveness in managing and developing employees to achieve entity objectives.	Mandatory	73-74, 113, 122-125
17AG(4)(aa)		Statistics on the entity's employees on an ongoing and nonongoing basis, including the following: (a) statistics on fulltime employees; (b) statistics on parttime employees; (c) statistics on gender (d) statistics on staff location	Mandatory	118-120

PGPA Rule Reference	Part of Report	Description	Requirement	Page
17AG(4)(b)		<p>Statistics on the entity's APS employees on an ongoing and nonongoing basis; including the following:</p> <ul style="list-style-type: none"> <li>· Statistics on staffing classification level;</li> <li>· Statistics on fulltime employees;</li> <li>· Statistics on parttime employees;</li> <li>· Statistics on gender;</li> <li>· Statistics on staff location;</li> <li>· Statistics on employees who identify as Indigenous.</li> </ul>	Mandatory	116-124
17AG(4)(c)		Information on any enterprise agreements, individual flexibility arrangements, Australian workplace agreements, common law contracts and determinations under subsection 24(1) of the <i>Public Service Act 1999</i> .	Mandatory	121-122
17AG(4)(c)(i)		Information on the number of SES and nonSES employees covered by agreements etc identified in paragraph 17AG(4)(c).	Mandatory	122
17AG(4)(c)(ii)		The salary ranges available for APS employees by classification level.	Mandatory	121
17AG(4)(c)(iii)		A description of nonsalary benefits provided to employees.	Mandatory	122
17AG(4)(d)(i)		Information on the number of employees at each classification level who received performance pay.	If applicable, Mandatory	122
17AG(4)(d)(ii)		Information on aggregate amounts of performance pay at each classification level.	If applicable, Mandatory	N/A
17AG(4)(d)(iii)		Information on the average amount of performance payment, and range of such payments, at each classification level.	If applicable, Mandatory	N/A
17AG(4)(d)(iv)		Information on aggregate amount of performance payments.	If applicable, Mandatory	N/A
<b>Assets Management</b>				
17AG(5)		An assessment of effectiveness of assets management where asset management is a significant part of the entity's activities	If applicable, mandatory	129

PGPA Rule Reference	Part of Report	Description	Requirement	Page
<b>Purchasing</b>				
17AG(6)		An assessment of entity performance against the <i>Commonwealth Procurement Rules</i> .	Mandatory	129
<b>Consultants</b>				
17AG(7)(a)		A summary statement detailing the number of new contracts engaging consultants entered into during the period; the total actual expenditure on all new consultancy contracts entered into during the period (inclusive of GST); the number of ongoing consultancy contracts that were entered into during a previous reporting period; and the total actual expenditure in the reporting year on the ongoing consultancy contracts (inclusive of GST).	Mandatory	130
17AG(7)(b)		A statement that <i>"During [reporting period], [specified number] new consultancy contracts were entered into involving total actual expenditure of \$[specified million]. In addition, [specified number] ongoing consultancy contracts were active during the period, involving total actual expenditure of \$[specified million]"</i> .	Mandatory	130
17AG(7)(c)		A summary of the policies and procedures for selecting and engaging consultants and the main categories of purposes for which consultants were selected and engaged.	Mandatory	130
17AG(7)(d)		A statement that <i>"Annual reports contain information about actual expenditure on contracts for consultancies. Information on the value of contracts and consultancies is available on the AusTender website."</i>	Mandatory	130
<b>Australian National Audit Office Access Clauses</b>				
17AG(8)		If an entity entered into a contract with a value of more than \$100 000 (inclusive of GST) and the contract did not provide the AuditorGeneral with access to the contractor's premises, the report must include the name of the contractor, purpose and value of the contract, and the reason why a clause allowing access was not included in the contract.	If applicable, Mandatory	130

PGPA Rule Reference	Part of Report	Description	Requirement	Page
<b>Exempt contracts</b>				
17AG(9)		If an entity entered into a contract or there is a standing offer with a value greater than \$10 000 (inclusive of GST) which has been exempted from being published in AusTender because it would disclose exempt matters under the FOI Act, the annual report must include a statement that the contract or standing offer has been exempted, and the value of the contract or standing offer, to the extent that doing so does not disclose the exempt matters.	If applicable, Mandatory	130
<b>Small business</b>				
17AG(10)(a)		A statement that <i>"[Name of entity] supports small business participation in the Commonwealth Government procurement market. Small and Medium Enterprises (SME) and Small Enterprise participation statistics are available on the Department of Finance's website."</i>	Mandatory	130
17AG(10)(b)		An outline of the ways in which the procurement practices of the entity support small and medium enterprises.	Mandatory	130-131
17AG(10)(c)		If the entity is considered by the Department administered by the Finance Minister as material in nature—a statement that <i>"[Name of entity] recognises the importance of ensuring that small businesses are paid on time. The results of the Survey of Australian Government Payments to Small Business are available on the Treasury's website."</i>	If applicable, Mandatory	130
<b>Financial Statements</b>				
17AD(e)		Inclusion of the annual financial statements in accordance with subsection 43(4) of the Act.	Mandatory	133-157
<b>Executive Remuneration</b>				
17AD(da)		Information about executive remuneration in accordance with Subdivision C of Division 3A of Part 23 of the Rule.	Mandatory	Appendix 7: 170-172

PGPA Rule Reference	Part of Report	Description	Requirement	Page
<b>17AD(f)</b>	<b>Other Mandatory Information</b>			
17AH(1)(a)(i)		If the entity conducted advertising campaigns, a statement that <i>"During [reporting period], the [name of entity] conducted the following advertising campaigns: [name of advertising campaigns undertaken]. Further information on those advertising campaigns is available at [address of entity's website] and in the reports on Australian Government advertising prepared by the Department of Finance. Those reports are available on the Department of Finance's website."</i>	If applicable, Mandatory	N/A
17AH(1)(a)(ii)		If the entity did not conduct advertising campaigns, a statement to that effect.	If applicable, Mandatory	Appendix 2: 159
17AH(1)(b)		A statement that <i>"Information on grants awarded by [name of entity] during [reporting period] is available at [address of entity's website]."</i>	If applicable, Mandatory	N/A
17AH(1)(c)		Outline of mechanisms of disability reporting, including reference to website for further information.	Mandatory	125
17AH(1)(d)		Website reference to where the entity's Information Publication Scheme statement pursuant to Part II of FOI Act can be found.	Mandatory	Appendix 1: 159
17AH(1)(e)		Correction of material errors in previous annual report	If applicable, mandatory	173
17AH(2)		Information required by other legislation	Mandatory	159, 167-168

## Appendix 4: Work health and safety

### WHS Management System

Work has continued on our WHS Management System (WHSMS) to implement improvements and changes, to ensure and encourage better practice. It is easily understood and applied at a working level, facilitating greater responsibility for managers and employees for further work health and safety management in their workplace, consistent with the *Work Health and Safety Act 2011* (WHS Act).

Our updated WHSMS will further help us maintain a safe workplace by ensuring we are not at risk from our work, our environment, or the actions and omissions of others. This in turn, will contribute to a more positive culture and increased retention rates and productivity levels.

### Incident reporting

All hazards, incidents and injuries are reported in accordance with CDPP reporting procedure. This allows us to carry out appropriate remedial actions to eliminate or control the risk and prevent further occurrences.

During 2018–19, there were no notifiable incidents reported to Comcare. No enforcement measures or improvement notices were issued to the CDPP.

### Rehabilitation management system

During 2018–19, we refreshed our rehabilitation management system (RMS). The RMS provides the framework for efficient rehabilitation management in the CDPP. It includes elements of current best practice in injury management, recognises our legislative obligations and identifies the key processes and procedures required to support sustainable return-to-work outcomes. Our proactive RMS approach, including early intervention strategies and targeted case management, has enhanced rehabilitation outcomes and reduced costs to the CDPP.

### Workers' compensation

In 2018–19, there were no workers' compensation claims accepted by Comcare.

## Appendix 5: Ecologically sustainable development and environmental performance

The CDPP is committed to the ongoing efficient and effective management of resources. We have initiatives in place that contribute to a more sustainable environment. Our range of energy saving methods include:

- using technology to minimise energy use, including automatic power-down devices on electrical equipment
- use of energy efficient lighting control systems throughout CDPP offices to reduce energy usage
- ensuring all our computer equipment is energy-star enabled
- sourcing a component of electricity for our Sydney, Melbourne, and Canberra offices through green-energy options
- recycling of waste paper and giving preference to environmentally friendly sound products when sourcing office supplies
- providing staff with access to video and teleconferencing facilities in our offices with the aim of reducing the overall amount of travel undertaken
- incorporating energy efficient design in the new office fit-out projects with the aim of reducing overall energy usage.

### Environmental performance

The below table summarises the environmental performance of our sites during 2018–19.

**Table 27: CDPP environmental performance 2018–19**

Item	Performance
<b>Office tenant light and power</b>	
Electricity	472,602 kilowatt hours
Green power	39,020 kilowatt hours
Total	1,701 gigajoules
Total electricity consumed per employee	4,586 megajoules
<b>Passenger vehicles</b>	
Petrol	6,021 litres
Total	206 gigajoules
Distance	109,835 kilometres
Megajoule/100 kilometre	4.61 /100km
<b>Total CDPP consumption</b>	<b>1,907 gigajoules</b>

## Appendix 6: Entity resource statement and expenses by outcome

### Entity resources

**Table 28: Entity resource statement 2018–19**

	Actual available appropriation \$'000 (a)	Payments made \$'000 (b)	Balance remaining \$'000 (a)–(b)
DEPARTMENTAL			
Ordinary annual services <sup>1</sup>			
Prior-year departmental appropriation	13,212	13,212	-
Departmental appropriation <sup>2</sup>	78,600	67,448	11,152
Section 74 relevant agency receipts <sup>3</sup>	10,600	10,600	-
<b>Total net resourcing for entity</b>	<b>102,412</b>	<b>91,260</b>	<b>11,152</b>

Notes:

1. Appropriation Act No. 1 2018–19 and Appropriation Act No. 3 2018–19.
2. Includes an amount of \$2.118 million in 2018–19 for our departmental capital budget. For accounting purposes this amount has been designated as 'contributions by owners'.
3. Retained revenue receipts under section 74 of the PGPA Act.

### Expenses by outcome

**Table 29: Expenses and resources for Outcome 1 2018–19**

Outcome 1: Contribute to a fair, safe and just society by delivering an effective, independent prosecution service in accordance with the <i>Prosecution Policy of the Commonwealth</i>	Budget <sup>1</sup> \$'000 (a)	Actual expenses \$'000 (b)	Variation \$'000 (a)–(b)
Program 1.1: An independent service to prosecute alleged offences against the criminal law of the Commonwealth			
Departmental expenses			
Departmental Appropriation <sup>2</sup>	85,706	89,193	(3,487)
Expenses not requiring appropriation <sup>3</sup>	4,832	3,935	897
Total expenses for Outcome 1	90,538	93,128	(2,590)
	<b>Budget</b>	<b>Actual</b>	
<b>Average staffing level (number)</b>	<b>390</b>	<b>371</b>	

Notes:

1. Full-year budget, including any subsequent adjustment made to the 2018–19 budget at Additional Estimates.
2. Departmental appropriation combines ordinary annual services (Appropriation Act No.1) and Retained Revenue Receipts under s74 of the PGPA Act.
3. Expenses not requiring appropriation in the budget year are made up of services received free of charge, depreciation and amortisation expenses.

## Appendix 7: 2018–19 Executive remuneration disclosure

Executive remuneration reporting by Commonwealth entities for annual reports is governed by the Department of Finance’s *Resource Management Guide No.138 – Commonwealth entities Executive Remuneration Reporting Guide for Annual Reports*. From 2018–19, agencies are required to present enhanced remuneration information for key management personnel (KMP), senior executives and other highly paid staff. These are shown in the tables in this Appendix.

**Table 30: Information about Remuneration for Key Management Personnel<sup>1</sup>**

Name	Position Title	Short-term benefits				Other long-term benefits	Termination benefits	Total remuneration
		Base salary	Bonuses	Other benefits and allowances <sup>4</sup>	Post-employment benefits			
MCNAUGHTON, Sarah	Director <sup>2</sup>	\$469,948	-	\$12,567	\$72,251	\$8,580	-	\$563,347
PAVLEKA, Andrea	Commonwealth Solicitor	\$296,246	-	\$11,503	\$50,381	\$7,257	-	\$365,386
ADSETT, David	Deputy Director	\$220,659	-	\$10,741	\$47,577	\$6,278	-	\$285,255
BRUCKARD, Scott	Deputy Director	\$260,246	-	\$12,170	\$46,094	\$6,278	-	\$324,788
CARTER, James	Deputy Director	\$242,749	-	\$5,098	\$46,218	\$6,278	-	\$300,343
DE CRESPIGNY, Mark	Deputy Director	\$225,096	-	\$110,220	\$43,174	\$5,961	-	\$384,451
TCHAKERIAN, Berndj	Deputy Director	\$229,633	-	\$12,420	\$41,164	\$5,664	-	\$288,881
ASH, Simon	Chief Corporate Officer	\$248,475	-	\$4,421	\$39,197	\$3,674	-	\$295,767
BURGGRAAFF, Steven	Chief Financial Officer <sup>3</sup>	\$180,732	-	\$4,152	\$38,088	\$4,808	-	\$227,780
HAVLAT, Karel	Chief Financial Officer <sup>3</sup>	\$38,347	-	\$1,958	\$24,719	\$3,442	-	\$68,465

Notes:

1. This table is prepared on an accrual accounting basis. Benefits expensed in previous financial years (such as leave taken) are excluded from 2018–19 remuneration.

2. The Director's remuneration is set by the Remuneration Tribunal. The 2018–19 determined amount of \$543,350:
- a. includes a notional superannuation component of \$59,410 (15.4% of \$385,780 superannuation salary). Actual superannuation contributions in 2019–20, including employer productivity components, totaled \$72,251; and
  - b. excludes annual and long service leave accruals.
3. Remuneration reported includes a part–year period of service.
4. Other Benefits include:
- a. Health and wellbeing reimbursements
  - b. Car parking
  - c. Relocation assistance
- Reported values for benefits include fringe benefits tax at 47%.

**Table 31: Information about remuneration for senior executives <sup>1</sup>**

Total remuneration bands <sup>2</sup>	Number of senior executives	Short-term benefits			Average other benefits and allowances <sup>3</sup>	Post-employment benefits	Other long-term benefits		Termination benefits	Total remuneration
		Average Base salary	Average bonus	Average			Average long service Leave	Average Other long-term benefits		
\$0 to \$220,000	5	\$82,622	-	\$2,339	\$19,029	\$4,057	-	-	\$108,048	
\$220,001 to \$245,000	3	\$195,292	-	\$4,241	\$34,841	\$5,002	-	-	\$239,376	
\$245,001 to \$270,000	8	\$205,522	-	\$10,063	\$39,837	\$5,241	-	-	\$260,663	
\$270,001 to \$295,000	4	\$210,787	-	\$23,399	\$35,155	\$5,168	-	-	\$274,509	

Notes

1. This table is prepared on an accrual accounting basis. Benefits expensed in previous financial years (such as leave taken) are excluded from 2018–19 remuneration.
2. Remuneration reported includes part–year periods of service, including acting arrangements of greater than three months
3. Other Benefits include:
  - a. Health and wellbeing reimbursements
  - b. Car parking
  - c. Relocation assistance

Reported values for benefits include fringe benefits tax at 47%.

**Table 32: Information about remuneration for other highly paid staff<sup>1</sup>**

Total remuneration bands <sup>2</sup>	Number of other highly paid staff	Short-term benefits			Post-employment benefits		Other long-term benefits		Termination benefits	Total remuneration
		Average Base salary	Average bonus	Average Other benefits and allowances <sup>3</sup>	Average superannuation contributions	Average long service Leave	Average Other long-term benefits	Average termination benefits <sup>4</sup>		
\$220000 to \$245000	1	\$108,071	-	\$250	\$18,341	\$2,845	-	\$109,212	\$238,720	

Notes:

1. This table is prepared on an accrual accounting basis. Benefits expensed in previous financial years (such as leave taken) are excluded from 2018–19 remuneration.
2. Remuneration reported includes part-year periods of service, including acting arrangements of greater than three months
3. Other Benefits include:
  - a. Health and wellbeing reimbursements
  - b. Car parking
  - c. Relocation assistance
4. Reported values for benefits include fringe benefits tax at 47%.  
Termination benefits represent voluntary redundancy payments.

## Appendix 8: Corrections to the 2017–18 Annual Report

1. The CDPP has identified errors with the statistical reporting concerning Commonwealth child sex offenders in the 2017–18 Annual Report. The third paragraph on page 67 of the report should read:

In the past 12 months we prosecuted 208 people for offences relating to online child sexual abuse, child sex offences outside Australia or other forms of child sexual exploitation both within and outside Australia. 98 per cent of those prosecuted to finality by the CDPP for this crime type were convicted, with 57 per cent receiving an immediate custodial sentence and a further 27 per cent receiving a suspended custodial sentence.

2. In Table 2: Prosecution appeals and outcomes, on page 98 of the 2017–18 Annual Report, the figure provided for appeals during 2017–18 was given as one. However the total number of appeals was two, both of which were upheld. This error has been corrected in the 2018-19 Annual Report, on page 96.

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## Acronyms and abbreviations

APS	Australian Public Service
ASL	Average staffing level
CDPP	Commonwealth Director of Public Prosecutions
DPP	Director of Public Prosecutions
FOI	Freedom of Information
FTE	Full-time equivalent
GST	Goods and Services Tax
OECD	Organisation for Economic Co-operation and Development
PGPA Act	<i>Public Governance, Performance and Accountability Act 2013</i>
PILON	Pacific Islands Law Officers Network
POC	Proceeds of Crime
POCA	<i>Proceeds of Crime Act 2002</i>
PSM	Public Service Medal
RMS	Rehabilitation Management System
SES	Senior Executive Service
SME	Small and medium enterprises
WHS	Work, health and safety
WHSMS	Work, health and safety management system

## Glossary

### ACQUIT/ACQUITTAL/ACQUITTED

When the Magistrate, jury or appeal court find that a person is not guilty of the crime.

### APPEAL

To take a case to a higher court in order to challenge a decision. The person who appeals is the appellant. Not all decisions can be appealed.

### BRIEF OR BRIEF OF EVIDENCE

This is a collection of statements from witnesses (both police and ordinary witnesses), documents, expert reports, medical reports, photographs, bail papers, charge sheets etc. given to the CDPP by the police or investigating agency after they have finished their investigation. We use the material contained in the brief of evidence to decide whether a prosecution should take place and, if so, to prosecute the accused.

### COMMON LAW

The law based on previous court decisions and customs as distinct from statute law created by Parliament.

### COMMONWEALTH FEDERAL OFFENCE

A criminal offence against a Commonwealth federal law (as opposed to a state or territory law).

### CONVICTION

When a person accused of committing a criminal offence is found guilty of that offence and is convicted, a record of their conviction is recorded on their criminal history.

### THE CROWN

In higher courts the prosecution may be referred to as 'the Crown', the person representing the Queen, who is head of Australia's system of government.

### EVIDENCE

Information provided to the court that is used to prove or disprove a fact in issue in court proceedings.

### EX OFFICIO INDICTMENT

Where the Director institutes a prosecution of a person on indictment for an indictable offence against the laws of the Commonwealth in respect of which the person has not been examined or committed for trial, or where a person stands trial on different charges from those upon which they were committed.

### GUILTY

To be legally responsible for a criminal offence. When a defendant enters a plea of guilty, they accept responsibility for the offence. When a defendant pleads not guilty, a jury will determine their guilt if the matter proceeds as a trial in a higher court. Where a defendant pleads not guilty in the magistrates or local court, the magistrate determines the guilt of the defendant.

## INDICTABLE OFFENCE

A serious criminal offence that is usually heard in a higher court before a judge and jury. Less serious indictable offences and summary offences, are usually heard in a local court.

## INDICTMENT

A formal written accusation charging a person with an offence that is to be tried in a higher court.

## INFORMANT

Case officer from partner agency responsible for referring a matter to the CDPP for prosecution.

## MATTER

A prosecution or a proceeding in a court (a 'case') may be referred to as a 'matter'.

## NO BILL/NO FURTHER PROCEEDINGS

We may decide that a case will not proceed further, for example, due to insufficient evidence. This may be called entering a 'no Bill' or deciding there will be no further proceedings. A prosecution is discontinued when the court is informed of this.

## PRIMA FACIE

A case in which there is evidence that will suffice to support the allegations made in it, and which will stand unless there is evidence to rebut the allegation. When a case is being heard in court, the party

on whom the burden of proof rests must make out a *prima facie* case, otherwise the other party will be able to submit that there is no case to answer and, if successful, the case will be dismissed.

## PROSECUTOR/PROSECUTION

The CDPP lawyer or lawyers conducting a criminal case before the court. Also referred to as Federal Prosecutors.

## PROSECUTION COUNSEL

A CDPP lawyer or private barrister who presents the prosecution case in court on behalf of the CDPP.

## SENTENCING

A range of penalties can be given during sentencing of an offender including imprisonment, community service orders, good behaviour bonds and fines. *The Crimes Act 1914* requires the court to consider a number of factors in deciding on the sentence for a federal offence, and also requires that the sentence be of a severity appropriate in all the circumstances of the offence.

## VICTIM

A person who has suffered harm as the direct result of an offence or offences.

## WITNESS

Any person who has to come to court and answer questions in front of a Magistrate or judge and jury.

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