



CDPP

*Australia's Federal Prosecution Service*



# ANNUAL REPORT 2015–16

COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS

# Commonwealth Director of Public Prosecutions

Australia's Federal  
prosecution service



Contributing to a fair,  
safe and just society



## Programme

An independent service to prosecute alleged offences against the criminal law of the Commonwealth, in appropriate matters, in a manner which is fair and just and to ensure that offenders, where appropriate, are deprived of the proceeds and benefits of criminal activity.



Prosecuting crimes against  
Commonwealth law for  
more than 30 years



## Outcome

Maintenance of law and order  
for the Australian community  
through an independent and ethical  
prosecution service in accordance  
with the *Prosecution Policy of the  
Commonwealth*.

## Targets

Compliance in addressing the terms of  
the test for prosecution in the *Prosecution  
Policy of the Commonwealth*: 100%

★ Target met

Partner agency satisfaction with CDPP  
service delivery: 90%

★ Achieved 83% in the inaugural survey

Prosecutions resulting in a conviction: 90%

★ Target exceeded 97%



# Summary of performance 2015–16 at a glance

We work closely with partner agencies to bring cases to a close through effective prosecution



WE WORKED WITH

**45**

INVESTIGATIVE AGENCIES



RECEIVED

**3,252**

BRIEFS OF EVIDENCE



BRIEFS FROM

**43**

INVESTIGATIVE  
AGENCIES ACROSS  
THE NATION



**84%**

REFERRALS FROM  
COMMONWEALTH  
AGENCIES



**16%**

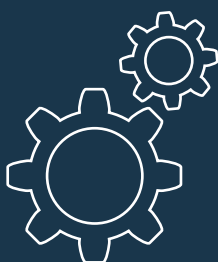
REFERRALS FROM  
STATE/TERRITORY  
AGENCIES



**5,011**  
MATTERS BEFORE THE COURT



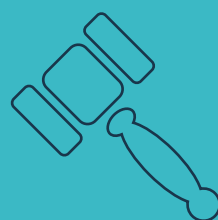
AVERAGE OF  
**417**  
MATTERS PER MONTH



AVERAGE OF  
**96**  
MATTERS PER WEEK



**2,403**  
PROSECUTIONS  
RESULTED IN A CONVICTION

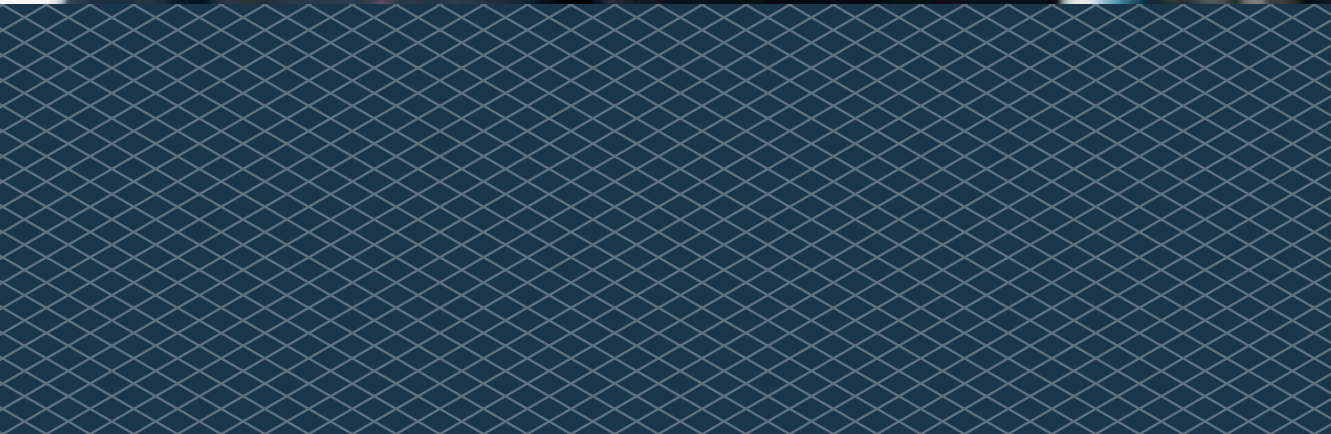


**1,154**  
DEFENDANTS  
SENTENCED TO  
IMPRISONMENT



**3,029**  
CASES WERE CLOSED







# ANNUAL REPORT 2015–16

COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS

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# Letter of transmittal



**CDPP**

*Australia's Federal Prosecution Service*

28 September 2016

Attorney-General  
Senator the Hon George Brandis QC  
Parliament House  
Canberra ACT 2600

Dear Attorney-General

I am pleased to present the annual report for the Commonwealth Director of Public Prosecutions (CDPP) for the year ended 30 June 2016.

Section 46 of the *Public Governance, Performance and Accountability Act 2013* requires the Director of Public Prosecutions to prepare a report to the Attorney-General regarding the CDPP's operations during the year.

This report has been prepared in accordance with section 63(1) of the *Public Service Act 1999*, which requires me to provide this report to you for presentation to the Parliament. It reflects the *Requirements for annual reports for non-corporate Commonwealth entities* (August 2016) as approved by the Joint Committee of Public Accounts and Audit.

In addition, I certify that the CDPP has prepared a fraud risk assessment and fraud control plan that complies with the requirements of the *Commonwealth Fraud Control Framework 2014*, and specifically section 10(b) of the *Public Governance, Performance and Accountability Rule 2014*. We have robust fraud prevention, detection, investigation, reporting and data collection procedures and processes in place that align with the principles outlined in the *Australian National Audit Office Better Practice Guide on Fraud Control in Australian Government Entities, 2011*. We have taken all reasonable measures to minimise the potential incidence of fraud in the CDPP and to enable effective investigation and recovery of proceeds of any fraud against the CDPP.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'S. McNaughton'.

Sarah McNaughton SC  
Commonwealth Director of Public Prosecutions

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# Director's review



## Introduction

I am delighted to present the Office of the Commonwealth Director of Public Prosecutions (CDPP) *2015–16 Annual Report*—my first as Director.

Transformation, innovation and renewal were key themes for the CDPP this year. The Office experienced considerable change including the appointment of the Commonwealth Solicitor for Public Prosecutions, the appointment of former Director, Robert Bromwich SC, to the distinguished position of Justice of the Federal Court of Australia, and the commencement of my five year term as Director.

Since joining the Office on 16 May 2016 I have experienced first-hand the commitment, integrity and professionalism of our staff. Their hard work and dedication has resulted in excellent performance results, including exceeding the target for prosecutions resulting in a conviction—97 per cent against a target of 90 per cent.

Our performance results are testament to the collective effort of staff, our commitment to strengthening our working relationships with partner agencies, embedding our national practice model and adequately resourcing and funding our work.

The modernisation of the systems and processes that support our prosecution service initiated by my predecessor, Robert Bromwich SC is a process I intend to continue through an ongoing and sustained commitment to innovation and continuous improvement.

I look forward to realising lasting change by aligning our effort to establish a truly national prosecution model, alongside positive cultural change and a commitment to ongoing improvement. With this proactive national vision, I believe we will be well positioned to adapt, innovate and evolve in response to our ever-changing operating environment.

## Commonwealth Solicitor for Public Prosecutions

Supporting me in my efforts and sharing my vision is Commonwealth Solicitor for Public Prosecutions, Mark Pedley. Mark re-joined the Office on 12 October 2015, having previously worked at the CDPP at its inception in 1984 as a prosecutor.

As a key member of the leadership team, Mark has taken carriage of strategic initiatives focused on organisational transformation, developing a costing model and improving our prosecution process and partner agency relations. He also acted in the position of Director between March and May 2016 to advance these important initiatives.

## Funding our future

Funding our work adequately to respond to the changing volume and complexity of criminal activity is essential. Referrals vary from year-to-year, with 3,252 referrals received from 43 partner agencies in 2015–16.

The variability in workload can affect our capacity to assess matters within acceptable timeframes, given our modest budget. To help address this we are working with the Department of Finance and the Attorney-General's Department to establish a costing model. This model will help us more accurately predict the impact of new policy proposals, participation in cross-agency taskforces, and the prosecution of emerging crime types on our workload.

The trigger for the development of the model was the receipt of an additional \$10 million net in funding for counter-terrorism prosecutions as part of the Australian Government's National Security Programme—a key programme that had important resource implications for the Office.

We also received extra funding for Centrelink prosecutions and participation in the Serious Financial Crime Taskforce—a multi-agency taskforce focused on high priority serious financial crimes.

With the additional workload, we have taken steps to size our workforce appropriately to ensure the skills and knowledge of our Federal Prosecutors match the complexity of the crimes we are prosecuting. This realignment of resources to match our prosecutions is underpinned by our workforce planning framework, and has resulted in a significant increase in new Federal Prosecutors joining the CDPP to tackle the high volume of fraud-related work.

## A new generation of lawyers

It has been a privilege to welcome 42 Federal Prosecutors to our ranks during 2015–16, a trend set to continue in 2016–17. These lawyers have, in my opinion, secured one of the best legal jobs in the country. While the work of a Federal Prosecutor is both challenging and rewarding, importantly it is an opportunity to make a real difference—to achieve fair and just outcomes and build public confidence in the Australian justice system.



To support our new Federal Prosecutors to become familiar with Commonwealth criminal law, the *Prosecution Policy of the Commonwealth* and our prosecution processes and procedures, we launched a new tailored induction programme in May 2016. This programme was designed to connect Federal Prosecutors to the people, training, resources and support networks they need to excel in their position. I am particularly proud of this initiative to better enable staff to contribute from the outset—to thrive personally and deliver professionally—essential for a rewarding and fulfilling legal career.

### Leadership capability

As new Federal Prosecutors join our organisation we have been acutely aware of the importance of building leadership capability as a means of establishing a strong culture of inclusion, innovation, collaboration, support and mentorship.

A tailored leadership programme enabled managers from across the organisation to build their leadership capability through guest speaker forums, group projects and individual coaching.

This practical, action-orientated leadership programme has challenged managers to assess their individual capabilities with a view to embedding learnings and advancing their leadership capability. Details of the programme and the benefits we are now realising for the agency are on page 110.

### People and performance

Our commitment to learning and professional development is well recognised, with our professionalism, knowledge, and advice highly regarded by partner agencies.

In May 2016, we launched our inaugural Stakeholder Business Satisfaction Survey. Introduced as a new performance measure as part of our 2015–16 Corporate Plan, the biennial survey will measure partner agency satisfaction across a range of prosecution service dimensions including timeliness, relevance, responsiveness, communication and knowledge.

We achieved an overall satisfaction score of 83 per cent in this first survey, just under the stretch target of 90 per cent set by our Executive Leadership Group. The survey has not only established a baseline to track satisfaction levels into the future, but has also established a robust and repeatable methodology to assess partner agency satisfaction.

It was especially pleasing to see that professionalism, commitment, knowledge and trust of staff received satisfaction ratings above 90 per cent, proving that investing in our people directly impacts our performance.

We also rated well for legal advice and legal representation before the courts—core aspects of our work. A detailed analysis of results is provided on page 108.

These results are not only a reflection of the professionalism of our lawyers but also the essential support services delivered by the corporate areas of the Office.

## Driving better outcomes through partner agency engagement

Engagement with partner agencies is one of the keys to the successful operation of the Office, and occurs at every level of the organisation. Since joining the Office I have met with counterparts in our top referring agencies, started to seek feedback from the Courts on where we can improve, and participated in productive meetings about law reform, improving the conduct of complex criminal matters, and enhancing partner engagement. I have also been reinforcing the importance of high quality regular communication between our lawyers and our partner agencies.

Together with our partner agencies, we are working towards increased digitisation of our work. I am pleased to note the increased agency engagement and growing momentum in relation to this important programme.

I would like to thank our partner agencies for their warm welcome and their ongoing efforts to improve their processes to deliver thorough and effective briefs of evidence for the CDPD to assess and prosecute.

## Prosecution outcomes and appeals

As Director I take an active interest in the many cases prosecuted by the Office and intend to continue to actively practice with a focus on appellate work.

It has been a significant year for complex litigation and our results reflect the capability of our staff to achieve results.

With 3,029 cases brought to a close, there are many matters that stand out including:

- *R v Steven Hui XIAO* (New South Wales, 11 March 2016)—involved the largest ever sentence handed down for insider trading in Australia.
- *R v McCOOLE* (South Australia, 7 August 2015); *The Queen v GRAHAM* (Victoria, 17 March 2016)—involved convictions for two administrators of child pornography websites, with significant sentences imposed in each matter, including imprisonment of 35 years and 15.5 years, respectively.
- *R v Hamdi ALQUDSI* (New South Wales, 1 September 2016)—involved a conviction on charges relating to assisting Australians to fight with terrorist groups overseas. Prior to his conviction, Alqudsi was unsuccessful before the High Court in challenging the validity of the charge as well as the inability to be tried before a judge without a jury.

The diversity and complexity of our legal work is a feature of the national practice group Practice Group reports from page 40.

## Victims of crime

Increasingly the Office is dealing with matters involving victims of crime—this is particularly the case for crimes involving human exploitation. The Office remains sensitive to the needs of victims or witnesses and we have established a triage process to ensure prompt referrals to our Witness Assistance Service where appropriate.

The Witness Assistance Service is staffed by experienced social workers who inform, guide and support victims or witnesses through the process. During 2015–16, lawyers and legal administrative support staff received training covering our obligations to victims and witnesses. As Director, I will continue to take a keen interest in the journey of victims and witnesses through the prosecution process. Through the work of our in-house Witness Assistance Service I am confident our most vulnerable victims and witnesses will be guided and supported thoughtfully.

## Educating the community

Case reports, media releases and ongoing dialogue with national media outlets remain the primary channels to promote prosecution outcomes. This is an effective way to educate the community about our role in the criminal justice system and highlight the consequences of committing crimes against the Commonwealth.

We review the matters we bring to a close to ensure a representative sample of cases are reported to deter potential offenders and build public confidence in the CDPP as an essential member of the Australian justice system.

To support this effort we launched our new website in October 2015, and we are developing a new secure Partner Agency Portal and CDPP intranet to enable and support the work of partner agencies and Federal Prosecutors respectively.

## Looking ahead

It is an exciting time for the Office. We are on the cusp of implementing and advancing many initiatives designed to drive productivity, build knowledge and capacity, and strengthen our dynamic and positive workplace culture.

In the year ahead, we will:

- implement a proven and trusted costing model to inform Government about the impact of new policy proposals
- modernise systems and processes, including delivering new devices and processes to enable legal staff to work remotely
- deliver a National Advocacy Training Programme to upskill staff and build in-house expertise
- actively participate in cross-agency taskforces, including the Serious Financial Crime Taskforce
- launch a new secure Partner Agency Portal to communicate with partner agencies and provide timely resources to support their time-critical work
- complete Enterprise Bargaining to confirm the conditions of employment for our staff.

I look forward to continuing to advance the work of the Office and working alongside my colleagues to contribute to a fair, safe and just society through the CDPP's effective, independent prosecution services.

Sarah McNaughton SC  
Commonwealth Director of  
Public Prosecutions

“Transformation, innovation and renewal were key themes this year for the Office of the Commonwealth Director of Public Prosecutions.” Sarah McNaughton SC

# CHAPTER

# 1







# Overview

## About us

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

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

We are a Commonwealth statutory agency with 417 staff working in offices in Canberra, Sydney, Melbourne, Perth, Adelaide, Hobart, Darwin, Brisbane, Townsville and Cairns.

While the CDPP is within the Commonwealth Attorney-General's portfolio, we operate independently of the Attorney-General and the political process.

## 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 achieving this outcome, we build effective relationships with partner agencies, bring cases to a close through effective prosecutions, and 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.

## Our aim

To be fair, consistent and professional in everything we do—recognising, valuing and developing the knowledge, skills and commitment of our people as they deliver Australia's Federal Prosecution Service.

This aim ensures we invest in and build the capability of our people, and support their effort through the modernisation of our systems, process and practices. It demonstrates our commitment to continuous improvement and innovation to evolve our prosecution service, in step with the expectations of partner agencies and the broader community.

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On 28 January 2016 the Attorney-General sought approval from the Minister for Finance to change the CDPP's outcome statement. The change reflects the key strategic themes in the CDPP Corporate Plan 2015–16 to 2018–19. The previous wording could be taken to mean that the CDPP is solely accountable for maintaining law and order for the Australian community.

# Our strategic themes

Our strategic themes focus and direct our effort.

# 1



## Our service

Providing an efficient, effective, ethical and appropriate Commonwealth prosecution service delivery.

# 2



## Our people

Investing in our people.

# 3



## Our partners

Engaging proactively and effectively with partner agencies and stakeholders.

# Australia's Federal Prosecution Service

## Our role

We serve the public interest by maintaining effective working relationships with Commonwealth law enforcement agencies. We prosecute a diverse range of matters reflecting the evolving and expanding nature of offences against Commonwealth law. Our prosecutions are often complex and feature international transactions and overseas evidence, reflecting the often global nature of Commonwealth offending.

As we have no investigative function, we can only prosecute where there has been an investigation by another agency. We rely on investigative agencies to provide briefs of evidence and work closely with them to prepare and present cases in court, including requisitioning additional evidence.

Matters we prosecute include terrorism, serious drug offences, money laundering, human trafficking and slavery, people smuggling, child exploitation, cybercrime, revenue and benefit fraud, corporate and commercial offending, regulatory non-compliance, public and workplace safety, environmental crimes, corruption, unlawful disclosure of information, copyright offences, perjury, and failing to vote.

In addition, we provide legal advice to Commonwealth investigators and apply for superannuation forfeiture orders under Commonwealth law.

We make decisions independently of those responsible for the investigation of federal offences.

## Jurisdiction

We undertake legal work in every Australian state and territory, across every level of court. We are also responsible for prosecuting offences against the laws of Jervis Bay and Australia's external territories, other than Norfolk Island. In addition, we take action to confiscate the proceeds of crime following conviction.

## Partner agencies

We work with 45 partner agencies. Of those, 43 referred briefs of evidence in 2015–16.

We continued to work within the national practice model that we established in 2014 to enhance the delivery of our services. This national approach has enabled us to harness the expertise of our staff to prosecute particular categories of crime consistently, efficiently and effectively across all jurisdictions. Importantly, this approach has enabled the Office to become agile, able to adapt and change as required.

Partner agencies include Commonwealth investigative agencies, Australian Federal Police, and state and territory police. This year our top referring agencies, representing almost 85 per cent of all cases referred, were:

- Department of Human Services
- Australian Federal Police
- state and territory police
- Australian Taxation Office
- Australian Border Force
- Australian Financial Security Authority.

## National legal practice

In response to the matters referred by partner agencies, our work is divided into national practice groups, based on categories of crimes:

- Commercial, Financial and Corruption
- Revenue and Benefits Fraud
- International Assistance and Specialist Agencies
- Organised Crime and Counter-Terrorism
- Illegal Imports and Exports
- Human Exploitation and Border Protection.

Matters are assigned to specialist staff within our practice groups, which are located in offices across Australia. In smaller offices, it is common for prosecutors to work across a range of practice groups, demonstrating the flexibility of the national model.

The crime types prosecuted by each practice group are described from page 40.

Each group is led by a Deputy Director who has responsibility for:

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

During 2015–16, we established a National Business Improvement Practice Group to advance our approach to legal learning and professional development, national

standards and improvements in our processes, policy and legislative reform, and stakeholder engagement. The Deputy Director of this new practice group also leads the International Assistance and Specialist Agencies Practice Group. For more information about the National Business Improvement Practice Group, refer to page 106.

Our legal practice groups are supported by dedicated corporate services focused on people, finance, specialist legal administrative support, library and research services, records management, internal audit, governance, communications, and information technology.

For more information about the Practice Group Deputy Directors, and the role of the Chief Corporate Officer, refer to page 96.

The work of each practice group during 2015–16 is reported from page 40, and information on corporate services is provided from page 110.

## Prosecution services

The prosecution process is well-defined. Each practice group provides a range of prosecution services to assist partner agencies and improve prosecution outcomes. These services are aligned with every step of the prosecution process—from pre-brief advice and brief assessments to prosecutions before the courts, appeals and case-reviews. We also encourage tailored training and secondments to exchange and build capability and drive improvements in the prosecution process.

More information about our prosecution services is on page 36.



# The way we work

## Directions or guidelines to the Director

The Commonwealth Attorney-General has power under section 8 of the DPP Act to issue directions or guidelines to the Director. Directions or guidelines must be in writing and tabled in Parliament, and there must be prior consultation between the Attorney-General and the Director. Only seven directions have been issued in more than 30 years, with none issued during the reporting period.

The CDPP is bound by directions or guidelines issued by the Attorney-General, but we operate independently and, on a day-to-day basis, our work is guided by the *Prosecution Policy of the Commonwealth*.

## The Prosecution Policy

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.

This policy underpins our decisions throughout the prosecution process and promotes consistency in decision-making. It is available on our website at [www.cdpp.gov.au](http://www.cdpp.gov.au).

## Two-stage test

The *Prosecution Policy of the Commonwealth* provides a two-stage test that must be satisfied before a prosecution commences:

1. There must be sufficient evidence to prosecute the case.
2. It must be evident from the facts of the case, and all the surrounding circumstances, that the prosecution would be in the public interest.

In determining whether there is sufficient evidence to prosecute a case, we must be satisfied that there is *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, and the admissibility of any alleged confession or other evidence. They 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 need to 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 beneath the surface of the evidence in a 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 vary from case-to-case and may include:

- whether the offence is serious or trivial
- mitigating or aggravating circumstances
- the youth, age, intelligence, physical health, mental health or special vulnerability of the alleged offender, witness or victim
- the alleged offender's antecedents 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
- the need to give effect to regulatory or punitive imperatives
- the likely outcome in the event of a finding of guilt.

All relevant factors are contained in the *Prosecution Policy of the Commonwealth*.

Generally, the more serious the alleged offence, the more likely the public interest will require us to pursue a prosecution. The decision to prosecute must be made impartially and must not be influenced by any inappropriate reference to race, religion, sex, national origin or political association. The decision to prosecute must not be influenced by any political advantage or disadvantage to the government.

In February 2016 we introduced Annexure D of the *Prosecution Policy of the Commonwealth*. This Annexure clarifies the provision of an undertaking related to an accomplice whose evidence is required against an alleged co-offender, and who has been prosecuted, and where it is not proposed they be prosecuted further. This situation was not previously addressed in the policy.

## Compliance with the prosecution test

In November 2015 we introduced a new performance metric designed to assess our compliance in addressing the two-stage test for prosecutions in the *Prosecution Policy of the Commonwealth*.

We measure compliance at selected stages of the prosecution process, based on a sampling of cases and certification by the relevant CDPP case officer or supervisor that we have complied with the test for prosecution—in other words, that there is a *prima facie* case, reasonable prospects of a conviction, and that prosecution is required in the public interest.

Since introducing this new performance metric, we have achieved 100 per cent compliance. We are developing further mechanisms to assess compliance with the measure. These mechanisms, and the selected stages of the prosecution when we assess compliance, will remain under review.

For more information about our performance metrics and results, refer to page 25.

## Social justice and equity

We advance the interests of social justice and equity by working with partner agencies to enforce criminal law for the benefit of the community. We recognise the importance of adopting the highest professional and ethical standards in prosecutions and in seeking orders under proceeds of crime legislation.

We work to ensure that alleged offenders and other people affected by the criminal justice process are treated fairly. To support our contribution to the criminal justice system, we take action to promote and maintain an organisational culture that values fairness, equity and respect. We expect conduct from our employees that reflects high ethical standards. We have issued Guidelines on Official Conduct for CDPP employees, setting out the ethical standards expected of them. All CDPP employees have signed a copy of this document.

## Victims and witnesses

It is important in all prosecution action that victims are treated with courtesy, dignity and respect.

We have implemented a *Victims of Crime Policy* to guide and support victims and witnesses through the prosecution process.

We recognise that, in matters where there is a victim, that person has an important role in the prosecution process. We do not act on behalf of a victim as private sector solicitors act for their clients. Rather, in carrying out our functions, we act on behalf of the whole community. The role of the victim in the prosecution depends on the circumstances of the case.

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

We require that all identifiable child victims and victims of slavery, sexual servitude and forced marriage offences be referred to the Witness Assistance Service. This ensures the most vulnerable victims of Commonwealth crime are treated in an appropriate and consistent manner.

For more information about this service, refer to page 52.

## Links with state and territory Directors of Public Prosecutions

We have arrangements with each Director of Public Prosecutions in Australia concerning procedures for conducting trials that involve both Commonwealth and state or territory offences.

The CDPP can prosecute indictable offences against state and territory laws where our Director holds an authority to do so under the laws of the relevant jurisdiction. In addition, our Director can conduct committal proceedings and summary prosecutions for offences against state and territory law where a Commonwealth officer is the informant.

Liaison between Commonwealth and state prosecuting authorities occurs at both the national and regional level. The Conference of Australian Directors of Public Prosecutions is a forum for Directors to discuss best practice in prosecuting, professional standards, training and liaison.

Another valuable forum is the National Executive Officers' Meeting of the heads of legal practice and corporate services of Commonwealth, state and territory prosecution services. Through this forum we share information and discuss the management of prosecuting agencies.



CHAPTER

# 2







Performance

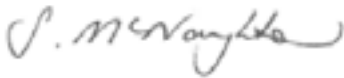
# Annual Performance Statements

Every Commonwealth entity subject to the *Public Governance, Performance and Accountability Act 2013* (PGPA Act) is required to produce annual performance statements. Annual performance statements are intended to be the key location for all public data on the actual performance of an entity in a reporting period. The content in the statements, particularly the matters that entities must include in their statements, are set out in Section 16F of the PGPA Rule.

The CDPP Annual Performance Statements for 2015–16 follows.

## 1. Statement of Preparation

I, Sarah McNaughton SC, as the accountable authority of the Commonwealth Director of Public Prosecutions, present the 2015–16 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 performance of the entity, and comply with subsection 39(2) of the PGPA Act.



Sarah McNaughton SC  
Commonwealth Director of Public Prosecutions

## 2. Results

**Table 1: Annual Performance Statements**

Activity title or description	Performance measurement methodology	Targets, goals and measures	Results achieved
<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>Source: CDPP Corporate Plan 2015–16</p>	<p>Data mining through internal audit/compliance framework.</p> <p>Sample checking of procedural documentation and authorisation, underpinned by monthly executive oversight and exception reporting.</p>	<p>100% compliance with the <i>Prosecution Policy of the Commonwealth</i>.</p>	<p>100%</p> <p>For more information refer to page 19.</p>
<p>Partner agency satisfaction with CDPP service delivery.</p> <p>Source: CDPP Corporate Plan 2015–16</p>	<p>Biennial surveys: quantitative and qualitative evidence of partner agency satisfaction with CDPP service delivery characteristics including timeliness, relevance to partner agency business, responsiveness and level of communication.</p>	<p>90% of partner agencies rate themselves as satisfied or very satisfied with CDPP service delivery.</p>	<p>83%</p> <p>For more information refer to page 108.</p>
<p>Prosecutions resulting in a conviction.</p> <p>Source: CDPP Corporate Plan 2015–16</p>	<p>Quantitative indicator obtained through data mining.</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 CDPP discontinued the prosecution against them in its entirety or where a prosecution has commenced and the defendant failed to appear before a court. It does include findings of guilt that do not result in a conviction.</p>	<p>90% of prosecutions resulting in a conviction.</p>	<p>97%</p> <p>For more information refer to page 26.</p>

### 3. Analysis

#### **Compliance in addressing the terms of the test for prosecution in the *Prosecution Policy of the Commonwealth***

This new performance measure has been in place since 1 November 2015. We measure compliance at selected stages of the prosecution process, based on sampling of cases and certification by the relevant CDPP case officer or supervisor that we have complied with the test for prosecution in the *Prosecution Policy of the Commonwealth*. The test is that there is a *prima facie* case, reasonable prospects of a conviction, and that prosecution is required in the public interest. Since introducing this new performance measure we have achieved 100 per cent compliance at the selected stages. We are developing further mechanisms to assess compliance with this measure. These mechanisms, and the selected stages of the prosecution when we assess compliance will remain under review.

#### **Partner agency satisfaction with CDPP service delivery**

Understanding partner agency perceptions of the CDPP across a range of service areas provides valuable insights that help shape and improve our processes, procedures and performance. To align with the introduction of the biennial satisfaction survey in 2015–16, we set a partner agency satisfaction target of 90 per cent and achieved a 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 help us to meet the target in the future.

#### **Prosecutions resulting in a conviction**

We have consistently exceeded our 90 per cent target for this measure. This year's result of 97 per cent was achieved through the commitment and hard work of staff in response to the enforcement activities of partner agencies.

We will continue to collaborate with partner agencies to develop effective means of measuring our collective performance in contributing to a fair, safe and just society, where the laws of the Commonwealth are respected and maintained, and there is public confidence in the justice system.

Our performance in relation to the number of defendants dealt with in court, together with ongoing matters, is included in the following prosecution statistics.

# Prosecution statistics

During the year, 3,029 cases were closed in addition to ongoing matters. The cases were referred by 43 Commonwealth investigative agencies, as well as state and territory agencies.

The following tables set out details of prosecutions we conducted in 2015–16.

**Table 2: Outcomes of successful prosecutions in 2015–16**

Description	Number
Defendants convicted of offences prosecuted summarily	1,795
Defendants convicted of offences prosecuted on indictment	608
Defendants committed for trial or sentence	652

**Table 3: Summary prosecutions in 2015–16**

Description	Number
Defendants convicted after a plea of guilty	1,743
Defendants convicted after a plea of not guilty	52
Total defendants convicted	1,795
Defendants acquitted after a plea of not guilty	29
Total	1,824

**Table 4: Committals in 2015–16**

Description	Number
Defendants committed after a plea of guilty	345
Defendants committed after a plea of not guilty	307
Total defendants committed	652
Defendants discharged after a plea of not guilty	2
Total	654

**Table 5: Prosecutions on indictment in 2015–16**

Description	Number
Defendants convicted after a plea of guilty	517
Defendants convicted after a plea of not guilty	91
Total defendants convicted	608
Defendants acquitted after a plea of not guilty	41
Total	649

**Table 6: Prosecution appeals against sentence in 2015–16**

Appeal type	Outcome	Summary	Indictable
Appeals against sentence	Upheld	1	11
	Dismissed	3	3
Total		4	14

**Table 7: Defence appeals in 2015–16**

Appeal type	Outcome	Summary	Indictable
Against conviction only	Upheld	8	2
	Dismissed	3	7
Against sentence only	Upheld	53	13
	Dismissed	16	27
Against conviction and sentence	Upheld	2	2
	Dismissed	5	8
Total		87	59

# Prosecution performance indicators 2015–16

In 2015–16, we met all the following prosecution performance indicators:

- prosecutions resulting in a conviction
- defendants in defended summary hearings resulting in a conviction
- defendants in defended committals resulting in a committal order
- defendants tried on indictment and convicted
- prosecution sentence appeals in a prosecution on indictment upheld.

However, we did not meet the following prosecution performance indicator:

- prosecution sentence appeals in summary prosecutions upheld.

This outcome was affected by the small numbers of appeals involved—there were four prosecution sentence appeals in summary prosecutions.

**Table 8: Prosecution performance indicators for 2015–16, national totals**

Description	Target	Outcome	Number successful (total)
Prosecutions resulting in a conviction*	90%	97%	2,403 (2,473)
Defendants in defended summary hearings resulting in conviction	60%	64%	52 (81)
Defendants in defended committals resulting in a committal order	80%	99%	307 (309)
Defendants tried on indictment and convicted	60%	69%	91 (132)
Prosecution sentence appeals in a prosecution on indictment upheld	60%	77%	10 (13)
Prosecution sentence appeals in summary prosecutions upheld	60%	25%	1 (4)

\*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 defendant failed to appear before a court.



**Table 9: Prosecution performance indicators for 2014–15 and 2015–16**

Description	Target	2014–15**	2015–16
Prosecutions resulting in a conviction*	90%	98%	97%
Defendants in defended summary hearings resulting in conviction	60%	77%	64%
Defendants in defended committals resulting in a committal order	80%	99%	99%
Defendants tried on indictment and convicted	60%	70%	69%
Prosecution sentence appeals in a prosecution on indictment upheld	60%	68%	77%
Prosecution sentence appeals in summary prosecutions upheld	60%	67%	25%

\*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 defendant failed to appear before a court.

\*\*The number of cases on which the percentages were calculated is published in our 2014–15 Annual Report. The report is available on our website at [www.cdpp.gov.au](http://www.cdpp.gov.au).

## Statistics about relevant legislation and partner agencies

We receive the most referrals from the Australian Federal Police, the Australian Department of Human Services, the Australian Taxation Office, Australian Border Force, and Australian Securities and Investments Commission.

Certain agencies conduct summary prosecutions for straightforward regulatory offences by arrangement with the CDPP. In some cases, this includes a state or territory agency conducting a Commonwealth prosecution, usually for reasons of convenience.

In 2015–16:

- The Australian Taxation Office conducted more than 1,900 prosecutions of more than 1,500 individuals and 400 companies. Fines, costs and reparation orders totalling more than \$11.6 million were imposed.
- The Australian Securities and Investments Commission prosecuted 410 defendants for 936 offences. Fines and costs totalling more than \$1.4 million were imposed.
- The Australian Electoral Commission issued 477 summonses in relation to the Canning by-election. Of these, 19 were discontinued, 181 were proven and resulted in a conviction, 2 were proven but did not result in a conviction and 275 are still to be heard. Of the matters successfully prosecuted, fines totalling \$12,790 and costs totalling \$19,444 were imposed by the courts.
- The following tables provide statistics covering relevant legislation and partner agencies in relation to matters dealt with in 2015–16.

In 2015–16 we received briefs of evidence from 43 Commonwealth investigative agencies.

**Table 10: Legislation under which charges were dealt with in 2015–16**

Legislation	Summary (charges)	Indictable (charges)
<i>Airports (Control of On-Airport Activities) Regulations 1997</i>	6	0
<i>Anti-Money Laundering and Counter-Terrorism Financing Act 2006</i>	9	45
<i>Australian Citizenship Act 2007</i>	11	0
<i>Australian Federal Police Act 1979</i>	1	2
<i>Australian Passports Act 2005</i>	25	4
<i>Aviation Transport Security Act 2004</i>	6	0
<i>Aviation Transport Security Regulations 2005</i>	15	0
<i>Bankruptcy Act 1966</i>	199	5
<i>Child Support (Registration and Collection) Act 1988</i>	40	0
<i>Civil Aviation Act 1988</i>	38	0
<i>Civil Aviation Regulations 1988</i>	67	0
<i>Civil Aviation Safety Regulations 1998</i>	6	0
<i>Commonwealth Electoral Act 1918</i>	26	0
<i>Competition and Consumer Act 2010</i>	3	0
<i>Copyright Act 1968</i>	185	7
<i>Corporations (Aboriginal and Torres Strait Islander) Act 2006</i>	18	0
<i>Corporations Act 2001</i>	41	137
<i>Crimes (Aviation) Act 1991</i>	37	3
<i>Crimes (Currency) Act 1981</i>	56	8
<i>Crimes (Foreign Incursions and Recruitment) Act 1978</i>	0	7
<i>Crimes Act 1914</i>	38	27
<i>Criminal Code</i>	3,570	2,284
<i>Customs Act 1901</i>	220	80
<i>Defence Act 1903</i>	1	0
<i>Defence Force Regulations 1952</i>	3	0
<i>Environment Protection (Sea Dumping) Act 1981</i>	1	0
<i>Environment Protection and Biodiversity Conservation Act 1999</i>	45	66
<i>Environment Protection and Biodiversity Conservation Regulations 2000</i>	24	0
<i>Excise Act 1901</i>	0	2
<i>Financial Management and Accountability Act 1997</i>	0	3

**Table 10: Legislation under which charges were dealt with in 2015–16 (continued)**

Legislation	Summary (charges)	Indictable (charges)
<i>Financial Transaction Reports Act 1988</i>	8	13
<i>Fisheries Management Act 1991</i>	129	0
<i>Foreign Passports (Law Enforcement and Security) Act 2005</i>	5	1
<i>Great Barrier Reef Marine Park Act 1975</i>	42	0
<i>Great Barrier Reef Marine Park Regulations 1983</i>	22	0
<i>Health Insurance Act 1973</i>	117	14
<i>Marine Safety (Domestic Commercial Vessel) National Law Act 2012</i>	4	0
<i>Marriage Act 1961</i>	6	1
<i>Migration Act 1958</i>	42	176
<i>National Consumer Credit Protection Act 2009</i>	8	0
<i>National Measurement Act 1960</i>	1	0
<i>Offshore Petroleum and Greenhouse Gas Storage Act 2006</i>	9	0
<i>Passports Act 1938</i>	10	0
<i>Primary Industries Levies and Charges Collection Act 1991</i>	3	0
<i>Proceeds of Crime Act 1987</i>	0	1
<i>Protection of the Sea (Prevention of Pollution from Ships) Act 1983</i>	3	0
<i>Public Order (Protection of Persons and Property) Act 1971</i>	14	0
<i>Quarantine Act 1908</i>	15	22
<i>Radiocommunications Act 1992</i>	3	4
<i>Royal Commissions Act 1902</i>	0	5
<i>Social Security (Administration) Act 1999</i>	172	0
<i>Social Security Act 1991</i>	4	0
<i>Taxation Administration Act 1953</i>	714	131
<i>Telecommunications (Interception and Access) Act 1979</i>	0	2
<i>Therapeutic Goods Act 1989</i>	48	0
<i>Torres Strait Fisheries Act 1984</i>	15	0
<i>Trade Marks Act 1995</i>	8	0
<i>Work Health and Safety Act 2011</i>	3	0
Non-Commonwealth legislation	264	421
Total	6,360	3,471

**Table 11: Referring agencies: defendants dealt with in 2015–16**

Agency	Summary	Indictable
Australian Federal Police/Australian Commission for Law Enforcement Integrity Joint Task Force	1	5
Australian Border Force	61	43
Australian Communications and Media Authority	1	1
Australian Competition and Consumer Commission	2	0
Australian Electoral Commission	25	0
Australian Federal Police	283	433
Australian Financial Security Authority	129	1
Australian Fisheries Management Authority	67	3
Australian Maritime Safety Authority	6	0
Australian Postal Corporation	5	1
Australian Securities and Investments Commission	24	23
Australian Taxation Office	93	23
Civil Aviation Safety Authority	18	0
Clean Energy Regulator	1	1
COMCARE	1	1
Department of Agriculture and Water Resources	11	5
Department of Defence	3	0
Department of Education and Training	6	1
Department of Employment	1	0
Department of Foreign Affairs and Trade	12	0
Department of Health	41	4
Department of Human Services—Centrelink	1,246	29
Department of Human Services—Child Support Agency	10	1
Department of Human Services—Medicare	52	4
Department of Industry, Innovation and Science	1	1
Department of Social Services	2	1
Department of the Environment and Energy	6	1
Director of Military Prosecution	1	0
Fair Work Building and Construction	1	0
Great Barrier Reef Marine Park Authority	37	0
National Measurement Institute	1	0

**Table 11: Referring agencies: defendants dealt with in 2015–16 (continued)**

Agency	Summary	Indictable
National Offshore Petroleum Safety and Environment Management Authority	2	0
Office of the Registrar of Indigenous Corporations	17	0
Department of the Prime Minister and Cabinet	0	1
Therapeutic Goods Administration	4	0
Non-Commonwealth agencies	131	144
Total	2,302	727

Note: This list contains names of only current Commonwealth agencies at 30 June 2016. Where an agency's name has changed over time, all the cases emanating from that agency, whatever its name, are included under the most current agency that has assumed the function.

The 'Non-Commonwealth agencies' count includes one private prosecution (summary).

'Defendants dealt with' includes not only convictions and findings of guilt but also matters resulting in acquittals, prosecutions which are discontinued in accordance with the *Prosecution Policy of the Commonwealth* based on evidentiary or public interest considerations or as part of a charge negotiation, as well as when there is a hung jury, matters where a warrant is issued as the defendant has absconded, and determinations that a defendant is unfit to be tried.



# Working with partner agencies

Our effective investigation–prosecution partnerships result in well-targeted prosecutions that:

- help partner agencies meet their enforcement and regulatory objectives
- build public confidence in Commonwealth law enforcement and regulatory frameworks.

The benefit of working effectively with partner agencies flows through to our prosecution services.

## Prosecution services

We value the collaborative working relationships established with partner agencies.

The formation of our national practice groups has provided new opportunities to collaborate with and support partner agencies. This model has allowed us to engage with agencies earlier and more frequently, and to consider strategic issues and how prosecution can advance our partner agencies' enforcement strategies. It also supports stronger liaison and coordination arrangements, including through identifying and addressing common or systematic issues, early engagement, scoping and pre-brief advice.

Our prosecution services begin with liaison and may also include pre-brief advice, brief assessment, prosecution and case review. They can also extend to the provision of tailored training and reciprocal secondments to build a better understanding of our respective processes and procedures.

## Liaison

Our national liaison activities strengthen the relationship between partners and the CDPP, leading to better outcomes.

Practice Group Leaders are responsible for liaison with partners about the crime types covered by their group. Liaison with partner agencies is delivered through coordinated liaison meetings and is supported by a network of dedicated liaison officers.

For partner agencies whose referrals cross more than one practice group, we have a lead practice group. Commercial, Financial and Corruption is the lead practice group for liaison with the Australian Crime Commission,<sup>1</sup> Revenue and Benefits Fraud is the lead practice group for liaison with the Australian Taxation Office. Illegal Imports and Exports is the lead practice group for liaison with the Department of Immigration and Border Protection (which includes the operational agency, Australian Border Force).

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1 From 1 July 2016, the Australian Crime Commission and CrimTrac merged to form the Australian Criminal Intelligence Commission.



Our *General Guidelines for Dealing with Investigative Agencies* and memoranda of understanding with a range of partner agencies also guide the way we liaise with partners.

Liaison activities vary depending on the size and requirements of each partner agency. For example, we meet regularly with larger agencies to discuss general developments, conduct in-depth analysis, discuss trends, emerging issues, anticipated referral volumes and case updates on important matters.

From time-to-time our liaison activity extends to tailored conferences. These events bring together representatives from the CDPP and the partner agency to explore specific topics and improve understanding between investigators and prosecutors.

We have developed statistical reports to help our partner agencies monitor their enforcement action and we are working with agencies to enhance the provision of advice as a national resource.

### Providing pre-brief advice

Pre-brief advice is available to all partner agencies when matters are sensitive, significant, complex or of particular importance to an agency's enforcement strategy.

Pre-brief advice may also be offered where matters have significant resource implications, or are likely to impact a broader class of cases. This time-critical and tailored service is delivered by experienced federal prosecutors. Advice may cover:

- charges
- elements of offences

- substantive impediments to proving the offence and how they may be addressed
- identification of particular witnesses who could be approached in relation to a line of enquiry
- options for scoping the investigation
- seriousness of offending
- public interest considerations.

The provision of pre-brief advice helps strengthen our investigation-prosecution partnerships to assist partner agencies to meet their law enforcement objectives, while enabling us to deliver effective prosecution outcomes.

Since the implementation of our practice group model we have provided increased levels of support to partner agencies in relation to pre-brief advice, with positive feedback.

### Brief assessments

Brief assessments are a fundamental part of the prosecution services we provide to partner agencies.

Federal prosecutions commence following our assessment of a brief of evidence and the issuing of a summons, charge or court attendance notice.

During the brief assessment phase, partner agency representatives can expect to be in contact with the CDPP case officer assigned to the matter.

The purpose of this contact is often to discuss queries relating to evidence and, in some instances, the need for additional investigations to fill gaps identified in the evidence.

Our prosecutors work with partner agencies to:

- provide sound and independent legal advice
- share specialist knowledge and experience of the prosecution process
- assess briefs, including identifying legal issues, relevant public interest considerations and evidentiary deficiencies (evidence must be carefully assessed in accordance with the *Prosecution Policy of the Commonwealth* to ensure admissible, substantial and reliable evidence substantiates any case presented in court)
- frame and present the prosecution case fairly and effectively
- address the international aspects of prosecuting (such as mutual assistance and extradition)
- deal with complex legal, evidentiary, practical and logistical issues.

Each brief assessment is an opportunity for us to provide feedback on the brief submitted. This assists prosecutors and investigators to identify ongoing areas for improvement.

### **Prosecutions—summary prosecutions, bail, committals, trials and appeals**

Our engagement with partner agencies varies during the court phase of the prosecution process. The level of contact depends on the complexity of the matter and any issues occurring with the litigation.

While the matter is before the courts, we aim to:

- provide regular and timely updates on progress
- make requisitions of the informant where further enquiries are required
- consult with the informant on all critical decisions throughout the court process
- answer queries that the informant might have about the case
- deal with victims, in conjunction with the informant, and in accordance with our *Victims of Crime Policy*.

### **Online resources—Partner Agency Portal**

We provide various resources that are relevant to the investigation process through a dedicated and secure Partner Agency Portal.

The portal provides agencies with:

- guidelines for dealing with us
- brief preparation guidelines
- information on mutual assistance and extradition
- offence guides inclusive of element analyses and draft charges
- legal manuals.

*Our Search Warrants Manual, Telecommunications Interception and Stored Communications Warrants Manual and Surveillance Devices Manual* provide Commonwealth investigators with guidance on the legal requirements for obtaining and executing warrants under Commonwealth law.

Given the technical nature of this area of law, we have an important role in ensuring investigators have clear and appropriate advice about exercising powers under the relevant legislation and case law. In recognition of the importance of these cases, we devoted significant resources to updating these manuals in late 2016.

### Case reviews

We offer partner agencies a range of reports following the conclusion of a matter in court, including:

- prosecution report—provided for matters that proceed to court
- post-trial report—prepared following trials in intermediate and superior courts
- case review—face-to-face meeting to review all aspects of the matter.

Post-trial reports include both qualitative and quantitative data about the trial, including any legal and evidentiary issues that arose in the case. They provide an opportunity for feedback on the performance of both the partner agency and the CDPP. These insights can identify systemic issues that lead to positive changes in processes and future referrals.

Case reviews bring together representatives from both the CDPP and partner agencies to review the investigative and prosecution process from beginning to end.

Case reviews are conducted following a significant case or a series of cases that together form a significant project or operation for an agency.

### Electronic brief submission

Contemporary prosecuting increasingly involves the management and presentation to courts of voluminous evidential material. We use electronic resources to support this work where possible.

The CDPP is increasingly receiving briefs of evidence in electronic form and we are working towards trialling a new digital brief submission process.

### Commonwealth Sentencing Database

The Commonwealth Sentencing Database is a joint project with the National Judicial College of Australia and the Judicial Commission of New South Wales. It provides judicial officers and other users with rapid and easy access to information about sentencing for federal offences, to assist with their sentencing decisions. The Commonwealth Sentencing Database is designed to provide primary research sources (such as judgments and legislation) linked to secondary resources (including commentary on sentencing principles and sentencing statistics).

### Ensuring proper disclosure

An important and ongoing issue is ensuring proper disclosure in prosecutions, as provided for in our Statement on Prosecution Disclosure. The Statement was updated during the year.

We continue to work with partner agencies to help them meet disclosure obligations by producing resources for investigators. Our Statement on Prosecution Disclosure is on our website at [www.cdpp.gov.au](http://www.cdpp.gov.au).

# Our National Practice Groups



**COMMERCIAL, FINANCIAL AND  
CORRUPTION**



**HUMAN EXPLOITATION AND  
BORDER PROTECTION**



**ILLEGAL IMPORTS  
AND EXPORTS**



**INTERNATIONAL ASSISTANCE  
AND SPECIALIST AGENCIES**



**ORGANISED CRIME AND  
COUNTER-TERRORISM**



**REVENUE AND  
BENEFITS FRAUD**

## Commercial, Financial and Corruption Practice Group

The Commercial, Financial and Corruption Practice Group Leader is Shane Kirne, Deputy Director.

### Practice group description

The Commercial, Financial and Corruption Practice Group is made up of approximately 50 specialist lawyers nationwide. Dedicated teams are located in Sydney and Melbourne and this practice group also regularly conducts prosecutions in Adelaide, Brisbane, Hobart and Perth through our CDPP offices in those states.

The Commercial, Financial and Corruption Practice Group is responsible for prosecuting what is commonly referred to as 'white collar' crime, with a focus on serious and complex crimes involving money, corporations and financial markets. White collar crimes are typically very difficult to detect, investigate and prosecute but they can have devastating consequences for their victims—honest taxpayers, workers and investors—as well as their families and the wider community.

Commercial, financial and corruption prosecutions:

- help to maintain Australia's reputation as a fair and transparent place to conduct business
- hold corrupt public officials and those who bribe them to account
- send an important message to those who commit serious financial crimes, and those who may be tempted to follow them, that no-one is above the law and the CDPP will not shy away from difficult prosecutions.

## COMMERCIAL, FINANCIAL AND CORRUPTION CRIMES PROSECUTED AND TOP REFERRING AGENCIES

### MATTERS MANAGED

- » Complex tax fraud
- » Fraud by company directors and other breaches of directors' duties
- » Corporations Act offences, including insider trading, market manipulation and insolvent trading
- » Offences involving financial services or consumer credit
- » Bribery and corruption
- » Serious cartel offences
- » Money laundering linked to financial crime
- » Offences against the Australian Crime Commission Act

### TOP REFERRING AGENCIES

In 2015–16 the main investigative agencies that referred briefs of evidence to the Commercial, Financial and Corruption Practice Group were:



In this way, the work of this practice group reinforces Australia's economic and political stability, preserves public resources for the benefit of all Australians, and makes it harder for serious and organised crime to survive and thrive.

### Crime types prosecuted

The offences prosecuted by this practice group include:

- **Complex tax fraud**—complex tax fraud 'schemes', typically involving complex corporate structures with international dimensions (especially in countries with secretive tax systems), supported by professional advisers.
- **Market offences**—offences which threaten the integrity of financial markets, such as insider trading and market manipulation.
- **Corporations**—offences involving corporations, such as fraud by directors/officers/employees against a company and other breaches of directors' duties, and trading while insolvent.
- **Financial services**—offences involving financial services or consumer credit, such as operating an unregistered managed investments scheme, and breaches of relevant licensing requirements.
- **Bribery and corruption**—bribery of foreign public officials and corruption involving Commonwealth officials.
- **Cartels**—serious cartel conduct such as bid rigging, price fixing, allocating customers to fix market shares, or controlling the output or limiting the amount of goods and services available to buyers.
- **Money laundering linked to financial crime**—money laundering, where the money or property being dealt with is the proceeds of a financial crime or is being used as an instrument of a financial crime.
- **Australian Crime Commission Act**—offences where a person fails to attend, or give truthful evidence to, an examiner acting on behalf of the Australian Crime Commission.

### Stakeholder engagement

The Commercial, Financial and Corruption Practice Group prosecutes some of the most complex types of Commonwealth crime because of the types of legal issues and factual scenarios involved. For this reason a crucial part of our work with partner agencies is providing pre-brief advice to investigators on matters such as the elements of an offence, evidentiary issues or potential further lines of inquiry. This helps to ensure that investigations are conducted in a strategic, efficient and effective manner.

There is a growing trend for some agencies to refer matters to us before they have compiled a full brief of evidence in order to explore whether a suspect might be willing to enter an early plea of guilty; and, if so, to identify charges which adequately reflect the criminality alleged. We recognise that guilty pleas, which lead to the timely and appropriate resolution of matters can save significant investigative, prosecution, court and community resources and are in the public interest.

We are always looking for ways to build our strategic and operational engagement with partner agencies. We meet our partners on a regular basis at both a national and regional level. In October 2015 we formed a foreign bribery 'focus group' to share ideas and learnings within the CDPP, and with the Australian Federal Police, in this developing area of prosecution work. We regularly collaborate in the delivery of training and in identifying potential areas of law reform.

Engagement in this area over the past year included delivering the keynote presentation to the *Australian Anti-Bribery and Corruption Summit*, organised by International Quality and Productivity Centre (IQPC) Australasia in Melbourne on 17 September 2015.

### Commercial and financial crime

We continue to invest significant resources into prosecuting matters arising from Project Wickenby. Project Wickenby formally came to an end on 30 June 2015 after 10 years of ground-breaking, coordinated, multi-agency activity against offshore tax evasion.

On 1 July 2015 all ongoing Wickenby prosecutions were integrated into the new Serious Financial Crime Taskforce.

The Taskforce builds on the Project Wickenby operating model but is significantly broader in scope.

In addition to tackling offshore tax evasion, the Taskforce will investigate and prosecute the fraudulent use of trust structures and superannuation funds, and phoenix fraud.

Phoenix fraud involves a company deliberately liquidating assets to avoid paying creditors, taxes and employee entitlements.

A very important part of our work in this area is to ensure that the penalties imposed for white collar crime reflect the gravity of the offending, the harmful impact on victims, markets and the community, and the importance of general deterrence. On a number of occasions this year, the Director formed a view that a particular sentence was 'manifestly inadequate' and decided to appeal the sentence.



## PROJECT WICKENBY OUTCOMES

Raymond OSBORNE, a former accountant, took part in a complex tax avoidance scheme that involved offshore entities in Switzerland and Hong Kong and an international round-robin of false loans facilitated by a professional adviser, Philip Egglshaw of Swiss-based firm Strachans. In July 2015, after a nine week trial, Osborne was found guilty of four fraud-related charges arising from the lodgement of four tax returns on behalf of a client. Osborne signed the tax agent's certificate on each of the returns knowing that they contained false information.

On 30 October 2015, Osborne was sentenced to two years' imprisonment, to be released immediately upon entering into a recognisance release order. The Director is appealing the sentence as it is considered manifestly inadequate. Osborne has also lodged an appeal against his conviction and both appeals are now pending outcomes.

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In July 2012 an overseas-based accountant and promoter of tax schemes was found guilty of conspiring to defraud the Commonwealth of more than \$5 million between 1997 and 2006. He was sentenced to a total of eight years and 11 months' imprisonment with a non-parole period of six years and eight months. In August 2015 the New South Wales Court of Criminal Appeal dismissed the defendant's appeals against conviction and sentence.

## Insider trading

Insider trading was a major focus of our Australian Securities and Investments Commission related trial work during 2015–16. We secured important convictions in the matters of former mining company executive Hui (Steven) Xiao; former NAB banker Lukas Kamay and Australian Bureau of Statistics employee Christopher Hill; former investment banker Oliver Curtis; and former company director Peter Farris.

In last year's Annual Report we reported that former NAB banker Lucas Kamay was sentenced to a total of seven years and three months' imprisonment, with a non-parole period of four and a half years, following his conviction of four counts of insider trading using highly sensitive unpublished data from the

Australian Bureau of Statistics, one count of dealing in the proceeds of crime, and two counts of dealing in identification information using a carriage service. Kamay appealed his sentence, which was at the time the longest sentence ever imposed in Australia for insider trading (this pre-dated the sentence imposed on Hui Xiao, profiled on page 47.) On 13 November 2015 the Victorian Court of Appeal dismissed Kamay's appeal and upheld the original sentence.

Another significant outcome was the prosecution of Gary Armstrong, a former director of the failed white goods firm Kleenmaid. Armstrong pleaded guilty to fraud and insolvent trading charges and was sentenced to seven years' imprisonment with a non-parole period of two years and four months.

## Corruption

A significant focus of the Commercial, Financial and Corruption Practice Group is prosecuting allegations of foreign bribery, contrary to section 70.2 of the *Criminal Code* (Cth). In accordance with the *Prosecution Policy of the Commonwealth*, the CDPP will commence prosecutions in all cases where there are reasonable prospects of obtaining a conviction based on the available, admissible evidence, and it is in the public interest.

In Victoria, we are prosecuting matters arising from the high profile Australian Federal Police investigations into Note Printing Australia Pty Ltd and Securrency International Pty Ltd, entities linked to the Reserve Bank of Australia. These prosecutions are subject to numerous non-publication directions and suppression orders so it is not appropriate to provide further details.

In New South Wales we are prosecuting three individuals arising from an investigation into Lifese Engineering Pty Ltd and contracts it won for government-funded construction projects in Iraq.

In June 2016 we established a specialist work group in Melbourne to focus on foreign bribery prosecutions. The aim of this specialist work group is to centralise technical expertise, advice and lessons learned to better support CDPP prosecutors and our partner agencies in this very complex area. This specialist work group forms part of a national Foreign Bribery 'focus group' within the CDPP, which in turn works closely with the Australian Federal Police 'Panel of Experts' on foreign bribery.

Having regard to the findings of the *Foreign Bribery Report* published by the Organisation for Economic Co-operation and Development (OECD) in 2014, we have been in discussions with the Australian Federal Police about ways to potentially improve the self-reporting of foreign bribery by corporations.

## Policy engagement and law reform

The Commercial, Financial and Corruption Practice Group has been working closely with the Attorney-General's Department in relation to law reform and other policy initiatives that have the potential to affect the landscape for the prosecution of serious financial crime in Australia. In 2015–16 our engagement focused on:

- drafting the new 'false accounting' offences in Division 490 of the *Criminal Code*
- identifying law reforms required to strengthen the framework for prosecuting foreign bribery in Australia or by Australians
- contributing to the Attorney-General's Department's public consultation paper, *Improving enforcement options for serious corporate crime: Consideration of a Deferred Prosecution Agreements Scheme in Australia*.

The Commercial, Financial and Corruption Practice Group also made submissions to:

- the Senate inquiry into foreign bribery
- the Senate inquiry into criminal, civil and administrative penalties for white collar crime.

Copies of the CDPP's submissions to the Senate Economics References Committee are available on the Senate's website.

Members of our Commercial, Financial and Corruption Practice Group also participated in consultations with the Treasury about how to simplify the cartel offences in the *Competition and Consumer Act 2010* in response to recommendations made by the Competition Policy Review ('Harper Review').

### **Use of material obtained by compulsory powers in prosecutions**

In recent years the High Court's decisions in *Lee*<sup>2</sup> (No.2), and *X7*<sup>3</sup> and the New South Wales Court of Criminal Appeal decision in *Seller & McCarthy*<sup>4</sup> have raised fundamental questions about the scope of the compulsory powers vested by statute in a number of Commonwealth investigating agencies—in particular, the Australian Crime Commission, the Australian Commission for Law Enforcement Integrity, the Australian Securities and Investments Commission and the Australian Consumer and Competition Commission—and their impact on an accused's right to a fair trial. Compulsory powers include the power to require a person to attend an examination and truthfully answer questions asked by an examiner, or to produce documents. They are 'compulsory' because they override a person's common law privilege against self-incrimination; instead, the law imposes limits on the uses that can be made of information or material that is obtained. A failure to comply with an exercise of a compulsory power is a criminal offence.

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2 *LEE v R* [2014] HCA 20; (2014) 253 CLR 455.

3 *X7 v Australian Crime Commission & Another* [2013] HCA 29; 248 CLR 92.

4 *R v SELLER; R v MCCARTHY* [2013] NSWCCA 42.

The issue for the CDPP is: can material obtained or derived from the exercise of an agency's compulsory powers be lawfully disseminated to the prosecution team in a related prosecution of the examinee; and, if so, is it admissible against them? Because each agency's legislation is drafted in different terms there are different legal arguments about the extent to which the reasoning in the decisions cited applies to each agency.

Many Commercial, Financial and Corruption Practice Group prosecutions have been delayed while defence applications for temporary and permanent stays have been heard by the courts. In a number of matters we have been required to engage entirely new prosecution teams to eliminate the risk of prejudice to an accused where, pre-*Lee*, the CDPP was given access to a transcript of their examination. As a result of the High Court's decision on 12 February 2016 to refuse special leave in the matter of OC, it is now clear that a transcript of a compulsory examination conducted under section 19 of the Australian Securities and Investments Commission Act can be disclosed to the CDPP and, depending on the facts, may be admissible in evidence against the accused. This is a very significant decision for us and means that ASIC-referred prosecutions are now progressing as usual.

As a result of the *Law Enforcement Legislation Amendment (Powers) Act 2015* which came into effect on 28 July 2015, the Australian Crime Commission Act and the Australian Commission for Law Enforcement Integrity Act have been amended to clarify the scope of the compulsory powers vested in those two agencies. We were involved in the consultation process that led to this amending legislation.

### Highest sentence ever handed down in Australia for insider trading

Hui (Steven) XIAO, the former Managing Director of Hanlong Mining Investment Pty Ltd (Hanlong), made about \$1.5 million from trading shares and contracts for difference in Australian mining companies Sundance Resources Ltd and Bannerman Resources Ltd in 2011, when Hanlong was planning to announce takeover offers for both companies. Xiao was extradited from Hong Kong. As part of charge negotiations, he pleaded guilty to two 'rolled-up' insider trading charges, representing 65 separate transactions.

On 11 March 2016 Xiao was sentenced to the highest ever sentence for insider trading in Australia—eight years three months' imprisonment with a non-parole period of five and a half years.

### CDPP assists in the recovery of proceeds of a crime

In December 2009 John GAY, the former chairman of collapsed Tasmanian timber company Gunns Ltd (Gunns), sold 3.4 million of Gunns shares for \$3.093 million when he had price sensitive information that had not been released to the market. This was information in a Gunns' monthly management report that showed a significant decline in the company's financial performance. Investors only became aware of the extent of Gunns' financial deterioration when Gunns released its half yearly report in February 2010.

In 2013 Gay pleaded guilty to one offence of insider trading in respect of the above trades. He was convicted and fined \$50,000.

In 2014, following a request from Australian Securities and Investments Commission, the CDPP brought an application in the Tasmanian Supreme Court under s116 of the *Proceeds of Crime Act 2002* to recover the benefit derived by Gay from the sale of the Gunns shares. Following court-ordered mediation, it was agreed that Gay would pay a \$500,000 pecuniary penalty order.

## Human Exploitation and Border Protection Practice Group

The Human Exploitation and Border Protection Practice Group Leader is Andrea Pavleka, Deputy Director.

### Practice group description

The work of this practice group is performed across all of our offices. Dedicated branches aligned with this practice group operate in our Sydney, Melbourne, Brisbane and Adelaide offices. Other branches in our offices in Canberra, Hobart, Perth, Townsville, Cairns and Darwin also receive work from this practice group.

This practice group prosecutes a wide variety of offence types including child exploitation offences, trafficking in persons and slavery, people smuggling, passport and migration offences, offences committed by way of telecommunications services or computers, and federal community policing.

The Human Exploitation and Border Protection Practice Group works closely with partner agencies including the Australian Federal Police, Australian Border Force, the Department of Foreign Affairs and Trade (Australian Passport Office), and state and territory police.

A large proportion of the work involves victims, particularly child victims. Prosecutors in this area work closely with investigators and our Witness Assistance Service to ensure that in the course of dealing with this very challenging work, victims are treated with dignity, courtesy and respect.

## HUMAN EXPLOITATION AND BORDER PROTECTION CRIMES PROSECUTED AND TOP REFERRING AGENCIES

### MATTERS MANAGED

- » Child exploitation
- » Trafficking in persons and slavery
- » People smuggling
- » Passport, visa and other migration offences
- » Telecommunications offences
- » Computer offences
- » Federal community policing

### TOP REFERRING AGENCIES

In 2015–16 the main investigative agencies that referred briefs of evidence to the Human Exploitation and Border Protection Practice Group were:



The Human Exploitation and Border Protection Practice Group generates a very large amount of advocacy work for Federal Prosecutors in the intermediate and superior courts around Australia, with the result that prosecutors are highly skilled in conducting plea and sentence hearings in this area.

### Crime types prosecuted

The offences prosecuted by this practice group include:

- **Child exploitation offences—** These include offences relating to child pornography material, child abuse material, and grooming and procuring persons under the age of 16 to engage in, or submit to, sexual activity, or to cause a child to engage in sexual activity with another person, whether by use of the internet, email, telephone or other telecommunication applications, or postal or similar services. These offences also include importation of child pornography and child abuse material, and child sex offences committed overseas by Australian citizens and permanent residents. The number of briefs and victims of crime in this practice area is increasing, as is the technical complexity of the work. These offences are becoming more sophisticated through the use of networks to distribute material, use of the 'dark web', encryption of devices and storage of material online in the 'cloud'. Refer to the case study on page 54 for more information.
- **Trafficking in persons and slavery—** This encompasses a range of offences including when people are moved across Australia's borders through coercion, threat or deception for the purposes of exploitation.

It also includes offences which subject people, already in Australia, to exploitative practices such as slavery, servitude, forced labour, forced marriage, debt bondage or organ trafficking. To date, the majority of victims identified are women working in the sex industry. However, increasingly, victims of other forms of labour exploitation are being identified including in the agricultural, construction and hospitality industries.

- **People smuggling—**Offences for people smuggling apply to both the organisers of ventures, and the crews of the vessels, who bring people to Australia who are not Australian citizens and have no lawful right to come to Australia. Other offences include concealing a non-citizen who has illegally entered or intends to enter Australia, and making or using false documents.
- **Passport, visa and other migration offences—**Passport offences relate to the misuse of, and fraudulent application for, travel documents. This includes improperly using or possessing, selling, damaging, altering or dishonestly obtaining an Australian travel document. Migration and visa offences often include the provision of immigration assistance by a person not lawfully able to do so, and supplying false or misleading information and/or documents in support of a visa application.
- **Telecommunications offences—** This includes offences relating to telephone hoaxes, threats, menacing, offensive or harassing calls, or improper use of an emergency call service.

- **Computer offences**—This includes offences committed using a computer, computer network, or other form of information communications technology. Typically, this relates to conduct where technology is the target of the criminal activity, such as hacking, malware and ‘denial of service’ attacks.
- **Federal community policing**—These offences are committed on airlines, ships, at airports or other federal places, including immigration detention centres.

### Stakeholder engagement

We have national liaison arrangements in place with the Australian Federal Police, Australian Border Force and the Australian Passport Office.

Since the commencement of Divisions 270 and 271 of the *Criminal Code*, 17 people have been convicted of trafficking in persons and slavery-related offences, following prosecution by the CDPP. We continue to engage with the Australian Federal Police to provide early pre-brief advice on investigations in these very technical areas and to provide training to agencies investigating these offences. This year we provided advice to the Australian Federal Police in relation to 10 matters, covering a range of allegations including slavery, people trafficking, debt bondage, forced marriage and servitude.

There is a transnational nature to crimes prosecuted by the Human Exploitation and Border Protection Practice Group. As a result, we have participated in international and national forums as part of our contribution to law reform and Australia’s obligations under international

law, and to enhance relationships with our partner agencies, non-government organisations and other bodies supporting victims.

Engagement in this area over the past year included:

- attending and presenting at a conference in Taiwan hosted by the International Centre for Missing and Exploited Children, in June 2016
- attending and presenting at the Youth, Technology and Virtual Communities Conference, hosted by the Queensland Police Service (Taskforce Argos) at Bond University, in April 2016
- coordinating and hosting a visiting delegation of Senior State Counsel from Sri Lanka in Sydney, in May 2016
- providing ongoing advice and support to the Singaporean Ministry of Manpower in relation to the prosecution of people trafficking
- contributing as a member of the Senior Officials’ Committee on people smuggling crew prosecutions, the Operational Working Group and at the Parliamentary Roundtable on Human Trafficking, throughout 2015–16
- attending a Pacific Region Cybercrime Training Programme in Nuku’alofa, Tonga, in February 2016
- convening and participating in a capacity building joint Cybercrime Workshop with the Australian Federal Police, in May 2016
- presenting on the topic ‘Human Trafficking Prosecutions and Victim Court Support’ to a visiting Malaysia–Australia Delegation, in May 2016.



## Policy and law reform

### *Non-consensual sharing of intimate images—Legal and Constitutional Affairs References Committee*

In January 2016, we made a submission to the Legal and Constitutional Affairs References Committee in relation to the phenomenon colloquially referred to as ‘revenge porn’. This involves sharing private sexual images and recordings of a person without their consent, with the intention of causing that person harm. Our submission commented on existing Commonwealth, state, and foreign laws—defining the material that may constitute ‘revenge porn’, identifying potential Constitutional limitations where state and Commonwealth offences criminalise the same conduct, and proposing increased penalties where the victim is a child.

The Committee’s report recommended that the Australian Government legislate, to the extent of its constitutional power and in conjunction with state and territory legislation, offences for: knowingly or recklessly recording an intimate image without consent; knowingly or recklessly sharing intimate images without consent; and threatening to take and/or share intimate images without consent, irrespective of whether or not those images exist.

### Human trafficking

Following our detailed submission to the Legal and Constitutional Affairs Reference Committee in relation to the Crimes Legislation Amendment (Powers, Offences and Other Measures) Bill, amendments to the ‘forced marriage’ offence in the *Criminal Code* came into force on 27 November 2015.

The definition of a ‘forced marriage’ was expanded to also include circumstances in which a person does not freely and fully consent because he or she is incapable of understanding the nature and effect of a marriage ceremony, for reasons such as age or mental capacity. The amended definition also creates a presumption that a person under the age of 16 does not understand the nature and effect of a marriage ceremony, even where there has been no use of coercion, threat or deception. The penalties for a forced marriage were also increased to seven years for the base offence and nine years for the aggravated offence.

### Royal Commission into Institutional Responses to Child Sexual Abuse

In November 2015 we provided assistance to the Royal Commission into Institutional Responses to Child Sexual Abuse by providing documents including policies, procedures, guidelines and information relating to our Witness Assistance Service. In April 2016 we participated in a roundtable discussion with the Commission and state and territory DPPs regarding processes for dealing with cases involving child victims of sexual offences.

### Victims of crime

The Human Exploitation and Border Protection Practice Group is receiving an increasing number of referrals involving adult and child victims and vulnerable witnesses. Prosecutions involving victims and vulnerable witnesses present unique challenges and can also require engagement with Commonwealth, state and territory witness assistance services, as well as various non-government organisations involved in victim support.

## Witness Assistance Service

Our Witness Assistance Service is a national service provided out of our Sydney office by two qualified social workers. This service aims to ensure that we provide information and support, in accord with the *Prosecution Policy of the Commonwealth* and our *Victims of Crime Policy*, to the most vulnerable victims and witnesses involved in matters prosecuted by the CDPP.

### Services to victims and witnesses

The Witness Assistance Service Referral Guidelines, contained in a National Legal Direction, require that CDPP lawyers refer all identifiable child victims and victims of slavery, sexual servitude and forced marriage offences to the Witness Assistance Service. Following referral, Witness Assistance Service and legal staff work together to ensure that the most vulnerable victims of Commonwealth crime are provided with information and support throughout the prosecution process.

In 2015–16 a total of 245 new victims/witnesses were referred to the Witness Assistance Service, of whom 107 (44 per cent) were children. All new child referrals involved sexual offences, the vast majority (95 per cent) of which occurred online.

**Table 12: New Witness Assistance Service referrals in 2015–16**

Offence type	Victims/Witnesses*
Online child sex exploitation	222
Child sex offences outside Australia	6
Commercial/economic	2
Drugs	1
Miscellaneous	14
Total	245

\*Includes parents/caregivers of child victims.

Our Witness Assistance Service 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. During the reporting period there were 1,551 instances of contact with victims/witnesses referred to the Witness Assistance Service.

## Training and education

Our Witness Assistance Service also provides training to CDPP staff in relation to victims' issues. During 2015–16 the Witness Assistance Service, in collaboration with a Principal Federal Prosecutor, developed and delivered National Victim Training across the Office. This training was mandatory for legal staff in the Illegal Imports and Exports/Human Exploitation and Border Protection Practice Groups and aimed to raise awareness in relation to victim-related policy, legislation and practice issues. A total of 167 CDPP staff (115 legal and 52 administrative support) attended the 2016 National Victim Training. In addition, Witness Assistance Service staff provided induction training to new legal staff throughout the reporting period.

The Witness Assistance Service also delivered presentations to a delegation of Senior State Counsel from Sri Lanka and the Malaysia–Australia Human Trafficking (Victim Protection) Roundtable during the reporting period.

Information resources for victims including the Witness Assistance Service Referral Guidelines are available on our website at [www.cdpp.gov.au](http://www.cdpp.gov.au).

## SIGNIFICANT CASES

### Website administrators receive significant sentences

This year, two administrators of child pornography websites were successfully prosecuted. Significant sentences were imposed in each matter, namely Shannon McCOOLE was sentenced to 35 years' imprisonment with a non-parole of 28 years (this sentence is a combination of state and federal sentences) and Matthew David GRAHAM was sentenced to 15 and a half years' imprisonment with a non-parole period of 10 years. These results demonstrate not only that investigators and prosecutors are well placed to meet the challenges of highly sophisticated online offending, but that administrators of websites that facilitate the distribution of child pornography can expect to receive lengthy sentences from the courts.

### First CDPP prosecution for child trafficking leads to prison sentence

The second ever conviction for an offence of trafficking in children, and the first prosecuted by the CDPP occurred in 2015–16. The offender fathered twin daughters born via an overseas surrogate, brought them to Australia, sexually abused them and produced video recordings and images of those assaults for the purpose of making it available to others online.

The offender was also convicted of other child pornography and sexual abuse offences, some of which involved two of his nieces. The offender was sentenced to 22 years' imprisonment with a non-parole period of 15 and a half years, reflecting the seriousness of the offending and the importance of deterrence, protection of the community, denunciation and punishment.

# Unravelling a web of deceit

## CASE STUDY

The internet is increasingly used as a platform for criminal activity. For paedophiles it enables anonymity while engaging in online child exploitation of children. Often it only takes one person to speak up to bring these offenders to justice.

Between February 2011 and October 2013, a 33-year-old Victorian man, Daniel WATSON, posed as a teenage girl and created numerous fake social media and email accounts to befriend and communicate with young females. After building trust, Watson would send an explicit photo of a teenage girl, encouraging them to reciprocate. The victim would assume the image was of their new friend. Instead, the explicit photo was of an earlier victim.

When a victim reciprocated, Watson would make demands and threaten to publish the photos or videos on the internet, or give them to the victim's family, friends or school. In some cases he threatened to tell police that the victims were sending child pornography. In this way, he pressured his victims to provide more explicit imagery.

### The importance of speaking up

In August 2013, members of the Victoria Police online child exploitation taskforce, Astraea, executed a warrant at Watson's house, seizing computer equipment and a smart phone. This investigation was initiated after a 14-year-old girl and her mother contacted Victoria Police and said a teenage girl had been using threats to demand nude photos of the 14-year-old and her younger sister. They had been communicating via Facebook and an app called Kik.

Watson initially denied knowledge of the girl who complained to police, and said the social media accounts were used by other people. He later admitted to using some of the accounts and said it was possible he had communicated with the complainant.



The police investigation found a complex web of deceit, threats and traumatised young girls.

After Watson was arrested and bailed on 20 August 2013, he made contact with one of the victims again and tried to force her to send him more sexually explicit pictures and videos. Watson was subsequently rearrested and has been in custody since November 2013.

As the investigation unfolded, it emerged that Watson had collected a total of 1,480 photos and 41 videos from victims in Victoria, interstate and overseas.

More details emerged in court. Watson had forced a 15-year-old from the United States to perform explicit acts with her five-year-old sister and then send him photos and videos of the acts. Watson then allegedly demanded more images, threatening to report the victim to the police if she did not send them.

He allegedly repeated this with a 14-year-old Australian girl and her younger sister—the victim who spoke up and ultimately led police to Watson.

Watson was charged with 27 offences covering 43 victims from whom he obtained child pornography material and a further 28 victims from whom he had solicited child pornography or menaced and harassed. He pleaded guilty after negotiations at committal.

### Crown appeal results in an increased sentence

On 20 August 2015 Watson was sentenced to seven years' imprisonment with a non-parole period of four years and eight months.

Following a Crown appeal on 20 April 2016, Watson's sentence was increased to 10 years and five months with a non-parole period of seven years and three months.

The majority judgment of the Victorian Court of Appeal stated 'When considered as a whole, the nature and circumstances of this offending were extremely serious, and warranted very significant penalties'.

The successful appeal reinforced the fact that crimes of this nature are very serious and will be punished accordingly.

### Prosecuting complex child exploitation matters—media interest

This case received significant media attention.

Part of the CDPP's role in prosecuting offenders is to raise awareness of these crimes in order to educate the community and deter potential offenders. This case provided opportunities to work proactively with media outlets that had the capability to raise awareness and educate the broader community about online child exploitation and the fact it can happen to anyone.

### Supporting victims and witnesses

Cases such as this highlight the importance of our dedicated Witness Assistance Service which supports the victims or witnesses through the prosecution process.

As part of the CDPP's prosecution processes we refer the most vulnerable victims and witnesses to our dedicated Witness Assistance Service. This service puts a qualified social worker alongside the prosecutor to ensure the victim or witness is guided and supported through every stage of the prosecution process.

### Looking after staff wellbeing

In addition to looking after the needs of victims and witnesses, the CDPP conducts mandatory wellbeing checks for Federal Prosecutors working in areas with a risk of psychological injury or accumulative stress.

This area of crime is psychologically stressful. Cases can involve thousands of disturbing images, and consequently, the scale and seriousness poses challenges for both investigators and prosecutors.





## Illegal Imports and Exports Practice Group

The Illegal Imports and Exports Practice Group Leader is Andrea Pavleka, Deputy Director.

### Practice group description

The work of the Illegal Imports and Exports Practice Group is performed across all of our offices. Dedicated branches aligned with these practice groups operate in our Sydney, Melbourne, Brisbane and Adelaide offices. Other branches in our Canberra, Hobart, Perth, Townsville, Cairns and Darwin offices also receive work from this practice group.

This practice group prosecutes offences associated with protecting the integrity of Australia’s borders, including general drug and precursor importation offences, drug-related money laundering, general money laundering, quarantine offences, wildlife imports and exports, other import and export offences (for example, illicit tobacco, steroids or weapons) and illegal cross-border movements of money.

Key agencies this group works with include the Australian Federal Police, the Department of Immigration and Border Protection (Australian Border Force), the Department of Agriculture and Water Resources, AusTrade and state and territory police.

The Illegal Imports and Exports Practice Group is a high volume, arrest driven, indictable practice undertaking the largest number of trials conducted by the CDPP. Prosecutors in Illegal Imports and Exports branches are skilled criminal litigators and spend a significant proportion of each year undertaking committal hearings and instructing in trials.

## ILLEGAL IMPORTS AND EXPORTS

### CRIMES PROSECUTED AND TOP REFERRING AGENCIES

#### MATTERS MANAGED

- » Serious drug and precursor importations
- » Money laundering
- » Other importation and exportation matters

#### TOP REFERRING AGENCIES

In 2015–16 the main investigative agencies that referred briefs of evidence to the Illegal Imports and Exports Practice Group were:





Trial work usually relates to drug and precursor importations or money laundering. Our Federal Prosecutors also undertake a substantial amount of advocacy by way of plea/sentence hearings in the intermediate courts around Australia.

### Crime types prosecuted

The offences prosecuted by this practice group include:

- **Serious drug and precursor importations**—The interception of illicit drugs and drug precursors at the border prevents them from entering the Australian community. Chemical precursors, such as pseudoephedrine, are an essential part of the production process for illicit drugs. Drug and precursor offences are among the most serious Commonwealth offences and attract substantial penalties, including imprisonment for life for offences involving commercial quantities of serious drugs. Importation activity may take place at airports (via the use of couriers), or through Australia's ports (through shipping containers) or increasingly, through the postal system. There are a range of other serious drug offences in the *Criminal Code* including possession, trafficking and the commercial manufacture of drugs. On occasion, we also prosecute state and territory drug offences, usually where the investigation involves a Commonwealth agency or where the offences have a federal aspect.

- **Money laundering**—The Illegal Imports and Exports Practice Group is responsible for prosecuting drug-related money laundering crimes. The offences are defined in Part 10.2 of the *Criminal Code* and encompass a very wide range of criminal activity. Money laundering activity involves two distinct aspects:

- dealing with money or property where it is intended to become, or where there is a risk that it will become, an instrument of crime
- dealing with money or property that is the proceeds of crime.

Money laundering is a diverse activity that often occurs via third parties who are well removed from the core criminal activity (such as drug importation). Launderers play an important role in facilitating and concealing serious criminal activity and in the retention of the profits of serious crimes. There is no single method of laundering money, although use of the banking system and money transfer services is common. Money launderers are constantly creating schemes to attempt to circumvent measures designed to detect them.

- **Other importation and exportation matters**—Our partner agency, the Department of Agriculture and Water Resources, refers cases following investigations relating to quarantine offending, breaches of food import controls, forgery of exportation documentation and breaches of export control legislation involving the exportation of live cattle. The Australian Border Force also refers breaches of the Customs Act, which may relate to illicit importations of firearms and other weapons, steroids and tobacco.

## Stakeholder engagement

The practice group works closely with partner agencies, particularly those with responsibilities in relation to the import and export of goods to and from Australia.

Apart from providing core litigation services to agencies, this practice group engages in regular national and regional liaison with the Australian Federal Police, Australian Border Force and the Department of Agriculture and Water Resources, to ensure the strategic objectives of each agency are well understood. These forums also provided a valuable opportunity to discuss trends, identify systemic issues within the investigative or prosecution processes as well as identifying potential law reform and training requirements.

The practice group also provided training to the Australian Federal Police, Australian Border Force, Department of Agriculture and Water Resources, and state and territory police during the year, and an Australian Federal Police representative attended the annual Illegal Imports and Exports/Human Exploitation and Border Protection Practice Group conference in October 2015.

## Policy and law reform

The Illegal Imports and Exports Practice Group worked very successfully with the Attorney-General's Department, in conjunction with the Australian Federal Police, to bring about amendments to the *Criminal Code*. The relevant amendments have achieved important objectives to facilitate the effective prosecution of drug and precursor cases:

- *The Crimes Legislation Amendment (Powers, Offences and Other Measures) Act 2015*, effective from 26 November 2015, made the following significant amendments:
  - The inclusion of s.300.6 into the Code has ensured that the lower fault element of 'recklessness' will now be sufficient to prove an offence of 'attempt', just as it would be for the substantive offence. Historically, when law enforcement agencies substituted drugs and precursors with inert substances, this often resulted in prosecutors proceeding with charges of 'attempt'. Prior to these amendments, this resulted in an elevation of the fault element that was required to be proved as to the nature of the substance.
  - The proof of offences relating to the importing and exporting of precursors under the *Criminal Code* has now been simplified by the repeal of the 'intent to manufacture' element that previously existed.

- *The Crimes Legislation Amendment (Proceeds of Crime and Other Measures) Act 2015*, effective from 1 March 2016, made several amendments to the serious drug offence provisions in the *Criminal Code* to clarify the definitions of the terms 'drug analogue' and 'manufacture', thereby ensuring the appropriate legislative prohibition of relevant substances and activities. In particular:
  - The definition of 'drug analogue' was amended to clarify that the terms 'addition' and 'replacement' have their ordinary meaning rather than their scientific meaning. This change was necessary to remove ambiguity and to ensure that the Code operated to capture all substances that are structurally similar to listed controlled and border controlled drugs.
  - The definition of the term 'manufacture' in s.305.1 of the Code was amended to ensure that it applied to processes where a substance is converted from one form into another, but which do not necessarily create a new substance or change the chemical structure of the substance. These changes were necessary to remove ambiguities in the definition of 'manufacture' as highlighted by the decision of the Victorian Court of Appeal in *BEQIRI v R* (2013) 37 VR 219.



**Export company prosecuted for false fumigation records for chickpea exports**

Woods Grain Pty Ltd was an export grain company and Thomas WOODS was a director of the company. Between 2007 and 2009 the company packed chickpeas for export to India and Bangladesh for six commodity traders. Exports to India must be fumigated with methyl bromide, and Bangladeshi fumigation requirements vary. The company created false fumigation and/or clearance certificates in order to falsely obtain from the Department of Agriculture and Water Resources phytosanitary certificates clearing the chickpeas for export. In late 2008 Woods became aware of the practice and attempted to conceal it from authorities. Woods Grain Pty Ltd was charged in Brisbane with 68 counts of influencing a Commonwealth public official between 26 October 2007 and 10 October 2009 (s 135.1(7) of the Code). Woods ultimately pleaded guilty to 16 counts relating to false clearance certificates.

Judge Butler SC, who convicted Woods Grain Pty Ltd and fined it \$680,000, noted that the dishonest conduct risked compromising the integrity of Australia's export inspection and certification system, exposed Australia to criticism and breached the trust the company owed to exporters while falsely invoicing them. Thomas Woods was sentenced to 18 months' imprisonment, to be released after six months upon entering into a recognisance of \$1,000 conditioned that he be of good behaviour for two years.

**Significant sentences for importing 400 kilograms of cocaine by sea**

In 2010 'A' sailed a catamaran from Panama carrying 400 kilograms of cocaine to Australia. A transfer of the drugs was made 320 nautical miles from the Australian coastline to an Australian yacht sailed by 'B' and 'C'. Bad weather forced this yacht to dock in Scarborough, Queensland. A vehicle was driven from Port Macquarie in New South Wales to Scarborough to meet B and C. C loaded a sample 45 kilograms of cocaine into the vehicle and B and C were arrested shortly afterwards. Customs apprehended A near the drug transfer point. After a trial of four weeks concluding on 14 August 2015 the accused were found guilty by the jury and were sentenced by Judge Atkinson of the Supreme Court on 16 September 2015.

Each of the three was sentenced to 30 years' imprisonment with non-parole periods of 20 years for B, 18 years for C and 16 years for A. In sentencing the Judge noted that the 'wholesale value was some \$200,000 per kilogram and, therefore, the wholesale value was about \$80 million. The retail value may well have been somewhere in the vicinity of \$120 million'. Her Honour said, 'This was very serious offending, obviously undertaken purely for profit, of a very, very significant amount of a drug that would have caused great damage to the Australian community, an activity which would have been, had it not been

for information supplied by the Drug Enforcement Administration from the United States, very difficult to detect. Hence, this is very much a case where the fear of punishment should be weighed by those who attempted to engage in such activity and where punishment and deterrence are the primary considerations’.

As B and C have appealed against their convictions and sentences to the Queensland Court of Appeal and those appeals are yet to be heard, the names of all three accused have not been used in this Annual Report.

### **Conviction for possession of border controlled drug**

KEV and co-offender SOK, were convicted by a jury in the County Court of Victoria of one charge of importing, and one charge of possessing, a border controlled drug (heroin) in not less than a commercial quantity. The charges related to the importation of heroin, disguised as brown hair dye, through the mail from Cambodia. Forensic analysis revealed the sachets of hair dye contained 14.045 kilograms of brown liquid. The total pure net weight of heroin in the sachets was 2.4016 kilograms.

Kev and Sok were each sentenced to a total effective sentence of 14 years nine months’ imprisonment with a non-parole period of 11 years.

Each appealed his conviction and sentence on the basis that it was manifestly excessive. The conviction appeals were dismissed. In dismissing the appeals against sentence, the Court held that the most significant factor in sentencing Sok and Kev was the objective seriousness of their offending. The quantity imported was approximately eight times the prescribed commercial quantity.

International Assistance  
and Specialist Agencies  
Practice Group

The International Assistance and Specialist Agencies Practice Group Leader is David Adsett, Deputy Director.

Practice group description

The International Assistance and Specialist Agencies Practice Group has branches in the Canberra and Hobart offices. Deputy Director, David Adsett, took over management of the Practice Group from Shane Kirne, Deputy Director, in May 2016, together with assuming responsibility for leading National Business Improvements for the CDPP, including Legal Learning and Professional Development.

The International Assistance and Specialist Agencies Practice Group is responsible for dealing with offences against a wide array of Commonwealth criminal laws referred by a variety of partner agencies. Much of this work is specialised in nature and compliance focused, and includes matters arising from Federal Elections and the Census, administration of justice offences such as perjury, offences involving Commonwealth officials, the environment, fisheries, marine safety, bankruptcy, Indigenous corporations, therapeutic goods, aviation compliance, copyright and trademarks, radiocommunications and crimes at sea.

This practice group also has a key role in international assistance, including extradition and mutual assistance. Additionally, the practice group coordinates the CDPP's proceeds of crime work, and our obligations under the *Freedom of Information Act 1982* and *Privacy Act 1988*.

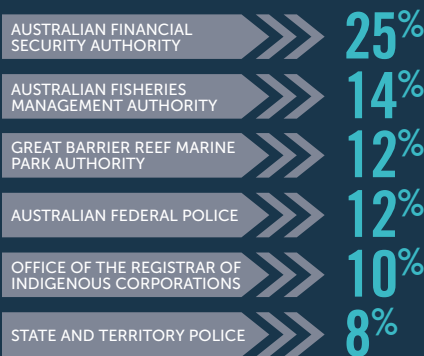
INTERNATIONAL  
ASSISTANCE AND  
SPECIALIST AGENCIES  
CRIMES PROSECUTED AND  
TOP REFERRING AGENCIES

MATTERS MANAGED

- » Aboriginal and Torres Strait Islander Corporations
- » Administration of justice offences
- » Aviation compliance
- » Bankruptcy
- » Defence
- » Electoral offences
- » Environment
- » Extradition and mutual assistance
- » Fisheries, marine safety and crimes at sea
- » Intellectual property
- » Offences against Commonwealth officials and property
- » Secrecy and browsing offences
- » Specific regulatory offences
- » Work, health and safety compliance

TOP REFERRING AGENCIES

In 2015–16 the main investigative agencies that referred briefs of evidence to the International Assistance and Specialist Agencies Practice Group were:



## International assistance

International assistance is an important tool in the successful prosecution of transnational crime. International assistance in the form of extradition and mutual assistance is vital to effectively investigate and prosecute 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.

Increasingly, we seek cooperation from other countries to assist in the prosecution of transnational crime and to apprehend and extradite fugitives. The primary responsibility for these areas rests with the Attorney-General's Department, Australia's central authority for mutual assistance in criminal matters and extradition. However, we play an important part in assisting with requests.

Based on our expertise and practical experience in prosecuting, we also contribute internationally, particularly within the region, to legal capacity programmes to strengthen effective investigation and prosecution of criminal activities such as people smuggling, human trafficking terrorism and cybercrime. This contribution is significant in building international and regional relationships, which are important given the increasingly transnational nature of criminal activity.

## Mutual assistance

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

The formal mutual assistance regime runs parallel to 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 to be 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 provide assistance to each other. This international network is underpinned by a number of bilateral treaties and multilateral conventions. Australia has ratified 29 bilateral mutual assistance treaties and a number of multilateral conventions, which bind the signatories to provide mutual assistance to each other. These include the:

- *United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances*
- *United Nations Convention against Transnational Organised Crime*
- *Convention on Laundering, Search, Seizure and Confiscation of the Proceeds of Crime.*

Countries that are not signatories to mutual assistance treaties or conventions may also request mutual assistance from, and provide mutual assistance to, each other. This is done under the principle of reciprocity where countries agree to provide assistance to each other on a case-by-case basis, on the understanding that each will receive similar assistance in return.

We are responsible for drafting mutual assistance requests to foreign countries to support Australian criminal proceedings for federal offences where charges have been laid against the alleged offender. By arrangement with the Attorney-General's Department, in drug-related matters we provide detailed information to the department to facilitate the making of mutual assistance requests. This year we were involved in the preparation of 78 outgoing requests made by Australia to 31 foreign countries in relation to matters where charges were laid by a Commonwealth investigative agency or where we received specific funding to draft mutual assistance requests related to a particular matter or type of matter. These outgoing requests were generally made in conjunction with Commonwealth investigative agencies or joint taskforces comprising law enforcement officers from Commonwealth, state and territory agencies.

## **Extradition**

Extradition is a formal process where offenders who are outside the jurisdiction are returned to the country requesting extradition to be prosecuted or to serve a sentence of imprisonment. Extradition is an important and effective mechanism in law enforcement.

The Attorney-General's Department has sole responsibility for international extradition for all countries except New Zealand. Our role in extradition is confined to requesting that extradition be sought in Commonwealth matters and the execution of incoming requests from New Zealand.

In the case of outgoing extradition requests, we prepare documents 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, and is found to be in a foreign country.

## ***Outgoing requests***

During the year we asked the Attorney-General's Department to make one extradition request to a foreign country in relation to prosecutions we were conducting. One person was surrendered to Australia during 2015–16 as a result of extradition requests made in previous years. A further 11 requests from previous years are 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 Australian Federal Police. We appear on behalf of New Zealand in extradition proceedings before a Magistrate to determine whether a person will be surrendered, and in any review or appeal arising from those proceedings.

In the past year we appeared on behalf of New Zealand in relation to two matters. Those proceedings resulted in one person being surrendered to New Zealand.



## Specialist agencies

The 'specialist agencies' aspect of the International Assistance and Specialist Agencies Practice Group arises from the breadth of Commonwealth criminal legislation. As a consequence we receive referrals from a wide variety of partner agencies whose work does not fall within the specific crime types covered by the other practice groups. We recognise the importance of these partner agencies by allocating their work to a dedicated practice group.

During 2015–16 the International Assistance and Specialist Agencies Practice Group implemented a Centralised Model to deal with referrals from our specialist agencies—with matters referred, as far as possible, to the International Assistance and Specialist Agencies Canberra and Hobart offices. Under this model, responsibilities for specific agency work have also been assigned to our Adelaide and Townsville offices. The centralisation of this practice group's specialist agency work commenced with matters referred from 1 February 2016. The new model takes advantage of the efficiencies that come from closer specialisation and improves the consistency and quality of our work.

## Partner agencies

The International Assistance and Specialist Agencies Practice Group deals with many and varied specialised agencies. Our strategy is to foster expertise in specialist agency matters and to enhance our liaison relationship so that we can work efficiently and effectively with these agencies to assist them to achieve their strategic objectives. The agencies include:

- Australian Bureau of Statistics
- Australian Commission for Law Enforcement Integrity
- Australian Communications and Media Authority
- Australian Crime Commission
- Australian Electoral Commission
- Australian Fisheries Management Authority
- Australian Federal Police and state and territory police
- Australian Financial Security Authority
- Australian Grape and Wine Authority
- Australian Maritime Safety Authority
- Australian Pesticides and Veterinary Medicines Authority
- Australian Skills Quality Authority
- Civil Aviation Safety Authority
- Clean Energy Regulator
- Comcare
- Department of Defence
- Department of Education and Training
- Department of Employment
- Department of the Environment and Energy
- Department of Health

- Department of Industry, Innovation and Science
- Department of Infrastructure and Regional Development
- Fair Work Building and Construction
- Foreign Investment Review Board
- Great Barrier Reef Marine Park Authority
- National Measurement Institute
- National Offshore Petroleum Safety and Environmental Management Authority
- Office of the Director of Military Prosecutions
- Office of the Registrar of Indigenous Corporations
- Tertiary Education Quality and Standards Agency
- Therapeutic Goods Administration (within the Department of Health).

### Freedom of information

The International Assistance and Specialist Agencies Practice Group is responsible for general freedom of information policy and reporting work. Responsibility for responding to freedom of information requests and decision-making is delegated to designated Freedom of Information Officers in each of the regions.

### Criminal confiscation

Up until 1 January 2012 the CDPP had sole responsibility for conducting criminal confiscation action under Commonwealth legislation. On 1 January 2012 the Criminal Assets Confiscation Taskforce was established. The taskforce is led by the Australian Federal Police and includes the Australian Taxation Office and the Australian Crime Commission. At the same time, legislative amendments to the *Proceeds of Crime Act 2002* (POCA 2002) came into force to enable the Australian Federal Police Commissioner to take criminal confiscation action under that Act.

Following the establishment of the taskforce, the Australian Federal Police has taken responsibility for the majority of proceedings under the POCA 2002, and our role in criminal confiscation action is now limited. Since 2 April 2012 we have not commenced criminal confiscation action in non-conviction based matters, or conviction-based matters commenced by restraining order.

We retain responsibility for taking criminal confiscation action in matters where the restraint of property is not required to preserve the property for confiscation, and the person has been convicted of an offence. All other matters are conducted by the taskforce.

Between 1 July 2015 and 30 June 2016, a total of \$3,615,725 was recovered through action we took under the POCA 2002.

A small number of restraining orders made under the POCA 2002 to secure property to pay pecuniary penalty orders remain active, as recovery action by the Official Trustee is ongoing.

## Other legislation

The *Proceeds of Crime Act 1987* (POCA 1987) applies to cases in which confiscation action commenced prior to 1 January 2003. No amendments have been made to the POCA 1987 to enable the Australian Federal Police Commissioner to conduct matters under this Act. Recoveries continue to be made in a small number of residual matters under this legislation.

The CDPP also has statutory duties under the *Crimes (Superannuation Benefits) Act 1989* and Part VA of the *Australian Federal Police Act 1979*. We have the function of bringing applications to forfeit the employer-funded component of superannuation payable to Commonwealth and Australian Federal Police employees who have been convicted of corruption offences. One superannuation order was made in 2015–16 pursuant to the *Crimes (Superannuation Benefits) Act 1989*.

We have two further responsibilities in this area, which have not been used following the enactment of proceeds of crime legislation under Division 3 of Part XIII of the *Customs Act 1901* and the *Director of Public Prosecutions Act 1983*.

Each state and territory in Australia has legislation dealing with the confiscation of property derived from state and territory offences, which facilitate proceeds of crime action by state and territory authorities.

**Table 13: *Proceeds of Crime Act 2002*—orders in 2015–16**

	Number	Value
Conviction based pecuniary penalty orders	1	\$500,000
Conviction based forfeiture orders	13	\$1,155,516

**Table 14: Criminal assets—summary of recoveries for 2015–16**

	Amount recovered
POCA 1987 pecuniary penalty orders	\$53,621
POCA 1987 forfeiture orders	\$0
POCA 1987 automatic forfeiture	\$0
POCA 1987 sub total	\$53,621
POCA 2002 pecuniary penalty orders	\$500,418
POCA 2002 forfeiture orders	\$1,513,186
POCA 2002 automatic forfeiture	\$1,602,121
POCA 2002 sub total	\$3,615,725
Total	\$3,669,346

## Agreements

On 22 December 2015, a Mutual Expectations document between the CDPP and the National Offshore Petroleum Safety and Environmental Management Authority was settled. The document reflects the practical expectations of the CDPP and our partner agency in relation to discharging our obligations. The document formalises the requirement for levels of communication that meet both our organisations' operational requirements, including indicating certain periods within which responses and actions are required. The aim of the document is to assist each agency to determine what we may expect from each other and, in turn, enhance the performance of each organisation.

## Policy instructions

During 2015–16, the International Assistance and Specialist Agencies Practice Group revised the following Practice Group Instructions (PGI):

- PGI No. 1—Proceeds of crime actions
- PGI No. 8—*Bankruptcy Act 1966*
- PGI No. 9—Defence Force: discipline offences and offences committed by members of visiting forces.

These instructions can be accessed from our website: [www.cdpp.gov.au](http://www.cdpp.gov.au).

## Policy engagement and law reform

During the reporting period the International Assistance and Specialist Agencies Practice Group was consulted on a proposal to amend the *Defence Force Discipline Act 1982* in relation to consents for the prosecution of certain types of drug offences or drug

matters involving trafficable quantities within Australia. The practice group also provided information to the Productivity Commission's Intellectual Property Arrangements Inquiry, regarding prosecution activity pursuant to the *Copyright Act 1968* and *Trade Marks Act 1995*.

## International engagement

In May 2016, a member of the practice group made a presentation on mutual assistance to delegates visiting Australia as part of the Sri Lankan Prosecutor Pairing Programme.

One of our Principal Federal Prosecutors also attended an official engagement in April 2016 with Thai law and justice officials participating in a counter-terrorism investigations and prosecutions study tour. The event was also attended by Australia's Counter-Terrorism Ambassador and the Thai Ambassador to Australia as well as representatives from the Attorney-General's Department and the Office of the Counter-Terrorism Co-Ordinator.

On 18 November 2015 representatives from the International Assistance and Specialist Agencies Practice Group met with delegates of the Legal Task Force of the Inter Agency Forum against Corruption from the Republic of Uganda. The Task Force was looking at best practice, and the challenges faced by Australia, in the implementation of the *Proceeds of Crime Act 2002* and Mutual Assistance in *Criminal Matters Act 1987*.

### Company convicted for offshore gas rig fatalities

On 27 August 2012 two men were fatally injured on board the Stena Clyde, a mobile offshore gas drilling rig operating in Commonwealth waters in Bass Strait. The men were struck by heavy, rotating equipment during an operation to attempt to free the drilling mechanism, which had become stuck in the sea floor. An investigation by the National Offshore Petroleum Safety and Environmental Management Authority found that the deaths were attributable to a failure to implement recognised safety procedures designed to minimise the risk of such occurrences.

On 3 September 2015 Stena Drilling Australia Pty Ltd was convicted and fined \$330,000 in the Magistrates' Court of Victoria, for its failure to implement and maintain systems of work that were safe and without risk to health, contrary to Schedule 3, Clause 9(4) of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*. The Magistrate stated that, but for the plea of guilty, the fine would have been \$440,000. (The maximum penalty for a corporation at the time of the offence was \$550,000.) In sentencing the accused, the Magistrate noted that the work environment was inherently dangerous, that the potential consequences for the crew and the environment of any failures were extremely grave and that general deterrence was required. The Magistrate noted that while the accused company had a proactive safety system and, prior to the incident, a good safety record, scrupulous adherence to safety systems was essential.

### Government employee convicted for disclosing classified information

In October 2012, a Department of Defence graduate employee, Michael SCERBA, downloaded a classified sensitive document from the Defence Secret Network and posted two pages of the document on an image sharing website. Several people viewed and commented on the post before it was automatically deleted by the website. The total number of people who accessed the sensitive information is not known.

On 5 November 2015 Scerba pleaded guilty in the ACT Supreme Court to one count of disclosure of information by a current Commonwealth officer under section 70(1) of the *Crimes Act 1914*. Scerba was convicted and sentenced to a maximum of 12 months' imprisonment to be released after three months upon entering into a recognisance order pursuant to section 20(1)(b) of the *Crimes Act 1914* in the sum of \$500, and to be of good behaviour for two years. In handing down the sentence, Justice Refshauge accepted that Scerba had not intended to compromise national security, although he knew the disclosure could cause harm. Justice Refshauge said that the 'level of harm may never be known'. Justice Refshauge also accepted there had been no political, ideological, or financial motive for the offending. He found the seriousness of the offence required a sentence of full-time imprisonment.

# Organised Crime and Counter-Terrorism Practice Group

The Organised Crime and Counter-Terrorism Practice Group Leader is Scott Bruckard, Deputy Director.

## Practice group description

The Organised Crime and Counter-Terrorism Practice Group is responsible for the prosecution of all counter-terrorism and large-scale organised crime matters. This practice group, which comprises specialist lawyers supported by administrative support staff, prosecutes these cases before the courts throughout Australia. In addition our lawyers provide legal advice to our partner agencies during the course of police investigations. Early cooperation between police and prosecutors in complex criminal investigations helps to focus investigative resources, improve efficiency and deliver better law enforcement outcomes.

This practice group has branches in Sydney, Melbourne and Perth. In addition, another five branches of prosecutors across Australia, particularly Brisbane and Adelaide, receive work from this practice group.

# ORGANISED CRIME AND COUNTER-TERRORISM CRIMES PROSECUTED AND TOP REFERRING AGENCIES

## MATTERS MANAGED

- » Large-scale and cross-border organised crime and related offences
- » Counter-terrorism
- » War crimes
- » Security of the Commonwealth prosecutions

## TOP REFERRING AGENCIES

In 2015–16 the main investigative agencies that referred briefs of evidence to the Organised Crime and Counter-Terrorism Practice Group were:



## Crime types prosecuted

- **Organised crime**—Large-scale and cross-border organised crime and related offences are commonly investigated on a multi-agency basis, including:
  - crime group, illegal substance, firearm trafficking
  - related offences such as money laundering and facilitating corruption.
- **Counter-terrorism**—This crime type encompasses all counter-terrorism offences and includes the provision of qualified pre-brief advice.
- **War crimes**—These include a range of offences committed in the course of armed conflicts.
- **Security of the Commonwealth prosecutions**—This work includes offences relating to Australia's national security.

## Stakeholder engagement

Our key partner agencies in this work are the Australian Federal Police, the Australian Security Intelligence Organisation, the Australian Crime Commission, and state and territory police services.

In 2015–16 our Federal Prosecutors delivered specialised counter-terrorism training to Australian Federal Police as well as state and territory police agencies across Australia.

The Organised Crime and Counter-Terrorism Practice Group is also supported by, and works closely with, staff from the Attorney-General's Department and the Office of the Counter-Terrorism Co-ordinator.

The support provided by staff in these two agencies has been invaluable, particularly as the CDPP responded to the resource demands arising from the recent surge in counter-terrorism referrals.

## Counter-terrorism work

This year saw a further significant increase in the number of counter-terrorism matters referred to the CDPP for prosecution and pre-brief legal advice. We are presently conducting prosecutions in Sydney, Melbourne and Brisbane that relate to alleged plans to commit acts of terrorism in Australia. Some of these matters involve children and young persons. One such matter arises from a plan to kill a police officer on Anzac Day in Melbourne and then use the officer's weapon to attack others. In each of these cases, the alleged plan to commit a terrorist act was successfully disrupted by police and intelligence agencies before it could be implemented. Australia's unique counter-terrorism laws allow criminal liability for terrorism offending to arise at a much early stage than is the case for other, traditional crime types. These laws help to protect the community by enabling a criminal prosecution to be undertaken for preparatory acts.

Unfortunately not all acts of terrorism have been disrupted. The CDPP is presently prosecuting a number of persons for terrorism offences that arise out of the tragic death of a New South Wales police employee outside police headquarters in Parramatta in October 2015. These matters are now before the courts in New South Wales.

In addition to our domestic counter-terrorism work, the Organised Crime and Counter-Terrorism Practice Group continues to receive referrals related to Australian citizens who have become involved in, or are supporters of, the armed conflicts in Syria and Iraq. Some of these matters involve the supply of money or other resources intended to support those participating in these conflicts. Other matters involve the prosecution of returning foreign fighters. Many of these cases give rise to complex legal issues and often require the gathering of evidence from jurisdictions outside of Australia.

In December 2015 the Australian Government provided the CDPP with additional resources to deal with the unprecedented number of new counter-terrorism referrals being received. These resources have been used to recruit additional staff and invest in the capacity building and knowledge-sharing required to support prosecutors working in this highly specialised crime type. In addition, these resources will fund the undertaking of a number of lengthy jury trials, which are expected to take place in the year ahead.

In September 2015 we held our inaugural Practice Group Conference in Sydney. Federal Prosecutors from Sydney, Melbourne, Brisbane, Canberra and Perth attended, along with invited guests from key partner agencies. The theme for this conference was 'Foreign Fighters'. This conference provided prosecutors with an opportunity to share valuable knowledge and insights into legal and practical issues associated with the prosecution of foreign fighter cases. Importantly, this conference also provided prosecutors with an opportunity to build relationships with staff from key external agencies as well as prosecutors from other parts of Australia.

## Organised crime work

Our organised crime work covers a broad range of criminal conduct, but predominantly involves commercial drug importation, drug trafficking, money laundering and waterfront corruption. These matters generally involve cross-border and transnational criminal conduct. This work is largely referred to us from the Australian Federal Police and various joint-agency taskforces that have been established to combat organised crime throughout Australia.

Those prosecuted for organised crime offences face heavy penalties if convicted. Where charges are contested, jury trials may run for many weeks or months and involve the presentation of large volumes of electronic and physical surveillance evidence. These long and complex cases require a significant personal commitment from our staff and the counsel we engage to present the evidence before the court. Such cases also highlight the value of an early plea of guilty and emphasise the need for us to engage early with partner agencies to focus on evidence selection and proactively look for opportunities to narrow issues in dispute.

## Policy engagement and law reform

The Organised Crime and Counter-Terrorism Practice Group actively looks for opportunities to support the important legislative and policy work of the Australian Attorney-General's Department. In 2015–16 our engagement focused on legislative and policy issues including:

- the New South Wales Parliament's enactment of new police powers, which provide for 'investigative detention' of those suspected of committing terrorism crimes



- legal issues surrounding the prosecution of children charged with terrorism offences
- legislative amendments introduced in the *Crimes Legislation Amendment (Harming Australians) Bill 2015*—these amendments extend the retrospective application of the offences in sub-sections 115.1 and 115.2 of the *Criminal Code* of murder and manslaughter of an Australian citizen or resident of Australia outside Australia, to crimes that occurred before 1 October 2002
- the Counter-Terrorism Legislation Amendment Bill (No. 1) 2015.

Our Organised Crime and Counter-Terrorism Practice Group also assisted the Independent National Security Legislation Monitor with various inquiries.

### International engagement

During the year, our Organised Crime and Counter-Terrorism Practice Group hosted delegations from the Philippines, Thailand and Korea. These meetings provided an opportunity to share our experience prosecuting counter-terrorism cases with legal officials and policy-makers from important countries in our region. Such engagements contribute to the global effort that is required to combat international terrorism. In addition, one of our prosecutors travelled to New Zealand in February 2016 to attend the Five Eyes Law Enforcement Group Proceeds of Crime Working Group conference.



### First conviction for assisting Australians to fight in Syria

Hamdi ALQUDSI is the first person to be convicted of providing assistance to Australians wishing to travel to Syria with the intention of joining a group engaged in the armed hostilities taking place there. Alqudsi was charged on indictment in the Supreme Court of New South Wales with seven offences contrary to section 7(1)(e) of the *Crimes (Foreign Incursions and Recruitment) Act 1978*. It was alleged that Alqudsi performed services for seven men intending that they would travel to Syria and fight on the front line in the conflict. Alqudsi advised and instructed the men about travel routes, hotel accommodation, appropriate currencies and how to solve problems with local security services. In addition, Alqudsi also made arrangements for some of the men to meet up with Mohammad Ali Baryalei (aka Abu Omar), an Australian then working with one of the armed groups fighting in the Syrian conflict.

In the course of this prosecution Alqudsi made a number of legal challenges. He sought a declaration that the offence provision under which he had been charged was invalid on the ground that it exceeded the external affairs power contained in section 51(xxix) of the Constitution. In addition, Alqudsi brought proceedings in the High Court of Australia seeking an order that he be permitted to stand trial before a judge alone, without a jury. Both applications failed.

Mr Alqudsi<sup>5</sup> was convicted of all seven offences.

### New Zealand citizen found guilty of preparing to fight in Syria

Amin MOHAMED, a New Zealand citizen who had been living in Australia, was one of several men who had been assisted by Alqudsi to make arrangements to travel and fight in Syria.

Mohamed was charged with doing an act preparatory to the commission of a foreign incursions offence contrary to section 7(1)(a) the *Crimes (Foreign Incursions and Recruitment) Act 1978*. The prosecution alleged that in 2013, Mohamed intended to travel to Syria to engage in hostile activity. The charges arose out of his application for a passport, booking of an airline ticket to Turkey and his receipt of contact details of a person who could guide him from Turkey into Syria.

At his trial Mohamed elected to give evidence. He told the jury that he intended to travel to Syria to perform humanitarian aid work and that he communicated with Alqudsi as someone who could facilitate his travel to Syria. Mohamed said his use of coded language and his selection of an indirect route to enter Syria was motivated by the need to avoid unwarranted police attention in a climate where young Muslim men were easily suspected of being involved in terrorist activity.

The jury rejected Mohamed's evidence. He was found guilty of all three charges.

5 On 1 September 2016, Hamdi Alqudsi was sentenced to eight years' imprisonment with a non-parole period of six years for assisting seven men in their efforts to travel to Syria in order to join the armed conflict taking place there.

### **Informer sentenced on drugs and money laundering charges**

In March and April 2015 James Henry KINCH pleaded guilty to his part in two separate conspiracies to import illicit drugs into Australia. The first, a conspiracy to import a commercial quantity of MDMA contrary to section 233 B (1)(cb) of the *Customs Act 1901*, occurred between 2001 and 2003. The maximum penalty for this offence is life imprisonment. Kinch also pleaded guilty to one count of money laundering contrary to section 81 (since repealed) of the *Proceeds of Crime Act 1987*, which carried a maximum penalty of imprisonment for 20 years.

Kinch was arrested for state drug offences in 2003 by police attached to the New South Wales Crime Commission. He became a registered informer, directly managed by former Assistant Director Mark Standen. A corrupt relationship developed and in 2008, Kinch, Standen and co-conspirator Bakhos Jalalaty were charged with conspiracy to import a commercial quantity of pseudoephedrine.

Kinch is a British and Irish citizen who was closely associated with an international drugs and money laundering group based in the Netherlands.

In February 2016 Kinch was sentenced to 22 and a half years' imprisonment for the MDMA importation, and seven years partially accumulated on the money laundering count. A non-parole period of 16 years was fixed. For the count of conspiracy to import a commercial quantity of pseudoephedrine, Kinch was sentenced to be imprisoned for 14 and a half years with a non-parole period of 10 years.

## Revenue and Benefits Fraud Practice Group

The Revenue and Benefits Fraud Practice Group Leader is James Carter, Deputy Director.

### Practice group description

The Revenue and Benefits Fraud Practice Group is generally responsible for prosecuting fraud against the Australian Government, including general tax fraud, social security fraud, Medicare fraud, and identity fraud. This practice group is also responsible for prosecuting fraud-related money laundering, counterfeit currency and child support offences.

Prosecuting fraud offences is a major part of our overall practice. Commonwealth revenue and benefit systems rely heavily on the integrity and honesty of all Australians. These prosecutions are fundamental in protecting Commonwealth resources for the benefit of all Australians.

The Revenue and Benefits Fraud Practice Group is identifying innovative ways to engage with partner agencies and is implementing measures to increase the efficiency and effectiveness of the brief assessment process. The practice group is focusing on collaboration, innovation and supporting and developing our lawyers.

## REVENUE AND BENEFITS FRAUD CRIMES

### CRIMES PROSECUTED AND TOP REFERRING AGENCIES

#### MATTERS MANAGED

- » General tax fraud and tax compliance, including income tax and goods and services tax (GST) fraud
- » Social security fraud
- » Medicare fraud
- » All other frauds against the Australian Government including internal fraud and counterfeit currency
- » Fraud-related money laundering
- » Identity fraud
- » Child support offences
- » Postal offences

#### TOP REFERRING AGENCIES

In 2015–16 the main investigative agencies that referred briefs of evidence to the Revenue and Benefits Fraud Practice Group were:



## Crime types prosecuted

### *Revenue fraud*

Prosecuting tax frauds continued to be an important part of our practice this year. As in previous years, there were a significant number of fraud cases relating to income tax and the GST. We prosecute tax frauds referred by the Serious Non-Compliance area of the Australian Taxation Office, as well as the Australian Federal Police.

The GST is a key element of the Australian tax system. Prosecutions relating to GST vary in sophistication from small-scale fraud to large, complex schemes. By prosecuting people who exploit that system—for example, by failing to report cash income they receive or falsifying claims for GST credits—we help to maintain voluntary compliance with tax laws.

### *Benefits fraud*

The Department of Human Services provides a range of health, social and welfare payments and services including through Centrelink, Medicare and Child Support. Of all our partner agencies, this department refers the largest number of briefs to the CDPP.

Our prosecutions play an essential role in protecting Commonwealth resources and ensuring support is provided where it is most needed in our community. Briefs typically relate to allegations that people have intentionally engaged in conduct and, as a result, received social, health or welfare services or payments they knew they were not entitled to.

Centrelink prosecutions typically involve a person receiving benefits that have been calculated on a false premise. For example, a person might say they are unemployed when, in fact, they are receiving income from paid employment, or they might fail to advise the department that they have become a member of a couple. Cases can also involve fraud where someone has received benefits on behalf of a person who has died, or where someone uses multiple identities to obtain multiple benefits.

Child Support fraud includes claims for child support by someone who is not entitled to that support, parents who do not correctly declare their income or relationship status, and employers who fail to deduct an amount from a paying parent's salary or wage, or fail to forward an amount that has been deducted.

Medicare fraud may involve claims for services that were not provided. This can involve a person using their own name to claim services from Medicare, or service providers or their employees using patients' identities to make fraudulent claims. The Department of Human Services investigates fraud by patients and the Department of Health investigates fraud by service providers.

### *Stakeholder engagement*

Over the past year our Revenue and Benefits Fraud Practice Group engaged with partner agencies to advance their enforcement strategies and consider longer-term strategic issues. We have strengthened liaison and coordination arrangements with partner agencies and increased informal liaison.



Our Revenue and Benefits Fraud Practice Group is the lead practice group for all liaison with the Australian Taxation Office and the Department of Human Services and also works closely with the Australian Federal Police.

In addition, this practice group liaises with and conducts prosecutions referred by:

- the Department of Health, which is responsible for investigating allegations of fraud by Medicare providers and their employees
- the Department of Social Services, which is responsible for programmes relating to the National Rental Affordability Scheme and Disability Employment Services
- the Department of the Prime Minister and Cabinet, which has primary responsibility for Indigenous affairs and most Commonwealth Indigenous-specific policy and programmes
- the Department of Veterans' Affairs, which refers briefs of evidence relating to a range of fraudulent activity, including claiming benefits to which one is not entitled, fraud through over-servicing by service providers, and deceased beneficiary cases.

### **Policy and law reform**

The Revenue and Benefits Fraud Practice Group works closely with our partner agencies to identify and develop reform proposals.

### Financial advantage gained by deception results in imprisonment

On 9 March 2016 former accountant and tax agent Christopher KIRKWOOD of Mackay Queensland was sentenced to two years and six months' imprisonment to be released after serving nine months, after he pleaded guilty to three counts of obtaining a financial advantage by a deception in the District Court at Mackay.

Kirkwood was the sole director of Wellsprings Financial Services Pty Ltd. This company was Trustee for Wellsprings Financial Services Trust (the Trust) which operated an accountancy and tax agent practice in Mackay known as CR Kirkwood & Associates (the Business). Kirkwood was the principal of the Trust and the Business. The beneficiaries of the Trust were Kirkwood, his wife Katrina Kirkwood and the company.

Between 29 December 2005 and 15 May 2008 Kirkwood lodged income tax returns with the Australian Taxation Office on behalf of the Trust for the financial years 2005, 2006 and 2007. On each of these tax returns Kirkwood falsely declared that the Trust had made distributions of income to clients of his business. These clients were not beneficiaries of the Trust and Kirkwood was aware that these clients had carried forward losses from previous years available to offset the trust distributions. The lodgement of these false tax returns resulted in Wellsprings Financial Services Pty Ltd being liable to pay less income tax.

The total shortfall in income tax for the financial years 2005, 2006 and 2007 arising from the lodgement of these false tax returns was \$377,732.

Kirkwood was sentenced in relation to three counts of obtaining a financial advantage by deception contrary to section 134.2(1) of the *Criminal Code*.

He was sentenced to two years and six months' imprisonment to be released after serving nine months upon a single recognisance in the sum of \$2,000 conditioned that he be of good behaviour for a period of two years. Kirkwood was further ordered pursuant to section 21B of the *Crimes Act 1914* to pay reparation to the Commonwealth in the sum of \$377,732.

# Catching those who receive benefits using false claims

## CASE STUDY

The prosecution of fraud offences is a major part of our legal practice. Fraud offences can include tax fraud, aged care fraud, Medicare fraud, tax and social security fraud.

One of the most commonly prosecuted fraud offences is Centrelink fraud. Perpetrators who think this is an easy way to receive additional benefits don't realise that Centrelink's sophisticated capability to detect and investigate fraud includes data matching, advanced data analysis, surveillance and tip-offs. It is only a matter of time before the law catches up with them.

This was the case for Ezzat ZAKY, a 62-year-old from Mount Druitt in New South Wales.

Between July 1999 and January 2008, Zaky claimed and received Parenting Payments and Newstart Allowance in the name Ezzat Zaky while working for multiple employers and also lodging Newstart claims in an alias of Dr Ezzat William.

Zaky's wife was also receiving social security payments. On the birth of their first son she was granted Family Allowance in May 1988, and after the birth of their second son she was granted Family Payments.

Ezzat Zaky received a total overpayment of \$56,599.92 as a result of his fraudulent conduct.

### Managing a dual identify led to downfall

Centrelink investigated Zaky when it was found he removed a phone number he provided to Centrelink as part of his contact details after only one week, and again when online documents showed that in December 2007, he rang Centrelink 'to make enquiries about hypothetical situations'—namely whether surrendering his Newstart Allowance would affect his partner's payment.





Ezzat Zaky was sentenced to five years' imprisonment, to be released after serving two years and six months for intentionally mispresenting his circumstances to Centrelink by not disclosing the correct amount of his income from employment over almost 10 years and receiving benefits simultaneously in the name Ezzat Zaky and Ezzat William. Zaky had previous criminal convictions for fraud.

Courts take the offence seriously because it is viewed as stealing Commonwealth funds that are meant to help those who are most in need. Zaky's sentence is a clear example that ongoing, intentional and sustained offending does not pay.

### Working with partners to send a strong message of deterrence

The Australian Department of Human Services refers the largest number of briefs to the CDPP. These prosecutions play an essential role in protecting Commonwealth resources, ensuring that support is provided where it is most needed in our community.

Cases typically involve a person receiving benefits that have been calculated on a false premise, such as someone claiming to be unemployed when receiving income from paid employment or claiming to be single when part of a couple. Cases can also involve fraud where someone has received benefits on behalf of a person who is deceased or, as in Zaky's case, where multiple identities are used to obtain multiple benefits. Prosecutions may involve significant sums, particularly where there has been a continuing fraud over many years.

We continue to work closely with the Department of Human Services to improve the investigative-prosecution process and respond to the changing volume and complexity of matters, while sending a strong message of deterrence to potential offenders.

# Prosecution appeals against sentence

The *Prosecution Policy of the Commonwealth* provides that the prosecution right to appeal against sentence should be exercised with appropriate restraint. In deciding whether to appeal, we consider whether there is a reasonable prospect that the appeal will be successful. 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 sentence 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 sentencers
- an appeal will enable the court to establish and maintain adequate standards of punishment for crime
- an appeal will ensure, as far as the subject matter permits, uniformity in sentencing
- an appeal will enable an appellate court to correct an error of legal principle.

In 2015–16 a total of 14 prosecution appeals against sentence in indictable matters were decided. Of those, 11 were upheld while three were dismissed.

## R v ALLAN

In the course of his employment with the Department of Immigration, Alex Escala ALLAN<sup>6</sup> used his position for personal and financial gain, including receiving in excess of \$563,000 in bribes. In just under a year in 2013–14 he self-allocated and approved the assessment of 59 visa applications, 17 of which were for family and friends and 42 of which were at the request of a co-offender in exchange for money. In the Brisbane District Court Allan pleaded guilty to abuse of public office and receiving a bribe contrary to the *Criminal Code*. He was sentenced to two years' imprisonment, to be released after serving eight months. The Director's appeal against sentence was successful, and Allan was resentenced by the Queensland Court of Criminal Appeal to two and a half years' imprisonment, to be released after serving 15 months.

## R v ONYEBUCHI

Emmanuel Onyekachi ONYEBUCHI<sup>7</sup> pleaded guilty in the Supreme Court of Queensland to importing 791.9 grams of methamphetamine (a commercial quantity) with an estimated value between \$673,000 and \$2.02 million. A Crown appeal against sentence was successful, with the Queensland Criminal Court of Appeal substituting a sentence of nine years' imprisonment with a non-parole period of four and a half years in place of the original sentence of seven years' imprisonment with a non-parole period of three and a half years.

6 R v ALLAN (22 June 2016) (Appeal Court judgment not available at the time of this report).

7 R v ONYEBUCHI [2016] QCA 143 (7 June 2016).

The appeal court found that by reference to application of legal principles set out in comparable cases, the sentence at first instance was manifestly inadequate, given the amount of drugs imported and the defendant's essential role in the offending.

### **R v DUONG**

Khanh Minh DUONG<sup>8</sup> was convicted at first instance in the Victorian County Court on one charge of trafficking heroin and two charges of aiding, abetting and procuring a marketable quantity of heroin contrary to the *Criminal Code* and was sentenced to 11 years' imprisonment with a non-parole period of seven years. The offences related to a period between 2009 and 2011 when Duong was the principal in a number of syndicates that facilitated the importation of heroin into Australia and its subsequent trafficking. Following a successful appeal by the Director, Duong was resentenced by the Victorian Court of Appeal to 14 years' imprisonment with a non-parole period of 11 years. The appeal court allowed the appeal on the basis that the defendant was a principal, given his position near the top of each relevant trafficking syndicate and the quantity of heroin trafficked was at the highest end of the scale.

### **R v WATSON**

Daniel WATSON<sup>9</sup> was convicted in the Melbourne County Court of multiple Commonwealth and state child exploitation offences committed between 2011 and 2013. He forced young females, both in Australia and overseas, to send him sexually explicit pictures and videos of themselves by threatening to send these images to their families and schools.

In total the offending involved over 70 victims, 43 of whom sent him sexually explicit material. Watson was originally sentenced in the County Court of Victoria to seven years' imprisonment with a non-parole period of four years and eight months. The Director's appeal against sentence was upheld, and Watson's sentence was increased by the Victorian Court of Appeal to imprisonment for 10 years and five months, with a non-parole period of seven years and three months. See case study on page 54.

### **R v YUAN**

Ziyi YUAN<sup>10</sup> was convicted of importing a commercial quantity of methamphetamine into Sydney between August and September 2012 and was sentenced in the New South Wales District Court to 10 years' imprisonment with a non-parole period of six years. The weight of the imported drugs was 73 times more than the quantity qualifying it to be a commercial amount. The wholesale value of the drugs was estimated to be between \$13 and \$17 million and the retail value was estimated to be between \$48 million and \$55 million.

The New South Wales Criminal Court of Appeal upheld the Director's appeal on the grounds the sentence was manifestly inadequate and resentenced Yuan to 15 years' imprisonment to serve a minimum of 10 years.

The appeal court emphasised the significant need for general deterrence and the sentencing principle that 'the difficulty of detecting importation offences, and the great social consequences that follow, suggest that deterrence is to be given chief weight

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8 *R v DUONG* [2015] VSCA 255 (17 September 2015).

9 *R v WATSON* [2016] VSCA 73 (20 April 2016).

10 *R v YUAN* [2015] NSWCCA 198 (31 July 2015).

on sentence and that stern punishment will be warranted in almost every case'. The defendant's role in the importation was found to be significant, his offending involved considerable planning and he occupied a pivotal position as the supervisor/executor of the operation. It was also found that the offence was committed for substantial financial gain.

### **R v SALEH**

Adam SALEH<sup>11</sup> pleaded guilty in the New South Wales District Court to a charge of aiding and abetting the importation of tobacco products with the intention of defrauding the revenue contrary to section 233BABAD(1) of the *Customs Act 1901*. During a 12-day period in March 2013, Saleh organised the final stages of the importation into Australia of 2,250 kilograms of unmanufactured loose tobacco from Indonesia. The tobacco was concealed in a shipping container of 600 bamboo blinds. He organised the movement of the container through Customs and then its subsequent delivery, unpacking and storage within Australia. As a result of the information provided by Saleh regarding the contents of the container, the duty payable on the import was \$4,696.21. The import duty payable on the tobacco actually imported was \$996,997.50.

In the New South Wales District Court Saleh was sentenced to 20 months' imprisonment but ordered that he be released forthwith, upon entering into a recognisance to be of good behaviour for 20 months—effectively a suspended sentence.

An appeal by the Director against sentence was successful with the

New South Wales Court of Criminal Appeal, imposing a sentence of three years' imprisonment with two years to be served. The majority of the court found that the Crown had made out two of the grounds of appeal, namely that the sentencing judge had erred in her assessment of the objective seriousness of the offence and also that the sentence was in all the circumstances manifestly inadequate. The court found that even though Saleh was not the principal behind the importation, his level of involvement was reasonably significant and further, that he committed a reasonably serious instance of the offence. Given the maximum penalty of 10 years' imprisonment and/or a fine of up to five times the duty payable on the tobacco, the court determined that a full-time custodial sentence was required.

This appeal was the first to consider the section 233BABAD(1) offence provision, which had been specifically introduced by parliament in 2012 to provide appropriate penalties to act as a strong deterrent against illegal importations of tobacco.

On 28 July 2016 the High Court refused an application by Saleh seeking special leave to appeal against the judgment of the New South Wales Court of Criminal Appeal.

### **R v PORTE and R v DE LEEUW**

In two unrelated New South Wales matters the Director was successful in appeals involving offences of possession of child pornography and accessing child pornography via the internet where the offenders were sentenced to imprisonment to be served by way of Intensive Correction Order (ICO).

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11 *R v SALEH* [2015] NSWCCA 299 (4 December 2015).

David Ferdinand PORTE<sup>12</sup> was convicted of offences of possessing more than 34,000 files of child abuse material and using a carriage service to access child pornography material. He was sentenced by the New South Wales District Court to 18 months' imprisonment on each charge to be served concurrently by way of an Intensive Corrections Order.

The New South Wales Criminal Court of Appeal upheld the Crown appeal and Porte was re-sentenced to an effective sentence of two years and nine months' imprisonment with a non-parole period of one year and six months. The Appeal Court determined that a substantial wrong had occurred and the interests of justice required the imposition of an immediate period of imprisonment.

The Appeal Court observed the general principles in sentencing these types of offences, including that the courts have made it clear that the ready availability of this type of material has warranted substantial penalties with general deterrence and denunciation being paramount considerations. At the outset of their judgement, the Appeal Court generally observed, 'There are few areas where the age of the internet has impacted upon the criminal law more severely than in the field of child pornography offences'. The Court recited the rationale of the Government in 2010 in its Explanatory Memorandum in increasing the penalty for the Commonwealth accessing offences from 10 years' imprisonment to 15 years: 'it is evident that the internet is creating ever greater demands for new material of ever greater levels of depravity and corruption. The internet is being used to access and distribute child pornography on a massive global scale and offending

has become pervasive and widespread. As a result, offending behaviour is becoming increasingly destructive. Children, in addition to being victims of the initial abuse required for the production of the material, are exploited on a massive scale through the repeated distribution of the image, or images, throughout international networks'.

The appeal court held that the imposition of an Intensive Corrections Order was an entirely inappropriate sentence given the magnitude of Porte's offending and the appropriate level of punishment required a sentence of immediate incarceration.

Paul De LEEUW<sup>13</sup> was convicted of possessing 32,000 files containing child abuse material and three counts of using a carriage service to access child pornography material over a seven-year period. He was sentenced in the District Court New South Wales to a total effective sentence of two years' imprisonment to be served by way of an ICO. The appeal court specifically referred to its recent decision regarding Porte, and upheld the Crown appeal on the grounds the sentence was manifestly inadequate. De Leeuw's total effective sentence was increased to three years' imprisonment with him being required to serve a minimum of one year and nine months prior to being eligible for parole.

## **Prosecution appeals in previous years**

### **2014–15**

In 2014–15 a total of 19 prosecution appeals against sentence in indictable matters were decided. Of these, 13 CDPP appeals were upheld and six were dismissed. In one of the dismissed appeals, the appeal court found that

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12 *R v PORTE* [2015] NSWCCA 174 (2 July 2015).

13 *R v LEEUW* [2015] NSWCCA 183 (10 July 2015).

the non-parole period imposed by the sentencing judge was manifestly inadequate, however, the court elected to exercise its residual discretion not to intervene and dismissed the appeal. In two of the dismissed appeals, the appeal court considered the sentences imposed at first instance, although not manifestly inadequate, were lenient or very lenient.

### 2013–14

In 2013–14 a total of 17 prosecution appeals against sentence in indictable matters were decided. Of these, 11 CDPP appeals were upheld, while six of our appeals were dismissed. In two of the dismissed appeals, the appeal court considered the sentences imposed at first instance, although not manifestly inadequate, were lenient, and in a third that the sentence was *prima facie* too merciful.

## Exercise of statutory powers

The Director has powers that can be exercised as part of conducting a prosecution. These include the power to ‘no Bill’ a prosecution, to grant an indemnity, to take over a private prosecution, to file an *ex officio* indictment and to consent to conspiracy charges being laid in a particular case.

### ‘No Bill’ applications

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 our own initiative. A submission made to the Director to discontinue such a matter is known as a ‘no Bill’ application.

The Director’s power to discontinue is delegated to the CDPP Practice Group Leaders and branch heads who make these decisions in certain circumstances.

In the past year there were 14 ‘no Bill’ applications received from defendants or their representatives decided by the Director or the Practice Group Leaders. Of these, three were granted and 11 were refused. A further 14 prosecutions were discontinued on the basis of a recommendation from a prosecutor without prior representations from the defendant. A total of 17 prosecutions were discontinued, following decisions by the Director in two matters and by Practice Group Leaders in 15 matters.

In all the 17 prosecutions that were discontinued the primary reason for discontinuing was because there was insufficient evidence.

Almost all of the matters that were discontinued involved drugs offences, with a relatively few number involving other offences such as fraud and money laundering.

## Indemnities

The *Director of Public Prosecutions Act 1983* (the DPP Act) empowers the Director to give an undertaking—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(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
- 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.

In 2015–16, we provided 10 indemnities under sections 9(6) and 9(6D) and two indemnities under section 9(6B), mostly in relation to drugs and related offences.

## Taking matters over—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 exercised this power in 2015–16 in relation to one person who had commenced a private prosecution.

## Ex officio indictments

The Director has powers under section 6(2A)–(2D) of the DPP Act to institute prosecutions on indictment referred to

as *ex officio* indictments. These powers are used in circumstances where a defendant consents to a prosecution on indictment without being examined or committed for trial or a defendant stands trial on different charges from those on which they were committed, whether under Commonwealth, state or territory law. 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 Practice Group Leaders and branch heads. In 2015–16 the Director or a Practice Group Leader exercised *ex officio* powers on nine occasions.

## Consent to conspiracy proceedings

The Director's consent is required before proceedings for Commonwealth conspiracy offences can be commenced. In 2015–16 the Director consented to the commencement of conspiracy proceedings against 45 defendants in relation to 24 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. In 2015–16 the Director was not required to give consent for such proceedings.



# CHAPTER

# 3





Management  
and  
accountability

## Prosecution service

We contribute to a fair, safe and just society by delivering an effective, independent prosecution service.

## Practice group model

Our national practice group model has strengthened the expertise of our knowledgeable and professional staff to respond to the changing nature and complexity of criminal prosecutions.

## Governance framework

Our governance framework ensures we meet the standard of fairness, openness, consistency, accountability and efficiency.

## Performance management

We manage our performance through a combination of careful planning, effective measurement and monitoring of performance, and appropriate, transparent reporting.

# Guiding policies

Our legislative policy and framework establishes the role of our organisation and the statutory position of Director. Key elements include:

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

## The role of the Director

The DPP Act establishes the Office of the Commonwealth Director of Public Prosecutions.

It sets out the functions and powers of the Director including independent responsibility for conducting prosecutions for offences against laws of the Commonwealth. The Director delegates most of those functions or powers to staff of the CDPP. The Director and staff together constitute a statutory agency and the Director is the head of that statutory agency.

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

# Internal governance

## Director

### **Sarah McNaughton SC**

On 5 May 2016 the Attorney-General, Senator the Hon George Brandis QC, announced the appointment of Ms Sarah McNaughton SC as Commonwealth Director of Public Prosecutions. Her appointment is for a period of five years.

Ms McNaughton has 27 years' experience as a legal practitioner.

She has been a respected member of the New South Wales Bar since 1996 and was appointed Senior Counsel in 2011.

Ms McNaughton has appeared as both prosecution and defence counsel in complex criminal trials and has specialist expertise in offences related to taxation, corporate crime, drug importation and terrorism.

She has held a range of roles in private practice and with the CDPP.

Ms McNaughton holds degrees in Arts (Hons), Law (Hons) and a Master of Laws from the University of Sydney.

## Commonwealth Solicitor for Public Prosecutions

### **Mark Pedley**

In October 2015, the former Director, Robert Bromwich SC, appointed Mark Pedley as the Commonwealth Solicitor for Public Prosecutions.

Mr Pedley previously worked at the CDPP, having joined the Office at its inception in 1984 as a prosecutor and appeared regularly in Victorian courts. He was Deputy Director of the Melbourne Office over 17 years between 1994 and 2011, before being appointed as a Judicial Registrar of the Victorian Court of Appeal.

Mr Pedley is a highly regarded criminal lawyer and senior executive leader, with an acknowledged expertise in federal sentencing. As Commonwealth Solicitor for Public Prosecutions he is a member of the executive leadership team and works closely with the CDPP legal practice and corporate management to enhance our prosecution services. Central to his role is ensuring effective investigation-prosecution partnerships—supporting our law enforcement and investigative stakeholders to advance the aim of the CDPP to ensure offenders are brought to justice and potential offenders deterred.

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

## Organisation structure

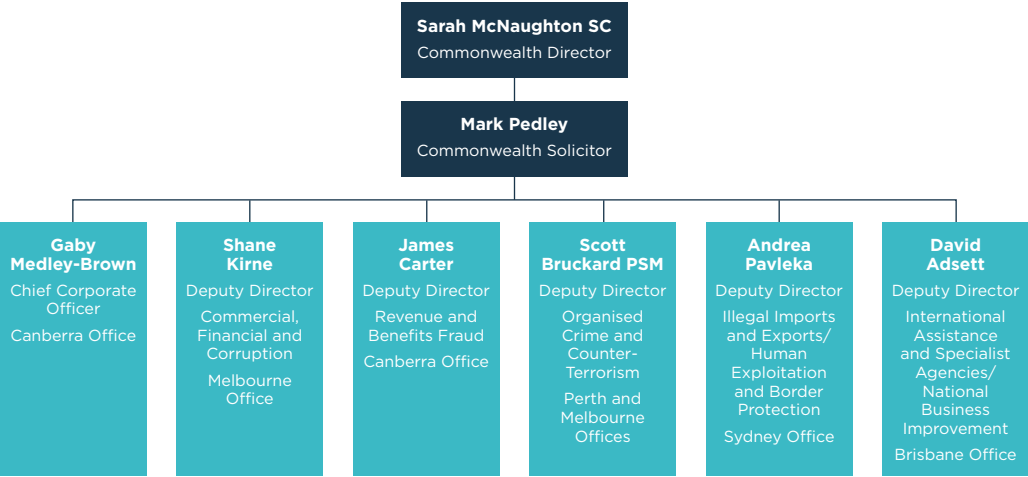
We implemented our national practice model last year to create a cohesive and nationally consistent federal prosecution service to harness the expertise of our knowledgeable and professional staff to respond to the changing nature and complexity of criminal activity.

This national model creates consistency, agility and flexibility to enable us to adapt and respond to the diverse range and volume of referrals received from partner agencies. As the volume and diversity of cases referred is outside our control, our national approach builds the capability of our people, enabling them to work consistently across a range of crime types and jurisdictions or specialise where necessary, for example in the emerging areas of counter-terrorism and online child exploitation.

While jurisdictional differences remain in the prosecution process, the model has built expertise and strengthened relationships with partner agencies by harnessing the collective expertise of the entire office.

While still in its infancy, the national practice model continues to evolve and deliver benefits—specifically the ability to adapt and change in response to changes in our operating environment, budget and partner agency referrals.

Figure 1: Organisation chart at 30 June 2016





Left to right: James Carter, David Adsett, Shane Kirne, Sarah McNaughton SC, Mark Pedley, Andrea Pavleka, Scott Bruckard PSM, Gaby Medley-Brown

## Executive Leadership Group

The Executive Leadership Group (ELG) is the key advisory group to the Director. The ELG comprises the Director as Chair, the Commonwealth Solicitor for Public Prosecutions, the Chief Corporate Officer and the Deputy Directors who provide advice on:

- prosecutions
- policy development
- law reform
- strategy
- planning
- governance and risk management
- practice management
- corporate management
- performance reporting
- significant issues of national interest to the CDPP.

The ELG is an accomplished team of professionals offering a broad range of expertise and specialist knowledge.

See more details about this group's role on page 102.

## David Adsett

**Deputy Director Illegal Imports and Exports/Human Exploitation and Border Protection (to 29 May 2016)**

**Deputy Director International Assistance and Specialist Agencies/National Business Improvement (from 30 May 2016)**

Mr Adsett has been a Federal Prosecutor for almost 30 years. During his extensive legal career he has conducted prosecutions for a wide range of Commonwealth offending, including money laundering, tax fraud, commercial fraud, drug importation, people smuggling and terrorism. He currently leads National Business Improvement Practice Group, including Legal Learning and Professional Development. Mr Adsett also heads the International Assistance and Specialist Agencies Practice Group, overseeing specialist agency work and the international functions of extradition and mutual assistance.

Mr Adsett is a Barrister and holds Law and Arts degrees from the University of Queensland and a Master of Laws degree from the University of Sydney.

## Scott Bruckard PSM

**Deputy Director Organised Crime and Counter-Terrorism**

Mr Bruckard has worked as a Federal Prosecutor for more than 27 years, prosecuting a wide range of crime types. Since 2004 he has specialised in the prosecution of counter-terrorism matters. Mr Bruckard has managed some of Australia's largest and high profile cases including the prosecution of Jack Thomas and the numerous prosecutions arising out of Australian Federal Police Operation Halophyte, Operation Neath and Operation Pendennis—Australia's largest counter-terrorism police investigation.

Mr Bruckard oversees the delivery of specialist legal services to police and other partner agencies during the course of counter-terrorism and more complex organised crime investigations. He has a strong interest in developing better ways to manage large criminal litigation, particularly through more effective partnerships and smarter use of technology. Mr Bruckard has represented Australia at a number of international counter-terrorism conferences and forums, including at the United Nations in New York and at a Global Counter-Terrorism Forum in Frankfurt.

In June 2016, Mr Bruckard was awarded a Public Service Medal (PSM) in recognition of his distinguished service to the law enforcement and justice community through spearheading counter-terrorism prosecutions.

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

## James Carter

### Director Revenue and Benefits Fraud

Mr Carter commenced his legal career at the CDPP as a graduate legal officer in 1987. He prosecuted in the Australian Capital Territory and New South Wales before moving to national legal, liaison, law reform and practice management roles.

Mr Carter has extensive experience in Commonwealth criminal law and working with partner agencies to successfully investigate and prosecute the wide range of Commonwealth criminal offences. He has contributed to the work of the Australian Law Reform Commission, particularly in relation to the sentencing of federal offenders. Mr Carter's experience led to his leadership of the Revenue and Benefits Fraud Practice group. In this role he is responsible nationally for the prosecution of general tax, social security, internal and identity fraud, to protect the integrity of Commonwealth programmes. 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.

## Shane Kirne

### Deputy Director Commercial, Financial and Corruption

#### Deputy Director International Assistance and Specialist Agencies (1 July 2015 to 29 May 2016)

Shane Kirne has been a key member of the CDPP since 1985.

Mr Kirne has personally handled and/or managed a diverse range of matters, including large and complex drug matters, complex commercial fraud and market manipulation matters, and prosecution of frauds committed against the Commonwealth or by Commonwealth employees, including fraud committed by a member of federal parliament.

Mr Kirne's knowledge and experience is highly regarded. He is regularly invited to speak at legal forums to share his knowledge of commercial crimes and their prosecution.

Mr Kirne holds degrees in Law (Hons) and Arts from the University of Melbourne.



## Gaby Medley-Brown

### Chief Corporate Officer

Ms Medley-Brown is an accomplished Chief Corporate Officer (CCO) with more than six years' experience in successfully leading all facets of corporate services. Ms Medley-Brown's experience includes the leadership and stewardship of human resources management, information technology and information management, finance, governance audit and risk, property and security services, communication, media, parliamentary services and legal services.

Before joining the CDPP, she was Chief Operating Officer at Comcare (2010–2014)—a position she gained after more than 17 years designing, implementing and running large information communication technology environments including as the ICT National Operations Manager for Medicare Australia (2005–2010).

Ms Medley-Brown is an alumnus of the Harvard Business School's Advanced Management Program (2013).

## Andrea Pavleka

### Deputy Director Illegal Imports and Exports/Human Exploitation and Border Protection (from 30 May 2016)

Ms Pavleka has national responsibility for a large variety of crime types, including general drug and precursor importation offences, money laundering, child exploitation offences, human trafficking, slavery and people smuggling. During 2015–16, she moved to the CDPP Sydney Office to take up the Deputy Director position.

Ms Pavleka first joined the CDPP's Melbourne Office 25 years ago. Prior to joining the Executive Leadership Group, Ms Pavleka was a Federal Prosecutor responsible for major criminal litigation including some of the most complex and long-running trials ever undertaken by the CDPP. She was a member of the senior executive in the Melbourne Office for more than 10 years, where she was Assistant Director for a number of branches including General Prosecutions (encompassing drug and fraud prosecutions), tax and people smuggling and more recently, organised crime and counter-terrorism.

She holds a degree in Law from the Australian National University.

# Corporate governance

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

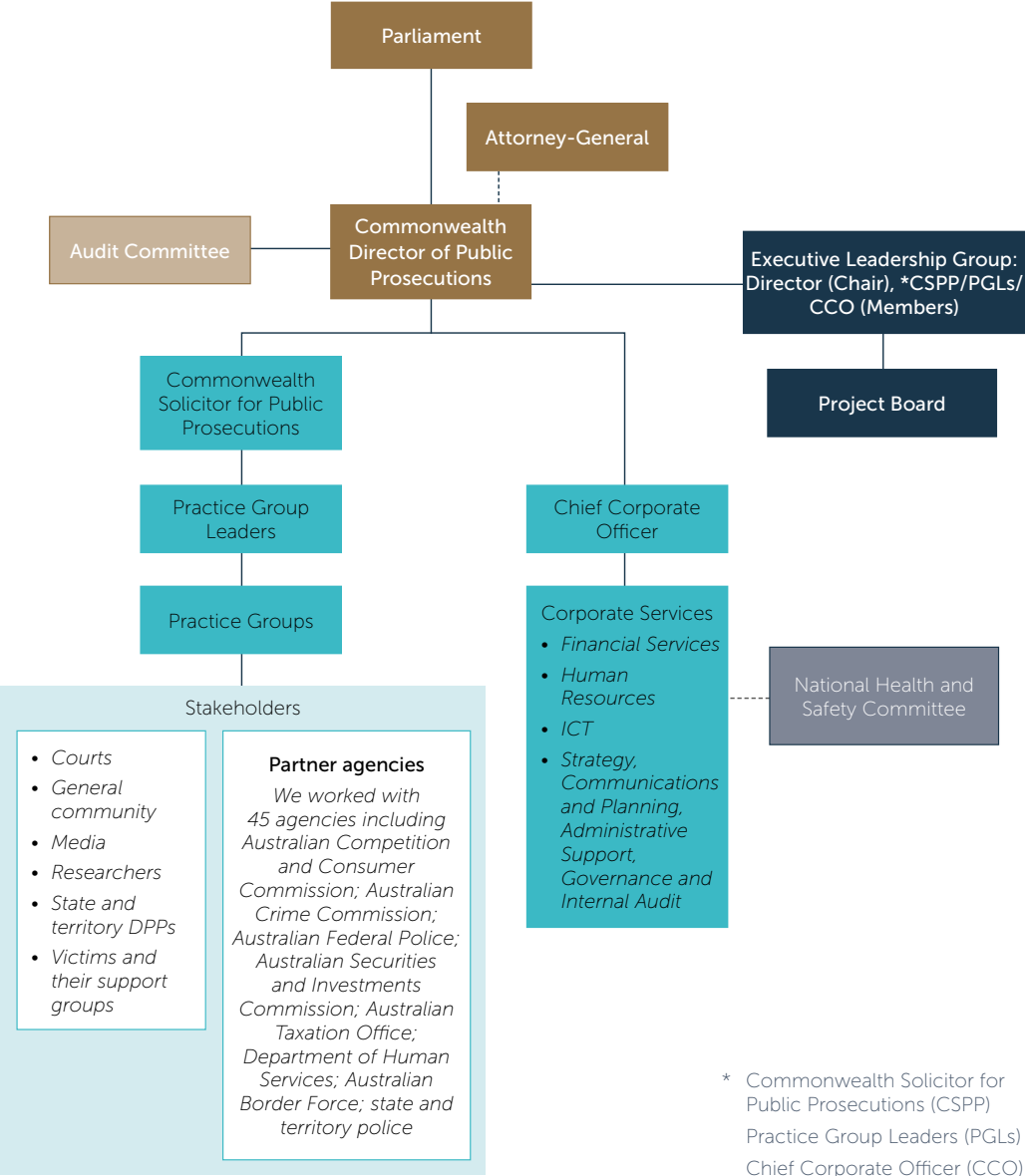
In 2015–16, we strengthened our focus on our corporate governance structure, frameworks and delivery by continuing to embed the following principles of public sector governance:

- values-driven leadership
- appropriate governance
- performance orientation
- transparency and integrity
- collaboration.

We continually refine our governance arrangements to ensure they are fit-for-purpose and clear to everyone. Our governance structure (see Figure 2) provides clarity on accountabilities and aligns our work and relationships with our stakeholders, to work together to achieve the Outcome and Aim expressed in our Corporate Plan.



Figure 2: CDPP governance structure at 30 June 2016



## Executive Leadership Group

Our Executive Leadership Group is the key advisory group to the Director and comprises the Director as Chair, Commonwealth Solicitor for Public Prosecutions, Deputy Directors and Chief Corporate Officer. 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 CDPP strategies and policies on matters such as human resource management, communications, planning, information and communications technology, 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 our governance structures and processes
- monitor and provide oversight on significant issues of national interest to the CDPP
- consider and approve work plans and outcomes of its sub-committees.

## Audit Committee

Our Audit Committee provides independent assurance and assistance to the Director on the CDPP's financial and performance reporting responsibilities, risk oversight and management and system of internal control.

The Committee comprises three independent members:

- Ken Moore, Chair
- Robyn Gray, Deputy Chair
- Simon Kidman, Member.

During this period, management representatives who attended regular meetings were the Chief Corporate Officer, the Chief Financial Officer, the Commonwealth Solicitor for Public Prosecutions, the Deputy Director Revenue and Benefits Fraud, and the Chief Audit Executive. Other staff members attended as observers and presenters as determined by the Chair. Representatives from the Australian National Audit Office and the internal audit provider were invited to attend all Audit Committee meetings as observers. The Chair briefs the Director after each meeting.

The Committee undertakes an annual self-assessment of its performance with input from the Director, members, senior management, internal and external auditors, Chief Financial Officer, and any other relevant stakeholders as determined by the Director.

**Table 15: Audit Committee attendance in 2015–16**

Independent members	25 Sep 2015	25 Nov 2015	23 Mar 2016	29 Jun 2016
Ken Moore	✓	✓	✓	✓
Robyn Gray	✓	✓	✓	✓
Simon Kidman	✓	✓	✓	✓
<b>Management representatives</b>				
* Angela Alexandrou	✓	✓	N/A	N/A
James Carter	✓	Apology	✓	Apology
Karel Havlat	✓	✓	✓	✓
Gaby Medley-Brown	✓	✓	✓	✓
** Mark Pedley	N/A	N/A	✓	✓
** Celine Roach	N/A	N/A	✓	✓

Note: \* Member from September 2015 – November 2015

\*\* Members from March 2016

### Attendance correction

In accordance with section 17AH(1)(e) of the *Public Governance, Performance and Accountability Rule 2014* we wish to advise that in the 2014–15 Annual Report it was reported that Ms Ellen McKenzie was absent for the 18 March 2015 Audit Committee meeting. Ms McKenzie was no longer a member of the Audit Committee at that date.

## National Health and Safety Committee

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

The independent National Health and Safety Committee is accountable to our staff, assisting and advising on matters affecting the health, safety and wellbeing of staff and other workers at CDPP workplaces. The Committee consults widely with staff and other workers through a comprehensive Work Group Health and Safety Committee structure on the development of the Work Health and Safety Management System.

The central point of cooperation and consultation between management, staff and other workers, the Committee is responsible for disseminating Work Health and Safety information, particularly in the regional offices, in a regular and timely manner. In the past 12 months the Committee has assisted in the consultation process with respect to several improvements and upgrades to the Work Health and Safety Management System, relating to both physical safety and mental health issues.

Membership is agreed between management and staff with representatives drawn from across the functions and locations of the CDPP.

## Project Board

A Project Board chaired by the Commonwealth Solicitor for Public Prosecutions provides focused oversight of the feasibility and achievement of agreed outcomes for all projects across the CDPP. The Board is responsible for monitoring, evaluation and reporting on progress and risk profiles of projects to the Executive Leadership Group.

## Costing Model Steering Committee

The Commonwealth Solicitor for Public Prosecutions chairs this Committee. The Committee is overseeing the project we are undertaking, in conjunction with the Department of Finance and the Attorney-General's Department, to establish a model for predicting and advising the Government on CDPP resourcing implications. This is in response to new policy proposals expected to increase the workload of the CDPP. The Committee reports to the Project Board and in turn, to the Executive Leadership Group.

## Planning, performance and reporting

We manage our performance through a combination of careful planning, effective measurement and monitoring of performance, and appropriate, transparent reporting.

The CDPP 2015–16 Corporate Plan provided the baseline performance measures for the first annual performance statements (see page 24), building on existing reporting requirements in Portfolio Budget Statements and Annual Reports. The annual performance

statements demonstrate our performance in achieving our purpose, and are presented by reporting against our targets and measures that we established at the beginning of the reporting period.

As with all other elements required by the PGPA Act, we are working hard to ensure we meet these new requirements. The resulting integrated performance, planning and reporting framework presented here will ensure our operational performance aligns to, and supports achievement of, our strategic outcome.

## Risk management

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

The CDPP 2016 Risk Appetite and Tolerance Statement, endorsed by the Audit Committee, clearly articulates our lowest risk appetite is around compliance objectives (principally compliance with the *Prosecution Policy of the Commonwealth*) including employee work health and safety.

Our Executive Leadership Group and Audit Committee actively monitor and manage our Strategic Risk Register and Management Plan. The plan identifies the following risks to achieving our Outcome:

- failure to apply the *Prosecution Policy of the Commonwealth*
- serious workplace injury or death to one or more staff members
- systemic breakdown in external stakeholder relationships.

We are actively building a true risk management culture where operational risks are identified in our Business Plan and then assessed, analysed and treatments recorded and monitored in the Corporate Services Operational Risk Register.

In 2016, Comcover assessed our agency's risk management capability as having achieved a maturity level of Advanced, an improvement from previous year's level of Integrated.<sup>14</sup>

## Fraud prevention 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 assists employees, contactors, consultants and the public to understand what fraud is, and encourages employees at all levels to participate in protecting public resources.

The Audit Committee and our senior management are assured through reporting in the Strategic Risk Register and Management Plan and the Corporate Services Operational Risk Register that fraud prevention, detection, investigation and reporting mechanisms are in place to meet the requirements of the *Commonwealth Fraud Control Framework 2014*, and specifically section 10(b) of the *Public Governance, Performance and Accountability Rule 2014* (PGPA Rule).

## Fraud reporting

During the period 1 July 2015 to 30 June 2016 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 that it is important to have an effective system for reporting and investigating disclosable conduct. We hold awareness sessions for all staff and provide training for our Authorised Officer network. We have a dedicated email address for disclosures to be made to Authorised Officers, who report regularly to the Director. Our Public Interest Disclosure Policy and supporting documents are provided on our intranet and website: [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.

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<sup>14</sup> The maturity level is based on Comcover's Benchmarking Program that assesses an agency's level of risk maturity. The six levels are: Fundamental, Developed, Systematic, Integrated, Advanced and Optimal.

The 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.

During 2015–16 the Governance Team worked with the executive to review and strengthen the conflicts policy and related guidance and procedures to enable all officials under the PGPA Act, including the Director as the accountable authority, to meet their disclosure requirements.

## Internal audit

We carry out an internal audit programme each year to provide an independent assurance on compliance with procedures and systems of internal control, assist CDPP management to improve business performance and monitor the implementation of audit outcomes. The audit programme is approved by the Executive Leadership Group and endorsed by the Audit Committee.

In 2015–16, internal audit work was fully outsourced. With the appointment of a Chief Audit Executive in early 2016, we are looking to deliver future audits using a combination of in-house capabilities and external resources.

## Improving our national legal practice

In May 2016 we established the National Business Improvement Practice Group. The purpose of the Practice Group is to foster innovation in the CDPP. This includes business ownership of the Director's Coordination Unit.

The National Business Improvement Practice Group also has responsibility for:

- Legal learning and professional development
- CDPP business systems including our internal case management systems Case Recording and Information Management System (CRIMS) and Electronic Red Folder (ERF) system
- a range of business improvement projects including major redevelopments of both our intranet and our secure Partner Agency Portal
- CDPP legal manuals including our Federal Prosecution Manual
- other information and communications technology business improvement projects such as digitisation
- our partner engagement strategy.

## Legal policy and procedure

A primary function of the National Business Improvement Practice Group is to build nationally consistent business practices to improve the efficiency and effectiveness of the way we conduct our prosecutions. This includes delivering quality assurance processes, and leading internal and external legal policy and legislative improvement.



## Project Management Framework

Part of good governance is about well-reasoned and timely decision-making within an overarching plan (in effect, project management). During 2015–16 we built on our extensive work in delivering better practice governance by putting in place:

- a Project Board
- a Project Management Procedure (the core of our broader Project Management Framework) for use across the CDPP on all projects. Its application assists all staff to more rapidly manage the schedule, budget risks and context of any project. The general principles are also applied to planning complex litigation
- nationally consistent templates and training support for development of stronger project management skills, with benefits for staff performance as well as the CDPP as a whole.

## Digital platforms

We are developing a new secure Partner Agency Portal and new user-friendly and responsive intranet for staff. Both redevelopment projects are designed to improve the efficiency and effectiveness of CDPP staff and partner agencies by connecting them to resources to enable and support their time-critical work.

## Legal Learning and Professional Development

During 2015–16 we developed an extensive Legal Learning and Professional Development (LLPD) Programme, resulting in a June 2016 launch of a new LLPD strategy for legal practice and administrative support staff. The strategy provides the necessary framework for embedding a learning culture through targeted activities and training programmes and is guided by the strategic theme of investing in our people.

A major component of the LLPD strategy is providing our staff with relevant learning experiences. A learning needs analysis has been carried out, identifying skills gaps to shape this strategy. One area identified for skills development is advocacy training. A provider has started delivering this training to staff.

## Partner agency satisfaction

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. To align with the introduction of the biennial satisfaction survey in 2015–16, we set a partner agency satisfaction target of 90 per cent and achieved a satisfaction rating of 83 per cent. While this result fell slightly short of the target, it captured valuable feedback to assist the CDPP meet the target in the future.

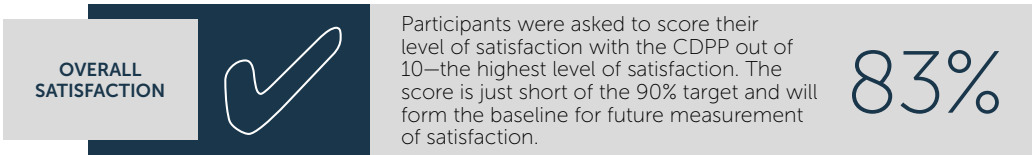
The survey has established a methodology and baseline to track satisfaction on an ongoing basis. The next survey will be conducted in 2018.

Survey participants

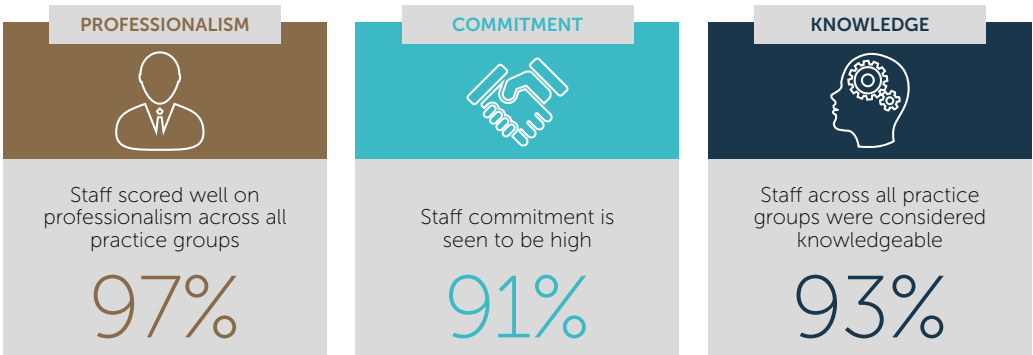
The online survey targeted a representative sample of partner agencies who have had recent contact with the CDP. Participants were nominated by Practice Groups and a statistically robust response rate of 60 per cent was achieved.

The majority of stakeholders were people who held investigation, enforcement or compliance roles. Most had been working in their agency for more than six years and have regular contact with the CDP.

Key results



Results reinforce that our work is important, valued and we are a vital part of the Australian justice system.



Of the legal service areas, the two primary drivers for satisfaction were ensuring responsiveness to requests for brief assessment of the sufficiency of evidence to prosecution, and liaison and support activities.



## Educating partner agencies about our prosecution services

As part of our stakeholder engagement strategy, communication material was developed to create a common understanding of the prosecution services we offer to partner agencies. Products produced include:

- a brochure promoting prosecution services
- a National Legal Direction on Prosecution Services for partner agencies
- a practical guide for prosecutors on prosecution services for partner agencies
- a template for post committal meeting between the CDPP and partner agencies
- three video case studies highlighting the services provided by the CDPP for promotion via the new CDPP Partner Agency Portal.

These information products will be used by our partner agencies and within the CDPP during 2016–17.

## Federal Counsel Group

Under the national practice group model, we established a national specialist in-house advocacy programme, called the Federal Counsel Group.

During 2015–16 the programme comprised a specialist group of advocates capable of regularly conducting federal criminal jury trials, superior court appeals and other more challenging and complex appearance work that would otherwise be briefed to the private bar.

The Director has decided to adopt a more flexible model to encourage lawyers across the Office to extend the level of advocacy undertaken in-house. This has been supported by specialist criminal advocacy training.

The programme, and in-house advocacy more generally, generates financial savings for the CDPP and promotes the development of highly specialised advocacy skills.

# Corporate services

The Corporate Services group provides a customer-focused and collaborative approach to tailoring and strengthening the support services for the legal practice.

To achieve this, the Corporate Services Group delivers timely, quality services to support the day-to-day work of the legal practice and delivers modern business systems to equip lawyers with the necessary tools to conduct prosecutions effectively and efficiently. These two broad objectives guide and direct the work of all business areas within the Corporate Services branch comprising:

- People
- Finance
- Legal Administration Support
- Governance, Internal Audit
- Communications
- Planning, Information Management
- Information Technology.

## Leadership Programme

We have a two-pronged approach to building the capability of our people—specialist legal training and education through the Legal Learning and Professional Development programme, and ongoing leadership training for new and experienced managers. This approach acknowledges the professional legal expertise required to guide and support staff in their prosecution work, and the essential people management skills and knowledge required to help them thrive and perform effectively in their roles.

Participants in our Leadership Programme attended forums featuring a range of inspiring speakers from Government, partner agencies and the private sector. They also contributed to action learning projects assigned to syndicate groups, and participated in individual coaching to help progress personal goals and leadership ability and capability (see the following case study).

# Building leadership capability

## CASE STUDY

In July 2015, we launched an innovative leadership development programme, based around our strategic theme of 'Investing in our people'. By the end of the programme, a total of 63 staff from administration through to senior legal staff had successfully completed the course.

The first step in developing the leadership programme was a comprehensive training needs analysis, which highlighted developmental priorities for the Senior Executive Service, Work Group Coordinators and Administrative Coordinators.

We then built these priority areas into the tailored leadership development programme, customised for each target group.

Co-designed by the Executive Leadership Group, Senior Executive Services and our change management consultancy, the programme supported each target group to develop the leadership capability needed to implement our national service delivery model, workforce planning and workload management systems.

Key learning activities included:

- **insights**—forum-based presentations from government, partner agencies and private sector speakers
- **actions**—Executive Leadership Group-endorsed Action Learning Projects carried out by syndicate groups
- **education**—individual coaching to help participants achieve personal goals and organisational objectives.

*(continued on next page)*

# Building leadership capability *(continued)*

## Insights—Leadership Forums

We delivered seven forums throughout the programme, with various internal and external speakers covering relevant topics and introducing activities designed to expose the groups to a broad range of content and context.

The final forum in June 2016 focused on the Action Learning Projects and included an evaluation of each, recommendations for effectively implementing and embedding the ideas presented into CDPP practices, and discussion around establishing a common focus and direction for 2016 and beyond.

## Actions—Action Learning Projects

One of the key learning methods used in the programme was creating 12 syndicate groups—across the three participating levels. Each syndicate group was assigned an Action Learning Project to consider implementing into CDPP business practice.

Groups had to work collaboratively using a project management methodology to advance solutions to associated workplace priorities and/or problems.

Assigning Action Learning Projects was a key strategy to solve business problems, with the solutions developed to be implemented across the CDPP in 2016–17.




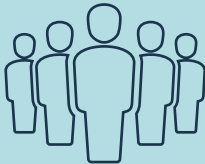
## Education—coaching sessions

Coaching sessions focused on individual needs within the context of an officer's role within CDPP and the broader workplace. Discussions covered leadership and management challenges, the Australian Public Service, Integrated Leadership System and career trajectory, strategies and tasks.

Coaching sessions were delivered to all leadership development programme participants, and focused on:

- supporting the development of clear expectations about responsibility and accountability, to more effectively manage complex litigation matters (Senior Executive Service)
- moving ahead with Integrated Leadership System discussions to assist individual contributions to Action Learning Projects (Work Group Coordinators)
- managing upwards, influencing and managing expectations and building effective working relationships with practice groups and Federal Prosecutors (Administrative Coordinators).

### Action Learning Projects

	
<b>OUR SERVICE</b>	<b>OUR PEOPLE</b>
Related projects included: <ul style="list-style-type: none"><li>• an Information Governance Framework</li><li>• improved management of complex litigation matters</li><li>• improved measures for identifying and managing prosecution matters</li><li>• a National Service Offer for legal administrative support.</li></ul>	Related projects included: <ul style="list-style-type: none"><li>• mentoring programme for Federal Prosecutor 1s</li><li>• Who's Got Talent—a performance framework focused on performance excellence</li><li>• Skills Inventory Tool to support performance excellence</li><li>• building a vibrant Work Group Coordinators network</li><li>• building relationships between Work Group Coordinators, Complex Litigators and Practice Group Coordinators.</li><li>• managing attendance in the prosecution environment</li><li>• remote management in a national practice.</li></ul>

## Administrative support

The Administrative Support Team provides a range specialist and general administrative support services to Federal Prosecutors.

The team is led by a National Coordinator and is focused on delivering timely quality services to support the day-to-day needs of the legal practice. We have begun a project to articulate this work as a nationally consistent service offer, which is linked to each stage of the criminal prosecution process.

The skills required to undertake this work continue to evolve in line with changes to legal and court practices and advances in technology, such as new digital processes. The knowledge and capability of the team is continually developed through targeted training activities and programmes in accordance with the Legal Learning and Professional Development Strategy.

## Information management

The Information Management Team supports the work of the CDPP by managing access to legal resources and providing expert research and training services. The team operates a National Research Support Helpdesk that delivers a high quality and efficient research service equitably to all CDPP staff.

In 2016 we completed a holistic review of the Library subscriptions to ensure our print and online collections continue to meet the needs of a modern prosecution service. The Information Management Team is working with the Communications Team on the intranet redevelopment project to provide practitioners with easy and intuitive access to legal research material. Information Management Team staff are also involved in the information and communications technology mobile computing initiative, so that access to legal resources remains seamless and uninterrupted.

## Communications and media

The Communications Team provides specialist communication services to our organisation. This includes providing account management services to assist practice groups or business areas deliver their internal programmes, and external communication targeting stakeholders, media, partner agencies and the general public.

The work of the Communications Team is guided by the CDPP's *Communication and Stakeholder Engagement Strategy*. The strategy sets out a proactive approach to communications and engagement to raise awareness of the role of the CDPP, support staff, improve collaboration with partner agencies, identify and generate opportunities, and build public confidence in the CDPP as a vital part of the Australian justice system.



In 2015–16 the Communications Team:

- provided timely and effective communication services to support internal programmes, including the Leadership Programme featured on page 110
- liaised with media where matters attracted significant media interest, including providing timely responses to enquiries
- redeveloped and launched the CDPP's website, providing a user-friendly, modern and responsive communications channel
- developed and launched the inaugural Stakeholder Business Satisfaction Survey
- participated in communication-specific taskforce working groups.

In 2016–17, the Communications Team will continue to evolve services in step with the needs of the CDPP and partner agencies. This will include delivering a new intranet to connect legal staff to the resources and information they need to undertake their work, and a new secure Partner Agency Portal to assist investigators complete their time-critical work.

## Information technology

Our computing environment comprises a national network covering all CDPP offices across the country. The focus for 2015–16 has been delivering fit-for-purpose information technology products and contemporary tools and services that represent value for money in enabling:

- introducing modern mobile computing solutions, including iPhones iPads and laptop 'two-in-one' devices that will enable our legal practitioners to work remotely

- modernising the work of our Legal practice by introducing commercial off-the-shelf digital solutions including:
  - introducing our internal work management system
  - introducing automated litigation support tools to improve the timeliness and accuracy of assessing briefs
  - automating the production of internal and client case correspondence
- developing a secure method to enable partner agencies to lodge briefs electronically
- providing reliable platforms for the re-development of the CDPP intranet and website
- improving our Human Resources Management System
- introducing a new Financial Management Information System
- expanding our video conferencing capability
- introducing a national digital solution for case files and administrative records storage
- enhancing our digital records management capability, in line with the *Whole of Government Digital Continuity 2020 Policy*.

Improving day-to-day information technology support services internally and to partner agencies is also a core area of work that will enable better and faster outcomes through the delivery of secure, timely, quality information and communications services that support the day-to-day work practices of our legal practice.

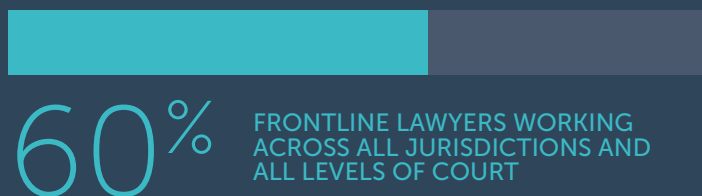
# CHAPTER

# 4





People



# Human resource overview

At 30 June 2016 the CDPP comprised 417 people (headcount) with the average full-time equivalent employee level (operative employees only) for the year being 376.6.

Of the headcount number, 60 per cent were lawyers assigned to legal roles across the practice groups. The CDPP prosecutions function is supported by a range of legal practice services, including litigation support, accountancy, information technology, people services, finance and legal administrative support (see page 110).

During 2015–16, we reduced the number of Principal Federal Prosecutors by 30 per cent and increased the number of Senior Federal Prosecutors by 19 per cent. At the same time, non-legal roles increased slightly, by one per cent across the organisation. The ratio of Senior Executive Service employees to total employee numbers remained at five per cent of total employees. Our non-ongoing engagements increased by 36 per cent.

All CDPP employees were employed under the *Public Service Act 1999* or the *Director of Public Prosecutions Act 1983* (DPP Act).

## Workforce planning

Building on the realignment of our core business, we are now consolidating our new national structure.

We will achieve this through a strategic approach to planning that links an integrated human resources strategy

to core CDPP corporate objectives via a strategic workforce plan. The objective is to embed strategic, tactical and operational workforce planning into business-as-usual practices across the CDPP.

The proposed workforce plan will be in place by June 2017 and include:

- a clear understanding of CDPP's workforce needs now and into the future
- an examination of skills gaps
- an outline of the capabilities that are common across the agency and those that are unique to specialist areas within CDPP
- an agreed ratio for span of control applicable to various business groups informing current and future organisational structures
- an identification of critical roles aligned to succession planning and resourcing strategies
- a workforce trend analysis informing both current and forecasted supply and demand considerations for qualified and experienced criminal lawyers and identified critical roles
- an employee life cycle analysis maximising employee engagement and skills development opportunities.

# Workforce statistics and pay

A breakdown of employee numbers appears in the following tables.

**Table 16: Employee headcount by classification level and region at 30 June 2016**

Classification	ACT	NSW	NT	QLD	SA	TAS	VIC	WA	Total
Director	1	-	-	-	-	-	-	-	1
SES Band 3	1	-	-	-	-	-	-	-	1
SES Band 2	2	1	-	-	-	-	2	-	5
SES Band 1	3	6	-	3	1	-	2	1	16
Principal Federal Prosecutor	5	17	1	7	3	1	11	2	47
Senior Federal Prosecutor	8	40	1	15	6	3	26	7	106
Federal Prosecutor Level 2	1	18	2	10	3	1	13	2	50
Federal Prosecutor Level 1	2	16	1	9	4	-	10	5	47
Executive Level 2	5	1	-	-	-	1	-	-	7
Executive Level 1	10	1	-	1	1	-	1	1	15
APS Level 6	12	5	-	-	-	-	-	-	17
APS Level 5	7	5	-	2	2	-	3	3	22
APS Level 4	4	4	1	9	1	-	5	2	26
APS Level 3	4	21	1	3	1	3	10	4	47
APS Level 2	-	6	-	-	-	-	1	-	7
APS Level 1	1	1	-	1	-	-	-	-	3
Total	66	142	7	60	22	9	84	27	417

Notes:

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

**Table 17: Workforce profile by classification at 30 June 2016**

Classification	2013–14	2014–15	2015–16
Director	1	1	1
SES Band 3	-	-	1
SES Band 2	7	6	5
SES Band 1	24	17	16
Principal Federal Prosecutor	99	67	47
Senior Federal Prosecutor	90	86	106
Federal Prosecutor Level 2	54	49	50
Federal Prosecutor Level 1	26	56	47
Executive Level 2	15	8	7
Executive Level 1	24	15	15
APS Level 6	22	18	17
APS Level 5	22	18	22
APS Level 4	43	33	26
APS Level 3	62	44	47
APS Level 2	6	5	7
APS Level 1	1	2	3
Total	496	425	417

Notes:

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

**Table 18: Workforce profile by location at 30 June 2016**

Location	2013–14	2014–15	2015–16
ACT	75	55	66
NSW	158	148	142
NT	8	7	7
QLD	81	70	60
SA	22	21	22
TAS	10	9	9
VIC	89	85	84
WA	53	30	27
Total	496	425	417

Notes:

1. This table includes inoperative employees.

**Table 19: Average staffing levels (ASL) by location at 30 June 2016**

Location	ASL 2015–16
ACT	53.25
NSW	123.94
VIC	77.19
QLD	56.19
SA	17.55
WA	23.06
TAS	8.46
NT	5.8
Total	365.44

Notes:

1. The ASL includes employees who received pay or had an employer superannuation expense payment based on the hours they worked during the month.
2. Excludes employees paid through a third party i.e. employment agency or any hours associated to cash out payments.

**Table 20: Full-time equivalent (FTE) employees by location at 30 June 2016**

Location	FTE 2015–16
ACT	59.03
NSW	124.9
VIC	77.24
QLD	52.41
SA	19.76
WA	23.8
TAS	7.56
NT	7
Total	371.7

Notes:

1. This table excludes inoperative employees

**Table 21: Staffing summary at 30 June 2016**

Category	30 June 2015	30 June 2016
Total staff employed under the <i>Public Service Act 1999</i>	410	406
Total staff employed under the <i>Director of Public Prosecutions Act 1983</i>	14	10
Statutory Office holders	1	1
Total	425	417

Notes:

1. This table includes inoperative staff.
2. The total number of non-ongoing staff reflected in this table for the reporting period is 37.



**Table 22: Workforce profile by category summary at 30 June 2016**

Category	30 June 2015				30 June 2016			
	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	6	-	-	6	5	-	-	5
SES Band 1	17	-	-	17	16	-	-	16
Federal Prosecutors	200	58	-	258	201	49	-	250
Executive Level Officers	20	1	2	23	18	4	-	22
APS Level 1– APS Level 6	104	15	1	120	107	15	-	122
Total	348	74	3	425	349	68	-	417

Notes:

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

**Table 23: Employees by employment type and gender at 30 June 2016**

Category	Ongoing		Non-ongoing		Total	
	Female	Male	Female	Male	Female	Male
Director	-	-	1	-	1	-
SES Band 3	-	1	-	-	-	1
SES Band 2	1	4	-	-	1	4
SES Band 1	7	8	1	-	8	8
Legal Officers	171	75	3	1	174	76
Executive Level Officers	15	6	1	-	16	6
APS Level 1– APS Level 6	67	25	24	6	91	31
Total	261	119	30	7	291	126

Notes:

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

## Enterprise agreement

The *CDPP Enterprise Agreement 2011–14* reached its nominal expiry date on 30 June 2014.

We sought to negotiate a new agreement, with staff entering into bargaining meetings with a clear objective of providing a greatly simplified agreement offering the maximum pay increase permissible without reducing employee terms and conditions. The proposed *Enterprise Agreement 2016–2019* was not voted in by staff. Overall, we achieved a positive participation rate with 87.5 per cent of eligible employees casting a vote, however of those employees, 69 per cent voted ‘no’ and 31 per cent voted ‘yes’.

Given this result, the terms and conditions including rates of pay under the *CDPP Enterprise Agreement 2011–14* continue to apply.

We are committed to negotiating a new enterprise agreement with staff.

At 30 June 2016 there were 394 employees covered by the Enterprise Agreement.

**Table 24: Salary scales at 30 June 2016**

Classification	Salary scales
SES remuneration ranges	
SES Band 3	\$260,723 – \$310,639
SES Band 2	\$222,991 – \$247,158
SES Band 1	\$188,546 – \$212,148
CDPP Enterprise Agreement 2011–14	
Principal Federal Prosecutor	\$122,323 – \$130,117
Executive Level 2	\$112,110 – \$126,894
Senior Federal Prosecutor	\$93,044 – \$113,220
Executive Level 1	\$93,044 – \$101,545
APS Level 6	\$73,461 – \$84,389
Federal Prosecutor 2	\$67,271 – \$82,513
APS Level 5	\$66,835 – \$72,232
Federal Prosecutor 1	\$59,996 – \$66,371
APS Level 4	\$59,996 – \$66,371
APS Level 3	\$53,904 – \$59,274
APS Level 2	\$48,697 – \$53,542
APS Level 1	\$25,299 – \$47,240

Notes:

1. Non-SES rates of pay at 30 June 2016 remain under the *CDPP Enterprise Agreement 2011–14*.

## Common law contracts

The terms and conditions of employment for substantive Senior Executive Service (SES) employees are provided under individual common law contracts. At 30 June 2016 there were 22 of these contracts in place.

## Performance pay

We do not pay performance pay.

## Section 24(1) determination

In 2015–2016 we made one determination pursuant to section 24(1) of the *Public Service Act 1999*.

## Staff survey

The 2016 Australian Public Service Employee Census was conducted between May and June 2016. The survey is managed by the Australian Public Service Commission and delivered by ORC International.

Of the CDPP's 417 employees, 66 per cent participated. The census is an effective measure of employee engagement upon which management decisions continue to be made to improve employee engagement, wellbeing and work practices.

Our census results for the four aspects of employee engagement (job, team, supervisor, agency) improved in all elements compared with 2015 census results. Our results also indicated that our employees experience opportunities to contribute, use their skills and are proud to work for the CDPP. We will continue to implement strategies to ensure ongoing improvement.

# Work health and safety

Improvements to our Work Health and Safety Management System have resulted in increased compliance, improved reporting and effective consultation.

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 from page 187.

## Employee wellbeing

Our Employee Wellbeing Programme is an integral part of our work health and safety arrangements and establishes a framework to strengthen and synchronise wellbeing policy and practice across the CDPP through a holistic approach to general wellbeing, emotional and social wellbeing, and psychological wellbeing.

We recognise the importance of building employee resilience against psychological harm from exposure to potentially distressing case materials and provide a work environment that encourages our people to identify psychological issues early and access appropriate help.

The current approach to wellbeing consists of a mandatory wellbeing (fit-for-work) check carried out by our service provider prior to commencing work in the Illegal Imports and Exports, Human Exploitation and Border Protection, International Assistance and Specialist Agencies or Organised Crime and Counter-Terrorism Practice Groups. Administrative staff who are working across these areas also undergo a mandatory wellbeing check.

Once working in these areas, our staff attend additional wellbeing checks on an annual basis.

# Workplace diversity

Our Workplace Diversity Plan is scheduled to be reviewed during the 2016 calendar year. The current programme builds on earlier workplace diversity plans and programmes and recognises and incorporates developments and progress that we have made as an organisation in this area. It aims to integrate the principles of workplace diversity into all aspects of human resource management. This involves raising awareness of, and promoting, core values and standards of behaviour among all our staff. It further involves embedding those principles into all human resource management policies and practices, including the performance management scheme and selection and induction processes.

Our workplace diversity profile is shown in the table below. The table is based on information volunteered by staff who may choose not to disclose their status, and as a result the information may not be complete.

**Table 25: Employees by diversity group at 30 June 2016**

	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	-	-	-	-	-
SES Band 2	1	-	-	-	-
SES Band 1	8	-	-	1	1
Legal Officers	174	1	7	28	15
Executive Level Officers	16	-	-	1	2
APS Level 1–APS Level 6	91	-	4	12	21
Total	291	1	11	42	39

Notes:

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

## Reconciliation Action Plan

Our Reconciliation Action Plan outlines our commitment to fostering an environment in which everyone has the same opportunities and may be included in the workforce. Our work impacts on Aboriginal and Torres Strait Islander peoples through our dealings with alleged offenders and other people affected by the criminal justice process. This includes ensuring that victims and witnesses understand the criminal process and their role in that process.

Our Reconciliation Action Plan supports our core business by articulating actions that will enhance and improve our responsiveness to Aboriginal and Torres Strait Islander peoples affected by the criminal justice process and ensure that our witness and victim services are more accessible to these communities.

## Agency Multicultural Plan

We are committed to understanding Australia's culturally and linguistically diverse population in order to appropriately reflect the needs of these communities in all of our work, including the development and delivery of policy and services.

During 2015–16 we developed key performance indicators that can be used for future reporting. Further, we have built reporting capability into our Case Reporting and Information Management System to capture information on culturally and linguistically diverse clients.

Culturally and linguistically diverse clients include defendants and victims who:

- have low English proficiency (requiring an interpreter)
- speak a language other than English at home (requiring an interpreter)
- are from a country of birth outside Australia and other English speaking countries (unless Aboriginal or Torres Strait Islander)
- are an Aboriginal or Torres Strait Islander.

In 2015–16 the available data shows we provided services to 659 clients who had been determined as meeting the criteria of culturally and linguistically diverse clients. These clients include defendants and victims.

## Status of women

At 30 June 2016 a total of 69.8 per cent of CDPP employees were female. Within the legal practice groups, female participation was 68.1 per cent. Female participation at the SES level was 40.9 per cent.

## National Disability Strategy

The development of the National Disability Strategy 2010–2020 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 will track progress against each of the six outcome areas of the strategy and present a picture of how people with disability are faring. These reports can be found at [www.dss.gov.au](http://www.dss.gov.au).

## Privacy

There were no reports served on the CDPP by the Privacy Commissioner under section 30 of the *Privacy Act 1988* in 2015–16.



# CHAPTER

# 5





Financials

# Financial statements

The audited financial statements included in this report were prepared in accordance with the *Public Governance, Performance and Accountability Act 2013 (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 programme of activities to achieve this outcome. Further information about our budget can be found in the Attorney-General's Portfolio Budget Statements.

## Financial performance

Our operations are primarily funded through parliamentary appropriations but we also receive a small component (9.6 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 goods and services tax (GST) legislation. The amount receipted in 2015–16 under this arrangement was \$3.5 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 2015–16 was \$86.943 million, which is an increase of \$1.862 million from 2014–15. This increase is mainly due to additional funding we received for counter-terrorism prosecutions.

Operating expenses for 2015–16 were \$82.025 million (excluding depreciation and amortisation expenses). This is a decrease of \$1.408 million compared with 2014–15. The decrease was mainly due to a reduction to our external legal counsel expenses across the 2015–16 financial year.

The operating result for 2015–16 was a surplus of \$4.918 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.

We undertook a review of library holdings in 2015–16, which identified a reduction in the use of physical libraries due to increasing availability of online legal resources. The subsequent reduction of our library holdings has reduced our overall lease space requirements. This will reduce our space requirements for a number of premises that come up for renewal over the next 18 months.

During 2015–16 we commenced a mobile computing project involving the purchase of mobile devices, associated hardware and software. There were no additional major asset acquisitions or replacement projects during the year.

## Purchasing

Our procurement and purchasing in 2015–16 was undertaken in accordance with the principles set out in the Commonwealth Procurement Rules, which are underpinned by value for money.

We adhere 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 Governance and 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 2015–16, we entered into 19 new consultancy contracts with a total actual expenditure of \$535,709 (including GST). In addition, seven ongoing consultancy contracts were active during 2015–16, involving a total actual expenditure of \$737,565 (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-purchasing-contracts/](http://www.finance.gov.au/procurement/statistics-on-commonwealth-purchasing-contracts/).

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 Auditor-General issued an unqualified audit report for the CDPP's 2015–16 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 2015–16.

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 services expenditure

The *Legal Services Directions 2005* 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 2015–16 was \$38,377 (excluding GST). Further details are in the following table.

**Table 26: Legal services expenditure in 2015–16**

This is a statement of legal services expenditure published in compliance with paragraph 11.1(ba) of the *Legal Services Directions 2005*.

Expenditure	Amount
Total (external and internal) expenditure	\$38,377.00
Total internal legal services expenditure	\$0
Total external legal services expenditure	\$38,377.00
Summary of external legal services expenditure	
Total value of briefs to counsel (A)	\$0
Total value of disbursements (excluding counsel) (B)	\$0
Total value of professional fees paid (C)	\$38,377.00
Total external legal services expenditure (A + B + C)	\$38,377.00

Note: Excludes the handling of criminal prosecutions and related proceedings.

# CHAPTER

# 6





# Financial statements





# Office of the Commonwealth Director of Public Prosecutions— Financial statements

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## INDEPENDENT AUDITOR'S REPORT

### To the Attorney-General

I have audited the accompanying annual financial statements of the Office of the Commonwealth Director of Public Prosecutions for the year ended 30 June 2016, which comprise: 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.

### Opinion

In my opinion, the financial statements of the Office of the Commonwealth Director of Public Prosecutions:

- (a) comply with Australian Accounting Standards and the *Public Governance, Performance and Accountability (Financial Reporting) Rule 2015*; and
- (b) present fairly the financial position of the Office of the Commonwealth Director of Public Prosecutions as at 30 June 2016 and its financial performance and cash flows for the year then ended.

### Accountable Authority's Responsibility for the Financial Statements

The Commonwealth Director of Public Prosecutions is responsible under the *Public Governance, Performance and Accountability Act 2013* for the preparation and fair presentation of annual financial statements that comply with Australian Accounting Standards and the rules made under that Act and is also responsible for such internal control as the Commonwealth Director of Public Prosecutions determines is necessary to enable the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

### Auditor's Responsibility

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

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the

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financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of the accounting policies used and the reasonableness of accounting estimates made by the Accountable Authority of the entity, as well as evaluating the overall presentation of the financial statements.

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

### ***Independence***

In conducting my audit, I have followed the independence requirements of the Australian National Audit Office, which incorporate the requirements of the Australian accounting profession.

Australian National Audit Office

A handwritten signature in blue ink, appearing to read 'Rebecca Reilly', with a long, sweeping horizontal line extending to the right.

Rebecca Reilly  
Executive Director

Delegate of the Auditor-General

Canberra  
23 September 2016

**OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS**  
**STATEMENT BY THE ACCOUNTABLE AUTHORITY AND CHIEF FINANCIAL OFFICER**

---

In our opinion, the attached financial statements for the year ended 30 June 2016 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 2016

Signed 

Karel Havlík  
Chief Financial Officer

23 September 2016

**OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS  
STATEMENT OF COMPREHENSIVE INCOME**

*For the period ended 30 June 2016*

		Actual	Actual
		2016	2015
	Notes	\$'000	\$'000
<b>NET COST OF SERVICES EXPENSES</b>			
Employee benefits	4A	48,209	50,313
Suppliers	4B	31,985	32,328
Depreciation and amortisation	8A	3,455	3,666
Finance costs	4C	24	40
Write-Down and Impairment of Assets	4D	1,477	132
Other	4E	330	620
<b>Total expenses</b>		<b>85,480</b>	<b>87,099</b>
<b>OWN-SOURCE INCOME</b>			
Own-source revenue			
Rendering of services	5A	8,284	5,299
Other	5B	321	206
<b>Total own-source revenue</b>		<b>8,605</b>	<b>5,505</b>
<b>Gains</b>			
Other	5C	39	500
<b>Total gains</b>		<b>39</b>	<b>500</b>
<b>Total own-source income</b>		<b>8,644</b>	<b>6,005</b>
<b>Net cost of services</b>		<b>76,836</b>	<b>81,094</b>
Revenue from Government	5D	78,299	79,076
<b>Surplus attributable to the Australian Government</b>		<b>1,463</b>	<b>(2,018)</b>
<b>Total comprehensive income attributable to the Australian Government</b>		<b>1,463</b>	<b>(2,018)</b>

The above statement should be read in conjunction with accompanying notes.

**OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS**  
**STATEMENT OF FINANCIAL POSITION**

*As at 30 June 2016*

	Notes	Actual 2016 \$'000	Actual 2015 \$'000
<b>ASSETS</b>			
<b>Financial Assets</b>			
Cash and cash equivalents	7A	74	356
Trade and other receivables	7B	16,312	11,439
<b>Total financial assets</b>		<b>16,386</b>	<b>11,795</b>
<b>Non-Financial Assets</b>			
Land and buildings	8A	9,584	11,829
Property, plant and equipment	8A	4,144	5,216
Intangibles	8A	655	735
Other	8B	714	328
<b>Total non-financial assets</b>		<b>15,097</b>	<b>18,108</b>
<b>Total Assets</b>		<b>31,483</b>	<b>29,903</b>
<b>LIABILITIES</b>			
<b>Payables</b>			
Suppliers	9A	4,043	6,117
Operating Leases	9B	7,787	9,083
Other	9C	3,965	3,478
<b>Total payables</b>		<b>15,795</b>	<b>17,678</b>
<b>Provisions</b>			
Employee provisions	10A	15,787	15,550
Other	10B	2,425	2,565
<b>Total provisions</b>		<b>18,212</b>	<b>18,115</b>
<b>Total Liabilities</b>		<b>34,007</b>	<b>35,793</b>
<b>Net Assets</b>		<b>(2,524)</b>	<b>(5,890)</b>
<b>EQUITY</b>			
Contributed equity		7,862	5,959
Reserves		18,479	18,479
Accumulated deficit		(28,865)	(30,328)
<b>Total parent entity interest</b>		<b>(2,524)</b>	<b>(5,890)</b>
<b>Total Equity</b>		<b>(2,524)</b>	<b>(5,890)</b>

The above statement should be read in conjunction with the accompanying notes.

**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**  
**STATEMENT OF CHANGES IN EQUITY**  
For the period ended 30 June 2016

	Retained earnings		Asset revaluation surplus		Contributed equity/capital		Total equity	
	2016 \$'000	2015 \$'000	2016 \$'000	2015 \$'000	2016 \$'000	2015 \$'000	2016 \$'000	2015 \$'000
<b>Opening balance</b>								
Balance carried forward from previous period								
<b>Adjusted opening balance</b>	(30,328)	(28,310)	18,479	18,479	5,959	4,034	(5,890)	(5,797)
<b>Comprehensive income</b>								
Surplus (Deficit) for the period	1,463	(2,018)	-	-	-	-	1,463	(2,018)
<b>Total comprehensive income</b>	1,463	(2,018)	-	-	-	-	1,463	(2,018)
<b>Contributions by owners</b>								
Departmental capital budget funding	-	-	-	-	1,903	1,925	1,903	1,925
<b>Total transactions with owners</b>	-	-	-	-	1,903	1,925	1,903	1,925
<b>Transfers between equity components</b>								
Transfers between equity components	-	-	-	-	-	-	-	-
<b>Closing balance as at 30 June</b>	(28,865)	(30,328)	18,479	18,479	7,862	5,959	(2,524)	(5,890)

The above statement should be read in conjunction with the accompanying notes.

**Accounting Policy**

**Equity injections**

Amounts appropriated which are designated as 'equity injections' for a year (less any formal reductions) and Departmental Capital Budgets (DCBs) are recognised directly in contributed equity in that year.

**OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS**  
**CASH FLOW STATEMENT**

*For the period ended 30 June 2016*

	Notes	Actual 2016 \$'000	Actual 2015 \$'000
<b>OPERATING ACTIVITIES</b>			
<b>Cash received</b>			
Appropriations		83,123	88,099
Rendering of services		8,746	6,947
Lease Incentive		-	1,935
Net GST received		2,621	3,032
Other		39	-
<b>Total cash received</b>		<u>94,529</u>	<u>100,013</u>
<b>Cash used</b>			
Employees		47,895	51,217
Suppliers		38,259	38,643
Other		330	620
Appropriation cash returned to the OPA		10,192	8,882
<b>Total cash used</b>		<u>94,676</u>	<u>99,362</u>
<b>Net cash from (used by) operating activities</b>	11	<u>(147)</u>	<u>651</u>
<b>INVESTING ACTIVITIES</b>			
<b>Cash used</b>			
Purchase of property, plant and equipment		1,532	2,603
<b>Total cash used</b>		<u>1,532</u>	<u>2,603</u>
<b>Net cash from (used by) investing activities</b>		<u>(1,532)</u>	<u>(2,603)</u>
<b>FINANCING ACTIVITIES</b>			
<b>Cash received</b>			
Contributed equity		1,397	2,173
<b>Total cash received</b>		<u>1,397</u>	<u>2,173</u>
<b>Net cash from (used by) financing activities</b>		<u>1,397</u>	<u>2,173</u>
<b>Net increase (decrease) in cash held</b>		<u>(282)</u>	<u>221</u>
Cash and cash equivalents at the beginning of the reporting period		356	135
<b>Cash and cash equivalents at the end of the reporting period</b>	7A	<u>74</u>	<u>356</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 2016*

---

<b>Note</b>	<b>Description</b>
1	Summary of Significant Accounting Policies
2	Events After the Reporting Period
3	Net Cash Appropriation Arrangements
4	Expenses
5	Own-Source Income
6	Fair Value Measurements
7	Financial Assets
8	Non-Financial Assets
9	Payables
10	Provisions
11	Cash Flow Reconciliation
12	Contingent Assets and Liabilities
13	Senior Executive Remuneration
14	Financial Instruments
15	Appropriations
16	Reporting of Outcomes
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**OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS  
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS**

*For the period ended 30 June 2016*

**Note 1: Significant Accounting Policies**

**1.1 Objectives of the Office of the Director of Public Prosecutions**

The Office of the Commonwealth Director of Public Prosecutions (CDPP) is an Australian Government controlled entity. It is a not-for-profit entity. The objective of the CDPP is to provide an independent prosecution service that contributes to the respect for and maintenance of, Commonwealth criminal law and public confidence in the justice system, through the prosecution of crimes.

The CDPP is structured to meet one outcome:

Maintenance of law and order for the Australian community through an independent and ethical prosecution service in accordance with the Prosecution Policy of the Commonwealth.

The continued existence of the CDPP in its present form and with its present programs is dependent on Government policy and on continuing funding by Parliament for the CDPP's administration and programs.

The CDPP's activities contribute towards the sole outcome and are classified as departmental. Departmental activities involve the use of assets, liabilities, income and expenses controlled or incurred by CDPP in its own right. The CDPP has no administered programmes.

**1.2 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 and Accountability (Financial Reporting) Rule (FRR) for reporting periods ending on or after 1 July 2015; and
- Australian Accounting Standards 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.

**1.3 Significant Accounting Judgements 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.

#### 1.4 New Australian Accounting Standards

##### Adoption of New Australian Accounting Standard Requirements

AASB 2015-7 Fair Value Disclosures of Not-for-Profit Public Sector was adopted earlier than the application date stated in the standard.

##### Future Australian Accounting Standard Requirements

The following new, revised or amending standards were issued by the Australian Accounting Standards Board prior to the sign-off date, and are expected to have a financial impact on the CDPP for future reporting periods:

AASB 2015-2	AASB 101	Presentation of Financial Statements
AASB 2015-6	AASB 124	Related Party Disclosures
AASB 2016-2	AASB 107	Statement of Cashflows
	AASB 9	Financial Instruments
	AASB 15	Revenue from Contracts with Customers

All other new, revised or amending standards that were issued prior to the sign-off date and are applicable to future reporting periods are not expected to have a future material impact on the CDPP's financial statements.

#### 1.5 Taxation

The CDPP is exempt from all forms of taxation except Fringe Benefits Tax (FBT) and the Goods and Services Tax (GST).

#### 1.6 Commonwealth Expenditure

The Australian Government continues to have regard to developments in case law, including the High Court's most recent decision on Commonwealth expenditure in *Williams v Commonwealth (2014) HCA 23*, as they contribute to the larger body of law relevant to the development of Commonwealth programmes. In accordance with its general practice, the Government will continue to monitor and assess risk and decide on any appropriate actions to respond to risks of expenditure not being consistent with constitutional or other legal requirements.

As at 30 June 2016, CDPP has assessed that it has no spending activities with a high or medium constitutional risk.

#### **Note 2: Events After the Reporting Period**

There were no other events that have the potential to significantly affect the ongoing structure and financial activities of the CDPP.

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**Note 3: Net Cash Appropriation Arrangements**

	2016 \$'000	2015 \$'000
<b>Total comprehensive income (loss) less depreciation/amortisation expenses previously funded through revenue appropriations<sup>1</sup></b>	<b>4,918</b>	<b>1,648</b>
<i>Plus: depreciation/amortisation expenses previously funded through revenue appropriation</i>	<u>(3,455)</u>	<u>(3,666)</u>
<b>Total comprehensive income (loss) - as per the Statement of Comprehensive Income</b>	<u><b>1,463</b></u>	<u><b>(2,018)</b></u>

<sup>1</sup> From 2010-11, the Government introduced net cash appropriation arrangements, where revenue appropriations for depreciation/amortisation expenses ceased. Entities now receive a separate capital budget provided through equity appropriations. Capital budgets are to be appropriated in the period when cash payment for capital expenditure is required.

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**Note 4: Expenses**

	2016 \$'000	2015 \$'000
<b>Note 4A: Employee Benefits</b>		
Wages and salaries	33,600	36,414
Superannuation:		
Defined contribution plans	2,962	2,713
Defined benefit plans	4,067	4,460
Leave and other entitlements	4,918	4,316
Separation and redundancies	2,485	2,189
Other employee benefits	177	221
<b>Total employee benefits</b>	<b>48,209</b>	<b>50,313</b>

**Accounting Policy**

Superannuation

The CDDP makes employer contributions to employees superannuation schemes at rates determined by the actuary to be sufficient to meet the current cost to the Government of the superannuation entitlements of the CDDP's employees. The CDDP accounts for the contributions as if they were contributions to defined contribution plans.

Staff of the CDDP are members of the Commonwealth Superannuation Scheme (CSS), the Public Sector Superannuation Scheme (PSS), the PSS accumulation plan (PSSap) or employee nominated superannuation funds.

The CSS and PSS are defined benefit schemes for the Australian Government. The PSSap is a defined contribution scheme.

**Note 4B: Suppliers**

**Goods and services supplied or rendered**

Prosecution legal costs	11,625	14,852
ICT	3,046	1,875
Property	1,450	2,003
Library	1,251	1,507
Services Advice and Training	4,804	2,858
Other	1,846	1,503
<b>Total goods and services supplied or rendered</b>	<b>24,022</b>	<b>24,598</b>
 Goods Supplied	 2,625	 2,194
Services Rendered	21,397	22,404
<b>Total goods and services supplied or rendered</b>	<b>24,022</b>	<b>24,598</b>

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**Note 4: Expenses**

	2016 \$'000	2015 \$'000
<b>Other suppliers</b>		
<b>Operating lease rentals in connection with</b>		
External parties		
Minimum lease payments	7,030	6,918
Rental expense for sub-leases	307	255
Workers compensation expenses	626	557
<b>Total other suppliers</b>	<b>7,963</b>	<b>7,730</b>
<b>Total suppliers</b>	<b>31,985</b>	<b>32,328</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.

	2016 \$'000	2015 \$'000
<b>Commitments for minimum lease payments in relation to non-cancellable operating leases are payable as follows GST Inclusive:</b>		
Within 1 Year	9,920	9,577
Between 1 to 5 years	25,310	31,553
More than 5 years	11,485	15,093
<b>Total operating lease commitments</b>	<b>46,715</b>	<b>56,223</b>

**Office Space Leasing Commitments**

Lease	Description of Leasing Arrangements
Sydney	Annual increase 4.00% fixed, 1, 3 year option to extend
Brisbane	Annual increase 3.75% fixed, 1, 5 year option to extend
Canberra	Annual increase 4.00% fixed, 1, 3 year option to extend
Perth	Annual increase 4.00% fixed, 1, 3 year option to extend
Melbourne	Annual increase 3.50% fixed, 2, 5 year option to extend

There are no purchase options with any CDDP lease or Contingent rental payable.

**Note 4C: Finance Costs**

Unwinding of discount	24	40
<b>Total finance costs</b>	<b>24</b>	<b>40</b>

**Note 4D: Write-Down and Impairment of Assets**

Property, plant and equipment write-down	1,471	132
Impairment of intangible assets	3	-
Other	3	-
<b>Total write-down and impairment of assets</b>	<b>1,477</b>	<b>132</b>

**Note 4E: Other Expenses**

Costs awarded against the Commonwealth	330	620
	<b>330</b>	<b>620</b>

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**Note 5: Own-Source Income**

	2016 \$'000	2015 \$'000
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**OWN-SOURCE REVENUE**

**Note 5A: Rendering of Goods and Services**

Rendering of services	8,284	5,299
<b>Total rendering of services</b>	<b>8,284</b>	<b>5,299</b>

**Rendering of services in connection with**

Related parties	8,190	5,244
External parties	94	55
<b>Total rendering of services</b>	<b>8,284</b>	<b>5,299</b>
<b>Total sale of goods and rendering of services</b>	<b>8,284</b>	<b>5,299</b>

**Commitments for sublease rental income receivables are as follows:**

Within 1 year	385	324
Between 1 to 5 years	377	718
<b>Total sublease rental income commitments</b>	<b>762</b>	<b>1,042</b>

**Accounting Policy**

**Revenue from rendering of services**

Is recognised by reference to the stage of completion of contracts at the reporting date. The revenue is recognised when:

- a) the amount of revenue, stage of completion and transaction costs incurred can be reliably measured; and
- b) the probable economic benefits associated with the transaction will flow to CDPP.

The stage of completion of contracts at the reporting date is determined by reference to services performed to date as a percentage of total services to be performed.

**Note 5B: Other Revenue**

Resources received free of charge - services from external parties	241	128
Resources received free of charge - auditor's remuneration (The ANAO only provides Financial Statement Audit Services)	80	78
<b>Total other revenue</b>	<b>321</b>	<b>206</b>

**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.



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**Note 5: Own-Source Income**

	2016 \$'000	2015 \$'000
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**GAINS**

**Note 5C: Other Gains**

Other	39	500
<b>Total other gains</b>	<b>39</b>	<b>500</b>

**REVENUE FROM GOVERNMENT**

**Note 5D: Revenue from Government**

**Appropriations:**

Departmental appropriations	78,299	79,076
<b>Total revenue from Government</b>	<b>78,299</b>	<b>79,076</b>

**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.



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**Note 6: Fair Value Measurement**

**Note 6: Fair Value Measurements, Valuations Techniques and Inputs Used**

The following tables provide an analysis of assets and liabilities that are measured at fair value. The remaining assets and liabilities disclosed in the statement of financial position do not apply the fair value hierarchy.

The different levels of the fair value hierarchy are defined below.

- Level 1: Quoted prices (unadjusted) in active markets for identical assets or liabilities that the entity can access at measurement date.
- Level 2: Inputs other than quoted prices included within Level 1 that are observable for the asset or liability, either directly or indirectly.
- Level 3: Unobservable inputs for the asset or liability.

**Accounting Policy**

All revaluations of non-financial assets were conducted by an independent valuer as at 30 June 2013. The CDPP engaged Australian Valuation Solutions (AVS) to test the procedures of the valuation model and confirm the model complies with AASB 13. An annual assessment is undertaken to determine whether the carrying amount of the assets is materially different from the fair value. 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. AVS has provided written assurance to the CDPP that the models developed are in compliance with AASB 13.

The methods utilised to determine and substantiate the unobservable inputs are derived and evaluated as follows:

Physical Depreciation and Obsolescence - Assets that do not transact with enough frequency or transparency to develop objective opinions of value from observable market evidence have been measured utilising the Depreciated Replacement Cost approach. Under the Depreciated Replacement Cost approach the estimated cost to replace the asset is calculated and then adjusted to take into physical depreciation and obsolescence. Physical depreciation and obsolescence has been determined based on professional judgement regarding physical, economic and external obsolescence factors relevant to the asset under consideration. For all Leasehold Improvement assets, the consumed economic benefit / asset obsolescence deduction is determined based on the term of the associated lease.

The CDPP's policy is to recognise transfers into and transfers out of fair value hierarchy levels as at the end of the reporting period.

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**Fair value measurements - valuation technique and the inputs used**

	Fair Value		Level <sup>3</sup>	Valuation technique(s) and inputs used
	2016 \$'000	2015 \$'000		
<b>Non-financial assets:<sup>2</sup></b>				
Property, plant and equipment <sup>1</sup>	2,599	3,574	2	Market Approach: This approach seeks to estimate the current value of an asset with reference to recent market transactions involving identical or comparable assets. Inputs: Prices and other relevant information generated by market transactions involving plant and equipment assets were considered.
	1,545	2,200	3	Depreciated Replacement Cost: The amount a market participant would be prepared to pay to acquire or construct a substitute asset of comparable utility, adjusted for physical depreciation and obsolescence. Inputs: Current prices for substitute assets. Physical depreciation and obsolescence has been determined based on professional judgement regarding physical, economic and external obsolescence factors relevant to the assets under consideration.
Leasehold improvements <sup>1</sup>	9,584	11,271	3	Depreciated Replacement Cost Inputs: Current costs per square metre of floor area relevant to the location of the asset. Physical depreciation and obsolescence has been determined based on the term of the associated lease.
<b>Total non-financial assets</b>	<b>13,728</b>	<b>17,045</b>		

<sup>1</sup> No non-financial assets were measured at fair value on a non-recurring basis as at 30 June 2016 (2015: Nil).

<sup>2</sup> The CDPP's assets are held for operational purposes and not held for the purposes of deriving a profit. The current use of all non-financial assets is considered their highest and best use.

<sup>3</sup> There were no transfers between levels 1 and 2 for recurring fair value measurements during the year.

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**Note 7: Financial Assets**

	2016 \$'000	2015 \$'000
<b>Note 7A: Cash and Cash Equivalents</b>		
Cash on hand or on deposit	74	356
<b>Total cash and cash equivalents</b>	<b>74</b>	<b>356</b>

*Accounting Policy*

Cash and Cash Equivalents

Cash is recognised at its nominal amount. Cash and cash equivalents includes:

- a) cash on hand; and
- b) on demand deposits in bank accounts with an original maturity of 3 months or less that are readily convertible to cash.

**Note 7B: Trade and Other Receivables**

**Good and Services:**

Goods and services	57	519
<b>Total goods and services receivables</b>	<b>57</b>	<b>519</b>

**Appropriations receivable:**

For existing programs	15,591	9,717
<b>Total appropriations receivable</b>	<b>15,591</b>	<b>9,717</b>

**Other receivables:**

GST receivable from the Australian Taxation Office	453	320
Other	211	883
<b>Total other receivables</b>	<b>664</b>	<b>1,203</b>
<b>Total trade and other receivables (gross)</b>	<b>16,312</b>	<b>11,439</b>

All receivables are classified as not overdue. This is in line with CDPP Credit terms for goods and services of 30 days (2015: 30 days).

**Accounting Policy**

Receivables

Trade receivables are recognised when CDPP becomes party to a contract and has a legal right to receive cash. Trade receivables are derecognised on payment.

Impairment of Financial Assets

Financial assets are assessed for impairment at the end of each reporting period. Allowances are made when collectability of the debt is no longer probable.

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**Note 8: Non-Financial Assets**

**Note 8A: Reconciliation of the Opening and Closing Balances of Buildings, Property, Plant and Equipment and Intangibles for 2016**

	Buildings \$'000	Plant & equipment \$'000	Computer Software \$'000	Total \$'000
<b>As at 1 July 2015</b>				
Gross book value	14,960	7,687	2,926	25,573
Accumulated depreciation, amortisation and impairment	(3,131)	(2,471)	(2,191)	(7,793)
<b>Total as at 1 July 2015</b>	<b>11,829</b>	<b>5,216</b>	<b>735</b>	<b>17,780</b>
<b>Additions:</b>				
By Purchase	63	1,256	251	1,570
Depreciation and amortisation	(2,299)	(848)	(307)	(3,454)
<b>Other movements:</b>				
By reclassification to other asset classes	(9)	(10)	19	-
Prior year WIP reclassified to expense	-	-	(39)	(39)
Disposals	-	(1,470)	(4)	(1,474)
<b>Total as at 30 June 2016</b>	<b>9,584</b>	<b>4,144</b>	<b>655</b>	<b>14,383</b>
<b>Total as at 30 June 2016 represented by:</b>				
Gross book value	15,013	6,651	3,246	24,910
Accumulated depreciation	(5,429)	(2,507)	(2,591)	(10,527)
<b>Total as at 30 June 2016</b>	<b>9,584</b>	<b>4,144</b>	<b>655</b>	<b>14,383</b>
<b>Commitments relating to Capital purchases are payable as follows GST Inclusive:</b>				
Within 1 Year	691	393		
<b>Total capital commitments</b>	<b>691</b>	<b>393</b>		

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**Note 8A: Reconciliation of the Opening and Closing Balances of Buildings, Property, Plant and Equipment and Intangibles for 2015**

	Buildings	Plant & equipment	Computer Software	Total
	\$'000	\$'000	\$'000	\$'000
<b>As at 1 July 2014</b>				
Gross book value	15,462	6,379	2,715	24,556
Accumulated depreciation, amortisation and impairment	(2,292)	(1,394)	(1,894)	(5,580)
<b>Total as at 1 July 2014</b>	13,170	4,985	821	18,976
<b>Additions:</b>				
By purchase	1,914	320	368	2,602
Depreciation and amortisation	(2,296)	(1,073)	(297)	(3,666)
<b>Other movements:</b>				
By reclassification to other asset classes	(959)	1,116	(157)	-
By reclassification to expense	-	-	-	-
Disposals	-	(132)	-	(132)
<b>Total as at 30 June 2015</b>	11,829	5,216	735	17,780
<b>Total as at 30 June 2015 represented by:</b>				
Gross book value	14,960	7,687	2,926	25,573
Accumulated depreciation	(3,131)	(2,471)	(2,191)	(7,793)
<b>Total as at 30 June 2015</b>	11,829	5,216	735	17,780

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**Note 8: Non-Financial Assets**

**Accounting Policy**

Recognition and Depreciation

Assets are recognised initially at cost 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.

	Useful Life (years)	Threshold (\$)
Leasehold improvements	lease term	20,000 or 5% of total value
PP&E	2-30 years	2,000
Software	3-6 years	5,000

Revaluations

Fair values for each class of asset are determined as shown below:

Asset class	Fair value measured at
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 2013.

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.

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.

Derecognition

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.

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	2016 \$'000	2015 \$'000
<b>Note 8B: Other Non-Financial Assets</b>		
Prepayments	714	328
<b>Total other non-financial assets</b>	<b>714</b>	<b>328</b>
<b>Total other non-financial assets - are expected to be recovered in:</b>		
No more than 12 months	662	328
More than 12 months	52	2
<b>Total other non-financial assets</b>	<b>714</b>	<b>328</b>

No indicators of impairment were found for other non-financial assets.



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**Note 9: Payables**

	2016 \$'000	2015 \$'000
<b>Note 9A: Suppliers</b>		
Trade creditors and accruals	4,043	5,117
<b>Total supplier payables</b>	<b>4,043</b>	<b>5,117</b>
<b>Suppliers expected to be settled</b>		
No more than 12 months	4,043	5,117
<b>Total Suppliers</b>	<b>4,043</b>	<b>5,117</b>

Settlement is usually made within 30 days.

**Note 9B: Operating Lease Payables**

Lease Incentives	7,787	9,083
<b>Total Operating Lease Payables</b>	<b>7,787</b>	<b>9,083</b>
<b>Operating Lease Payables expected to be settled</b>		
No more than 12 months	1,349	1,344
More than 12 months	6,438	7,739
<b>Total operating lease payables</b>	<b>7,787</b>	<b>9,083</b>

**Accounting Policy**

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.

**Note 9C: Other Payables**

Wages and salaries	135	1,198
Superannuation	27	233
Employee separations	2,256	911
Lease straight lining	1,344	937
Other	203	199
<b>Total other payables</b>	<b>3,965</b>	<b>3,478</b>
<b>Other payables expected to be settled</b>		
No more than 12 months	2,466	2,134
More than 12 months	1,499	1,344
<b>Total other payables</b>	<b>3,965</b>	<b>3,478</b>



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**Note 10: Provisions**

	2016 \$'000	2015 \$'000
<b>Note 10A: Employee Provisions</b>		
Leave	15,787	15,550
<b>Total employee provisions</b>	<b>15,787</b>	<b>15,550</b>
<b>Employee provisions expected to be settled</b>		
No more than 12 months	3,791	3,871
More than 12 months	11,996	11,679
<b>Total employee provisions</b>	<b>15,787</b>	<b>15,550</b>

**Accounting Policy**

Employee provisions have been calculated based on the CDP's specific probability factors as determined by the Australian Government Actuary and have been discounted using the 10 year government bond rate as at 30 June 2016.

Employee Benefits

Liabilities for 'short-term employee benefits' (as defined in AASB 119 Employee Benefits) and termination benefits expected within twelve months of the end of the reporting period are measured at their nominal amounts.

The nominal amount is calculated with regard to the rates expected to be paid on settlement of the liability.

Other long-term employee benefits are measured as net total of the present value of the defined benefit obligation at the end of the reporting period minus the fair value at the end of the reporting period of plan assets (if any) out of which the obligations are to be settled directly.

Leave

The liability for employee benefits includes provision for annual leave and long service leave. No provision has been made for sick leave as all sick leave is non-vesting and the average sick leave taken in future years by employees of the CDP is estimated to be less than the annual entitlement for sick 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 CDP'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 2014. The actuary report is still relevant as the mix of CDP employees is similar to that of 30 June 2014. The estimate of the present value of the liability takes into account attrition rates and pay increases through promotion and inflation.

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Superannuation

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.

The liability for superannuation recognised as at 30 June represents outstanding contributions for the final fortnight of the year.

	2016 \$'000	2015 \$'000
<b>Note 10B: Other Provisions</b>		
Provision for restoration <sup>1</sup>	1,111	1,087
Other <sup>2</sup>	1,314	1,478
<b>Total other provisions</b>	<b>2,425</b>	<b>2,565</b>
<b>Other provisions expected to be settled</b>		
No more than 12 months	230	238
More than 12 months	2,195	2,327
<b>Total other provisions</b>	<b>2,425</b>	<b>2,565</b>

	Provision for restoration \$'000	Other provisions \$'000	Total \$'000
Carrying amount 1 July 2015	1,087	1,478	2,565
Additional provisions made	-	127	127
Amounts used	-	(291)	(291)
Unwinding of discount or change in discount rate	24	-	24
<b>Closing balance 30 June 2016</b>	<b>1,111</b>	<b>1,314</b>	<b>2,425</b>

<sup>1</sup> CDPP currently has 11 agreements (2015: 11 agreements) for leased premises. Some 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. CDPP continues to provide for additional lump sum superannuation contributions in 2015-16 \$179k (2015 \$44k).

Provision for Surplus Lease Space relates to office leaspace under an onerous lease in 2015-16 \$1.2m.

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**Note 11: Cash Flow Reconciliation**

	2016 \$'000	2015 \$'000
<b>Reconciliation of cash and cash equivalents as per Statement of Financial Position to Cash Flow Statement</b>		
Cash and cash equivalents as per:		
Cash flow statement	74	356
Statement of Financial Position	74	356
Difference	-	-
<b>Reconciliation of net cost of services to net cash from operating activities:</b>		
Net cost of services	(76,836)	(81,094)
Add revenue from Government	78,299	79,076
<b>Adjustments for non-cash items</b>		
Depreciation / amortisation	3,455	3,666
Net write down of non-financial assets	1,474	132
Resources received free of charge - services	321	206
<b>Changes in assets / liabilities</b>		
(Increase) / decrease in net receivables	(4,367)	2,561
(Increase) / decrease in prepayments	(386)	30
Increase / (decrease) in employee provisions	237	(1,623)
Increase / (decrease) in other provisions	(140)	(1,091)
Increase / (decrease) in supplier payables	(1,395)	(858)
Increase / (decrease) in other payables	487	406
Increase / (decrease) in lease incentives	(1,296)	(760)
<b>Net cash from (used by) operating activities</b>	<b>(147)</b>	<b>651</b>

**OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS  
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS**

*For the period ended 30 June 2016*

**Note 12: Contingent Assets and Liabilities**

Claims for damages or costs	2016 \$'000	2015 \$'000
<b>Contingent liabilities</b>		
Balance from previous period	120	-
New contingent liabilities recognised	-	120
Liabilities realised	(120)	-
<b>Total contingent liabilities</b>	-	120

**Quantifiable Contingencies**

The above table contains \$0 of contingent liabilities disclosed in respect to claims for costs (2015: \$120,000). The amount from the prior year was extinguished.

**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 included in the Schedule of Contingencies.

OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS  
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

For the period ended 30 June 2016

**Note 13: Senior Management Personnel Remuneration**

	2016	2015
	\$	\$
<b>Short-term employee benefits:</b>		
Salary	5,365,035	6,104,180
Other allowances	130,147	163,221
<b>Total short-term employee benefits</b>	<b>5,495,182</b>	<b>6,267,401</b>
<b>Post-employment benefits:</b>		
Superannuation	1,084,002	1,109,625
<b>Total post-employment benefits</b>	<b>1,084,002</b>	<b>1,109,625</b>
<b>Other long-term benefits:</b>		
Annual leave expensed	513,713	551,906
Long service leave	229,973	248,358
<b>Total other long-term benefits</b>	<b>743,686</b>	<b>800,264</b>
<b>Termination benefits</b>	<b>55,198</b>	<b>-</b>
<b>Total senior management remuneration expenses</b>	<b>7,378,068</b>	<b>8,177,290</b>

Total number of senior management personnel that are included in the above table are 28 individuals (2015: 33 individuals).

**Notes**

- Note 13 is prepared on an accrual basis.
- Comparative figures for 2015 'Other long-term benefits' have been restated to include oncosts.

OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS  
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS  
For the period ended 30 June 2016

**Note 14: Financial Instruments**

	2016 \$'000	2015 \$'000
<b>Note 14A: Categories of Financial Instruments</b>		
<b>Financial Assets</b>		
<b>Loans &amp; Receivables:</b>		
Cash & cash equivalents	74	356
Trade and other receivables	268	1,402
<b>Total</b>	<b>342</b>	<b>1,758</b>
<b>Carrying amount of financial assets</b>	<b>342</b>	<b>1,758</b>
<b>Financial Liabilities</b>		
<b>At amortised cost:</b>		
Suppliers payables	4,043	5,117
<b>Total</b>	<b>4,043</b>	<b>5,117</b>
<b>Carrying amount of financial liabilities</b>	<b>4,043</b>	<b>5,117</b>
<b>Note 14B: Net Gains or Losses from Financial Assets</b>		
<b>Held-to-maturity</b>		
Impairment	3	-
<b>Net gain/(loss) from financial assets</b>	<b>3</b>	<b>-</b>

**Note 14C: Credit Risk**

The CDPP was exposed to minimal credit risk as loans and receivables are cash and trade receivables. The maximum exposure to credit risk was the risk that arises from potential default of a debtor. This amount was equal to the total amount of the trade receivables (2015-16: \$268,000 and 2014-15: \$1,402,000). The CDPP has policies and procedures that guide debt recovery techniques that are to be applied. The CDPP held no collateral to mitigate against credit risk.

**Note 14D: Liquidity Risk**

The CDPP has sufficient available financial assets to meet all financial liabilities as at 30 June 2016.

**Financial Assets**

The CDPP classifies its financial assets as cash and receivables.

**Receivables**

Trade receivables are recognised when CDPP becomes party to a contract and has a legal right to receive cash. Trade receivables are derecognised on payment.

**Impairment of Financial Assets**

Financial assets are assessed for impairment at the end of each reporting period. Allowances are made when collectability of the debt is no longer probable.

**Financial Liabilities**

Supplier and other payables are recognised to the extent that the goods or services have been received (and irrespective of having been invoiced). Supplier and other payables are derecognised on payment.



OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS  
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS  
For the period ended 30 June 2016

**Note 15: Appropriations**

**Table A: Annual Appropriations ('Recoverable GST Exclusive')**

	2016	2015
	\$'000	\$'000
<b>Ordinary Annual Services</b>		
Annual Appropriation	78,299	81,001
Annual Departmental Capital Budget <sup>1</sup>	1,903	1,925
PGPA Act s74	10,192	8,882
<b>Total appropriation</b>	<b>90,394</b>	<b>91,808</b>
Appropriation applied (current and prior years)	94,676	99,362
Payments for non-financial assets <sup>2</sup>	1,532	2,603
	<b>96,208</b>	<b>101,965</b>
<b>Variance<sup>3</sup></b>	<b>(5,814)</b>	<b>(10,157)</b>

Section 83 of the Constitution provides that no amount may be paid out of the Consolidated Revenue Fund except under an appropriation made by law. In respect of CDDP's operations, CDDP is not aware of any potential breaches of Section 83.

The above statement should be read in conjunction with the accompanying notes.

<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> Payments for non-financial assets include purchases of assets and expenditure on assets which have been capitalised.

<sup>3</sup> In 2015-16 CDDP utilised unspent Departmental Capital Budget from prior years. The remaining unspent Departmental Capital Budget at 30 June 2016 was \$1,016,000.

**Table B: Unspent Annual Appropriations ('Recoverable GST Exclusive')**

	2016	2015
	\$'000	\$'000
<b>Authority</b>		
<b>DEPARTMENTAL</b>		
Cash	74	356
Appropriation Act (No.1) 2014-15	-	8,802
Appropriation Act (No.1) 2014-15 - DCB	-	510
Appropriation Act (No.5) 2014-15	-	405
Appropriation Act (No.1) 2015-16	14,575	-
Appropriation Act (No.1) 2015-16 - DCB	1,016	-
<b>Total</b>	<b>15,665</b>	<b>10,073</b>

**OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS  
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS**

*For the period ended 30 June 2016*

**Note 16: Reporting of Outcomes**

The CDPP has one outcome only.

	Outcome 1	
	2016	2015
	\$'000	\$'000
<b>Departmental</b>		
Expenses	(85,480)	(87,099)
Own-source income	8,644	6,005
<b>Net cost of outcome delivery</b>	<b>(76,836)</b>	<b>(81,094)</b>

**Note 17: Budgetary Reports and Explanations of Major Variances**

The following tables provide a comparison of the original budget as presented in the 2015-16 Portfolio Budget Statements (PBS) to the 2015-16 final outcome as presented in accordance with Australian Accounting Standards for CDPP. The Budget is not audited.

Variances are considered to be 'major' where they have impacted on the organisation's performance and are based on the following criteria:

- \* the variance between budget and actual is greater than +/- 10% of the original budget for a line item; or
- \* the variance between budget and actual is greater than +/- 2% of the relevant sub-total (i.e. total expenses, total income, total assets or total liabilities); or
- \* an item below this threshold but is considered important for the reader's understanding or is relevant to an assessment of the discharge of accountability and to an analysis of performance of CDPP.



OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS  
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

For the period ended 30 June 2016

Note 17A: Departmental Budgetary Reports

Statement of Comprehensive Income

For the period ended 30 June 2016

	Actual	Budget Estimate	
		Original <sup>1</sup>	Variance <sup>2</sup>
	2016	2016	2016
	\$'000	\$'000	\$'000
<b>NET COST OF SERVICES</b>			
<b>EXPENSES</b>			
Employee benefits	48,209	52,826	(4,617) A
Suppliers	31,985	30,940	1,045
Depreciation and amortisation	3,455	4,325	(870)
Finance costs	24	-	24
Disposal and impairment of assets	1,477	-	1,477 D
Other	330	570	(240)
<b>Total expenses</b>	<b>85,480</b>	<b>88,661</b>	<b>(3,181)</b>
<b>LESS:</b>			
<b>OWN-SOURCE INCOME</b>			
<b>Own-source revenue</b>			
Rendering of services	8,284	7,784	500
Other	321	284	37
<b>Total own-source revenue</b>	<b>8,605</b>	<b>8,068</b>	<b>537</b>
<b>Gains</b>			
Other	39	230	(191)
<b>Total gains</b>	<b>39</b>	<b>230</b>	<b>(191)</b>
<b>Total own-source income</b>	<b>8,644</b>	<b>8,298</b>	<b>346</b>
<b>Net cost of services</b>	<b>76,836</b>	<b>80,363</b>	<b>(3,527)</b>
Revenue from Government	78,299	76,038	2,261 F
<b>Surplus (Deficit) attributable to the Australian Government</b>	<b>1,463</b>	<b>(4,325)</b>	<b>5,788</b>
<b>Total comprehensive income (loss) attributable to the Australian Government</b>	<b>1,463</b>	<b>(4,325)</b>	<b>5,788</b>

<sup>1</sup> CDP's original budgeted financial statements as first presented to Parliament in respect of the reporting period.

<sup>2</sup> Between the actual and original budgeted amounts for 2016. Explanations for major variances are provided at Note 17B.

OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS  
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS  
As at 30 June 2016

Note 17A: Departmental Budgetary Reports (Cont'd)

Statement of Financial Position  
For the period ended 30 June 2016

	Actual	Budget estimate	
		Original <sup>1</sup>	Variance <sup>2</sup>
	2016	2016	2016
	\$'000	\$'000	\$'000
<b>ASSETS</b>			
<b>Financial Assets</b>			
Cash and cash equivalents	74	360	(286)
Trade and other receivables	16,312	4,093	12,219 C
<b>Total financial assets</b>	<b>16,386</b>	<b>4,453</b>	<b>11,933</b>
<b>Non-Financial Assets</b>			
Land and buildings	9,584	8,987	597
Property, plant and equipment	4,144	3,732	412
Intangibles	655	950	(295)
Other	714	468	246
<b>Total non-financial assets</b>	<b>15,097</b>	<b>14,137</b>	<b>960</b>
<b>Total Assets</b>	<b>31,483</b>	<b>18,590</b>	<b>12,893</b>
<b>LIABILITIES</b>			
<b>Payables</b>			
Suppliers	4,043	4,213	(170)
Operating Leases	7,787	11,464	(3,677) E
Other	3,965	1,658	2,307 E
<b>Total payables</b>	<b>15,795</b>	<b>17,335</b>	<b>(1,540)</b>
<b>Provisions</b>			
Employee provisions	15,787	14,019	1,768 A
Other	2,425	1,101	1,324
<b>Other Provisions</b>	<b>18,212</b>	<b>15,120</b>	<b>3,092</b>
<b>Total Liabilities</b>	<b>34,007</b>	<b>32,455</b>	<b>1,552</b>
<b>Net Assets</b>	<b>(2,524)</b>	<b>(13,865)</b>	<b>11,341</b>
<b>EQUITY</b>			
<b>Parent Entity Interest</b>			
Contributed equity	7,862	7,862	-
Reserves	18,479	18,479	-
Retained surplus / (Accumulated deficit)	(28,865)	(40,206)	11,341
<b>Total parent entity interest</b>	<b>(2,524)</b>	<b>(13,865)</b>	<b>11,341</b>
<b>Total Equity</b>	<b>(2,524)</b>	<b>(13,865)</b>	<b>11,341</b>

<sup>1</sup> CDDP's original budgeted financial statements as first presented to Parliament in respect of the reporting period.

<sup>2</sup> Between the actual and original budgeted amounts for 2016. Explanations for major variances are provided at Note 17B.

OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS  
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS  
For the period ended 30 June 2016

Note 17A: Departmental Budgetary Reports (Cont'd)

Statement of Changes in Equity  
For the period ended 30 June 2016

	Retained earnings			Asset revaluation surplus			Contributed equity/capital			Total equity		
	Actual	Budget estimate Original <sup>1</sup>	Variance <sup>2</sup>	Actual	Budget estimate Original <sup>1</sup>	Variance <sup>2</sup>	Actual	Budget estimate Original <sup>1</sup>	Variance <sup>2</sup>	Actual	Budget estimate Original <sup>1</sup>	Variance <sup>2</sup>
	2016 \$'000	2016 \$'000	2016 \$'000	2016 \$'000	2016 \$'000	2016 \$'000	2016 \$'000	2016 \$'000	2016 \$'000	2016 \$'000	2016 \$'000	2016 \$'000
Opening balance												
Balance carried forward from previous period	(30,328)	(35,881)	5,553	18,479	18,479	-	5,959	5,959	-	(5,890)	(11,443)	5,553
Adjusted opening balance	(30,328)	(35,881)	5,553	18,479	18,479	-	5,959	5,959	-	(5,890)	(11,443)	5,553
Comprehensive income												
Surplus (Deficit) for the period	1,463	(4,325)	5,788	-	-	-	-	-	-	1,463	(4,325)	5,788
Total comprehensive income	1,463	(4,325)	5,788	-	-	-	-	-	-	1,463	(4,325)	5,788
Contributions by owners												
Departmental capital budget funding	-	-	-	-	-	-	1,903	1,903	-	1,903	1,903	-
Total transactions with owners	-	-	-	-	-	-	1,903	1,903	-	1,903	1,903	-
Closing balance as at 30 June	(28,865)	(40,206)	11,341	18,479	18,479	-	7,862	7,862	-	(2,524)	(13,865)	11,341

<sup>1</sup> CDDP's original budgeted financial statements as first presented to Parliament in respect of the reporting period.

<sup>2</sup> Variance between the actual and original budgeted amounts for 2015. Explanations for major variances are provided at Note 17B.

OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS  
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENT

For the period ended 30 June 2016

Note 17A: Departmental Budgetary Reports (Cont'd)

Cash Flow Statement

For the period ended 30 June 2016

	Actual	Budget estimate	
		Original <sup>1</sup>	Variance <sup>2</sup>
	2016	2016	2016
	\$'000	\$'000	\$'000
<b>OPERATING ACTIVITIES</b>			
<b>Cash received</b>			
Appropriations	83,123	76,038	7,085
Rendering of services	8,746	7,784	962
Net GST received	2,621	2,900	(279)
Other	39	230	(191)
<b>Total cash received</b>	<b>94,529</b>	<b>86,952</b>	<b>7,577</b>
<b>Cash used</b>			
Employees	47,895	52,826	(4,931) A
Suppliers	36,259	29,156	7,103 B
Other	330	570	(240)
Appropriation cash returned to the OPA	10,192	4,400	5,792
<b>Total cash used</b>	<b>94,676</b>	<b>86,952</b>	<b>7,724</b>
<b>Net cash from (used by) operating activities</b>	<b>(147)</b>	<b>-</b>	<b>(147)</b>
<b>INVESTING ACTIVITIES</b>			
<b>Cash used</b>			
Purchase of property, plant and equipment	1,532	1,903	(371)
<b>Total cash used</b>	<b>1,532</b>	<b>1,903</b>	<b>(371)</b>
<b>Net cash from (used by) investing activities</b>	<b>(1,532)</b>	<b>(1,903)</b>	<b>371</b>
<b>FINANCING ACTIVITIES</b>			
<b>Cash received</b>			
Contributed equity	1,397	1,903	(506)
<b>Total cash received</b>	<b>1,397</b>	<b>1,903</b>	<b>(506)</b>
<b>Net cash from (used by) financing activities</b>	<b>1,397</b>	<b>1,903</b>	<b>(506)</b>
<b>Net increase (decrease) in cash held</b>	<b>(282)</b>	<b>-</b>	<b>(282)</b>
Cash and cash equivalents at the beginning of the reporting period	356	360	(4)
<b>Cash and cash equivalents at the end of the reporting period</b>	<b>74</b>	<b>360</b>	<b>(286)</b>

<sup>1</sup> CDDP's original budgeted financial statements as first presented to Parliament in respect of the reporting period.

<sup>2</sup> Between the actual and original budgeted amounts for 2016. Explanations for major variances are provided at Note 17B.

Note 17B: Departmental Major Budget Variances for 2016

Explanations for major variances	Affected line items (and statements)
<b>A Employee Benefits</b> Employee benefits expenses are lower than the 2015-16 budget due to the following factors: • staff pay rises were budgeted for but did not proceed in 2015-16; • staff decrease of 31 average staffing level (ASL) in 2015-16 due to delays in scheduled recruitment and replacement of some staff; • overall reduction in staff costs due to lower number of senior staff; • the timing of \$2.256m in redundancy payments.  Employee provisions are higher than the 2015-16 budget due to a reduction in the discount rate used to calculate this provision from 3% to 2%.	• Employee benefits expense (Statement of Comprehensive Income) (\$4.617m)  • Operating cash used - employees (Cash Flow Statement) (\$4.970m)  • Employee Provisions (Statement of Financial Position) \$1.768m
<b>B Suppliers</b> Supplier payment are \$7.103m higher than the 2015-16 budget mainly due to the following factors: • \$2.8m was due to the timing of payments at the beginning and end of 2015/16; • \$1.4m was due to a change in accounting treatment of the Departmental Capital Budget since formulating the budget; • \$1.3m was due to the lease straight lining non-cash expenditure.	• Supplier expense (Cash Flow Statement) \$7.103m
<b>C Financial Assets</b> Financial Assets - Trade and Other Receivables are \$12.219m higher than the 2015-16 budget. In 2016-15 the budget estimated a loss of \$4m however the actual result was a surplus. This was compounded by a further \$4.8m surplus in 2015-16.	• Financial Assets - Trade and Other Receivables (Statement of Financial Position) \$12.219m
<b>D Non-Financial Assets</b> Write-Down and Impairment of Assets are \$1.477m higher than the 2015-16 budget due to the disposal of library materials and the former communications system.	• Write-Down and Impairment of Assets (Statement of Comprehensive Income) \$1.477m
<b>E Payables (Suppliers and Lease Incentives)</b>  The operating lease payables is \$3.677m lower than the 2015-16 budget due to more favourable lease terms negotiated for the premises in Adelaide and Perth.  Other payables are \$2.307m higher than the 2015-16 budget due to \$2.25m in redundancies payable not included when formulating the budget.	• Operating Leases (Statement of Financial Position) (\$3.677m)  • Other (Statement of Financial Position) \$2.307m
<b>F Appropriations</b> Revenue from Government was \$2.261m higher than budget. This was mainly due to an increase in funding for Counter Terrorism Prosecutions in 2015-16.	• Revenue from Government (Statement of Comprehensive Income) \$2.261m

# CHAPTER







# Appendices and references

# Appendix 1. List of requirements

Schedule 2 paragraph 17AJ(d) of the *Public Governance, Performance and Accountability Amendment (Non-corporate Commonwealth Entity Annual Reporting) Rule 2016* requires the list of requirements to be included in a non-corporate Commonwealth entity's annual report for a reporting period. This Schedule is made for subsection 46(3) of the *Public Governance, Performance and Accountability Act 2013* (the Act).

**Table 27: List of requirements**

Ref *	Part of report	Description	Requirement	Location
<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	Preliminary
<b>17AD(h)</b>	<b>Aid to access</b>			
17AJ(a)		Table of contents	Mandatory	Preliminary
17AJ(b)		Alphabetical index	Mandatory	Chapter 7
17AJ(c)		Glossary of abbreviations and acronyms	Mandatory	Chapter 7
17AJ(d)		List of requirements	Mandatory	Chapter 7
17AJ(e)		Details of contact officer	Mandatory	Preliminary
17AJ(f)		Entity's website address	Mandatory	Preliminary
17AJ(g)		Electronic address of report	Mandatory	Preliminary
<b>17AD(a)</b>	<b>Review by accountable authority</b>			
17AD(a)		Review by accountable authority of the entity	Mandatory	Director's Review—Preliminary

\* The reference is to the Public Governance, Performance and Accountability Rule 2014 (the Rule).



Ref *	Part of report	Description	Requirement	Location
<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	Chapter 1
17AE(1)(a)(ii)		A description of the organisational structure of the entity	Mandatory	Chapter 3
17AE(1)(a)(iii)		A description of the outcomes and programmes administered by the entity	Mandatory	Chapter 1
17AE(1)(a)(iv)		A description of the purposes of the entity as included in corporate plan	Mandatory	Chapter 1
17AE(1)(b)		An outline of the structure of the portfolio of the entity	Portfolio departments mandatory	Not applicable
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	Mandatory	Chapter 1
<b>17AD(c)</b>	<b>Report on the Performance of the entity</b>			
	<b><i>Annual performance Statements</i></b>			
<b>17AD(c)(i); 16F</b>		Annual performance statement in accordance with paragraph 39(1)(b) of the Act and section 16F of the Rule	Mandatory	Chapter 2
<b>17AD(c)(ii)</b>	<b><i>Report on Financial Performance</i></b>			
17AF(1)(a)		A discussion and analysis of the entity's financial performance	Mandatory	Director's Review—Preliminary and Chapter 5
17AF(1)(b)		A table summarising the total resources and total payments of the entity	Mandatory	Chapter 7 (Appendix 6)

Ref *	Part of report	Description	Requirement	Location
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	Chapter 5
17AD(d)	<b>Management and Accountability</b>			
	<b>Corporate Governance</b>			
17AG(2)(a)		Information on compliance with section 10 (fraud systems)	Mandatory	Transmittal letter and Chapter 3
17AG(2)(b)(i)		A certification by accountable authority that fraud risk assessments and fraud control plans have been prepared	Mandatory	Transmittal letter and Chapter 3
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	Transmittal letter and Chapter 3
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	Transmittal letter and Chapter 3
17AG(2)(c)		An outline of structures and processes in place for the entity to implement principles and objectives of corporate governance	Mandatory	Chapter 3

Ref *	Part of report	Description	Requirement	Location
17AG(2)(d) – (e)		A statement of significant issues reported to Minister under paragraph 19(1)(e) of the Act that relates to non-compliance with Finance law and action taken to remedy non-compliance	If applicable, Mandatory	Not applicable
<b>External Scrutiny</b>				
17AG(3)		Information on the most significant developments in external scrutiny and the entity's response to the scrutiny	Mandatory	Director's Review—Preliminary and Chapter 5
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	Not applicable
17AG(3)(b)		Information on any reports on operations of the entity by the Auditor-General (other than report under section 43 of the Act), a Parliamentary Committee, or the Commonwealth Ombudsman	If applicable, Mandatory	Chapter 5
17AG(3)(c)		Information on any capability reviews on the entity that were released during the period	If applicable, Mandatory	Not applicable
<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	Director's Review—Preliminary, and Chapter 3 and 4
		<p>Statistics on the entity's APS employees on an ongoing and non-ongoing basis; including the following:</p> <ul style="list-style-type: none"> <li>• Statistics on staffing classification level;</li> <li>• Statistics on full-time employees;</li> <li>• Statistics on part-time employees;</li> <li>• Statistics on gender;</li> <li>• Statistics on staff location;</li> <li>• Statistics on employees who identify as Indigenous</li> </ul>	Mandatory	Chapter 4

Ref *	Part of report	Description	Requirement	Location
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	Chapter 4
17AG(4)(c)(i)		Information on the number of SES and non-SES employees covered by agreements etc identified in paragraph 17AD(4)(c)	Mandatory	Chapter 4
17AG(4)(c)(ii)		The salary ranges available for APS employees by classification level	Mandatory	Chapter 4
17AG(4)(c)(iii)		A description of non-salary benefits provided to employees	Mandatory	Chapter 4
17AG(4)(d)(i)		Information on the number of employees at each classification level who received performance pay	If applicable, Mandatory	Not applicable
17AG(4)(d)(ii)		Information on aggregate amounts of performance pay at each classification level	If applicable, Mandatory	Not applicable
17AG(4)(d)(iii)		Information on the average amount of performance payment, and range of such payments, at each classification level	If applicable, Mandatory	Not applicable
17AG(4)(d)(iv)		Information on aggregate amount of performance payments	If applicable, Mandatory	Not applicable
<b>Assets Management</b>				
17 AG(5)		An assessment of effectiveness of assets management where asset management is a significant part of the entity's activities	If applicable, Mandatory	Chapter 5
<b>Purchasing</b>				
17 AG(6)		An assessment of entity performance against the Commonwealth Procurement Rules	Mandatory	Chapter 5

Ref *	Part of report	Description	Requirement	Location
<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	Chapter 5
17AG(7)(b)		<i>A statement that "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	Chapter 5
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	Chapter 5
17AG(7)(d)		<i>A statement that "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	Chapter 5
<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 Auditor-General 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	Chapter 5

Ref *	Part of report	Description	Requirement	Location
<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	Chapter 5
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	Chapter 5
17AG(10)(b)		An outline of the ways in which the procurement practices of the entity support small and medium enterprises.	Mandatory	Chapter 5
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	Chapter 5
<b>Financial Statements</b>				
17AD(e)		Inclusion of the annual financial statements in accordance with subsection 43(4) of the Act	Mandatory	Chapter 6

Ref *	Part of report	Description	Requirement	Location
<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	Chapter 7
17AH(1)(a)(ii)		If the entity did not conduct advertising campaigns, a statement to that effect	If applicable, Mandatory	Not applicable
17AH(1)(b)		A statement that <i>"Information on grants awarded to [name of entity] during [reporting period] is available at [address of entity's website]."</i>	If applicable, Mandatory	Not applicable
17AH(1)(c)		Outline of mechanisms of disability reporting, including reference to website for further information	Mandatory	Chapter 4
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	Chapter 7
17AH(1)(e)		Correction of material errors in previous annual report	If applicable, mandatory	Chapter 3
17AH(2)		Information required by other legislation	Mandatory	Chapter 7



## Appendix 2. 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).

This 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 displays a plan showing what information is published in accordance with the IPS requirements.

[www.cdpp.gov.au](http://www.cdpp.gov.au)



# Appendix 3. Work health and safety

We continue to strengthen our Work Health and Safety Management System (WHS Management System) with the addition of a suite of policies and procedures designed to meet the associated Australian Standards. The system is intended to be easily understood and applied at a working level, allowing workers greater responsibility for WHS management in their respective areas, consistent with the *Work Health and Safety Act 2011*.

As part of this process we have analysed incident data over the past five years to identify the highest priority WHS issues within the CDPP. This has allowed us to make evidence-based decisions on how to strategically target remedial resources and implement procedures to reduce the number and severity of WHS incidents.

As an example, psychological injuries resulting from, among other things, exposure to distressing material forming the core material of certain prosecutions make up the highest proportion of compensable injuries over the past five years.

As a result, we increased the number of wellbeing sessions and resilience checks by 45 per cent during 2015–16 to examine the wellbeing of staff exposed to potentially distressing items of evidence. These checks included workers who may have only had episodic contact with this material.

There were three notifiable incidents during 2015–16 that arose out of conducting our businesses or undertakings. There was one Compliance Inspection activity conducted during the period that related to the businesses or undertakings we conducted. No notices were given to the CDPP during 2015–16 under Part 10 of the *Work Health and Safety Act 2011*.

In 2015–16 we reviewed rehabilitation policies and procedures. As a result we redeveloped our previous Rehabilitation and Return to Work Arrangements into a Rehabilitation Management System (RMS). The RMS provides the framework for efficient rehabilitation management in the CDPP. It includes elements of current good practice in injury management, recognises our legislative obligations and identifies the key processes and procedures required to support sustainable return-to-work outcomes for all staff. We provide injury management and rehabilitation for both compensable and non-compensable injuries and illnesses.

## **Injury prevention and early intervention**

One of the key principles of the RMS is a managed process involving injury prevention and early intervention with appropriate and timely services based on assessed needs.

We continue to focus on reducing the lifetime cost of injury claims through current and emerging injury prevention strategies and provision of early intervention. These strategies are aimed at rehabilitating and returning staff to the workplace as quickly as possible.

The Early Intervention Programme provides timely and tailored support to injured/ill workers and includes provision of short-term treatment (physical or psychological), and access to Employee Assistance Programme support, workplace rehabilitation providers, workplace assessments and fitness for duty medical assessments.

## **Workers' compensation**

In 2015–16 a total of two workers compensation claims were accepted, compared with three in 2014–15.

Mechanism of injury descriptors are based on a national classification system that assists in identifying injury trends and setting injury prevention performance targets. There has been no remarkable change in injury trends in the last two years.

## **Employee Assistance Programme**

During 2015–16, the Employee Assistance Programme use rate (new referrals) was 6.55 per cent of the total CDPP workforce. The percentage of personal to work-related issues, as the primary reason for accessing this service, was 43.35 per cent personal compared with 56.65 per cent work-related.



## Appendix 4. Advertising and market research

Under section 311A of the *Commonwealth Electoral Act 1918*, we are required to disclose payments of \$12,700 or more (including GST) for advertising and market research.

We did not undertake any advertising campaigns during 2015–16.

# Appendix 5. Ecologically sustainable development and environmental performance

One of our priorities is the ongoing efficient and effective management of resources. We have initiatives in place that contribute to a more sustainable environment.

We use a range of energy saving methods including:

- using technology to minimise energy use, including automatic power down devices on electrical equipment
- ensuring all of our computer equipment is energy star enabled
- sourcing a component of electricity costs for Sydney, Melbourne and Canberra Offices from green energy options
- recycling waste paper and giving preference to environmentally sound products when purchasing office supplies
- providing staff with access to video and teleconferencing facilities in our offices with the aim of reducing the overall amount of air travel undertaken
- incorporating lighting that is activated by movement detectors in the new office fitouts for the Sydney and Adelaide Offices.

## Environmental performance

The following table summarises the environmental performance of our sites during 2015–16.

**Table 28: Environmental performance during in 2015–16**

	Performance 2015–16
Office tenant light and power	
Electricity	1,006,551 kilowatt hours
Green power	151,972 kilowatt hours
Total	3,623.6 gigajoules
Total electricity consumed per employee	8,689.7 megajoules
Passenger vehicles	
Petrol	6,075 litres
Total	207.76 gigajoules
Distance	155,322 kilometres
Megajoule/kilometre	1.33
Total CDPP consumption	3,831.36 gigajoules

Notes: CDPP sites for the reporting period included Canberra, Sydney, Melbourne, Brisbane, Perth, Adelaide, Hobart, Darwin, Townsville and Cairns.

# Appendix 6. Entity resource statement and expenses by outcome

**Table 29: Entity resource statement 2015–16**

	Actual available appropriation for 2015–16 \$'000 (a)	Payments made 2015–16 \$'000 (b)	Balance remaining 2015–16 \$'000 (a)–(b)
<b>DEPARTMENTAL</b>			
Ordinary Annual Services <sup>1</sup>			
Prior-year departmental appropriation	10,073	10,073	0
Departmental appropriation <sup>2</sup>	80,202	64,537	15,665
s.74 relevant agency receipts <sup>3</sup>	10,192	10,192	0
Total net resourcing for entity	100,467	84,802	15,665

Notes:

1. Appropriation Act (No. 1) 2015–16.
2. Includes an amount of \$1.903 million in 2015–16 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 *Public Governance, Performance and Accountability Act 2013*.

## Expenses by outcome

**Table 30: Expenses and resources for Outcome 1**

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>	Actual available appropriation for 2015–16 \$'000 (a)	Payments made 2015–16 \$'000 (b)	Balance remaining 2015–16 \$'000 (a)–(b)
<b>Programme 1.1: An independent service to prosecute alleged offences against the criminal law of the Commonwealth</b>			
Departmental expenses			
Departmental appropriation <sup>1</sup>	88,491	94,676	(6,185)
Expenses not requiring appropriation <sup>2</sup>	4,839	3,800	1,089
Total expenses for Outcome 1	93,330	98,476	(5,146)
	<b>Budget 2015–16</b>	<b>Actual 2015–16</b>	
Average staffing level (number)	413	365	

Notes:

1. Departmental Appropriation combines Ordinary annual services (Appropriation Act No. 1) and Retained Revenue Receipts under section 74 of the *Public Governance, Performance and Accountability ACT 2013*.
2. Expenses not requiring appropriation in the budget year are made up of services received free of charge, depreciation and amortisation expenses.

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# Acronyms and abbreviations

ACC	Australian Crime Commission (now ACIC)
ACCC	Australian Competition and Consumer Commission
ACIC	Australian Criminal Intelligence Commission (formerly ACC)
ACLEI	Australian Commission for Law Enforcement Integrity
ACT	Australian Capital Territory
AFSA	Australian Financial Security Authority
AEC	Australian Electoral Commission
AFMA	Australian Fisheries Management Authority
AFP	Australian Federal Police
AGD	Attorney-General's Department
AML/CTF	<i>Anti-Money Laundering and Counter-Terrorism Financing Act 2006</i> (Cth)
AMP	Agency Multicultural Plan
APS	Australian Public Service
APSC	Australian Public Service Commission
ASIC	Australian Securities and Investments Commission
ASIO	Australian Security Intelligence Organisation
ATO	Australian Taxation Office
AWA	Australian Workplace Agreement
CASA	Civil Aviation Safety Authority
CDPP	Commonwealth Director of Public Prosecutions
CFC	Commercial, Financial and Corruption
CRIMS	Case Reporting and Information Management System
Customs Act	<i>Customs Act 1901</i> (Cth)
Defendant	A person who has been charged with an offence
DFAT	Department of Foreign Affairs and Trade



DHS	Department of Human Services
DLI	Director's Litigation Instruction
DPP	Director of Public Prosecutions
DPP Act	<i>Director of Public Prosecutions Act 1983</i> (Cth)
DSS	Department of Social Services
DVA	Department of Veterans' Affairs
ELG	Executive Leadership Group
FOI Act	<i>Freedom of Information Act 1982</i> (Cth)
GST	Goods and services tax
ICO	Intensive Corrections Order
ICT	Information and communication technology
LLPD	Legal Learning and Professional Development
NSW	New South Wales
NT	Northern Territory
POC 1987	<i>Proceeds of Crime Act 1987</i> (Cth)
POC 2002	<i>Proceeds of Crime Act 2002</i> (Cth)
Prosecution Policy	<i>Prosecution Policy of the Commonwealth</i>
QLD	Queensland
RMS	Rehabilitation Management System
SES	Senior Executive Service
TAS	Tasmania
VIC	Victoria
WA	Western Australia
WAS	Witness Assistance Service
WHS	Work health and safety

# Glossary of terms

## 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. that is given to the CDP by the police or investigating agency after they have finished their investigation. We use the material contained within 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', that is, representing the Queen in right of the Commonwealth.

## Evidence

Information provided to the court that is used to prove or disprove a fact in issue in court proceedings.

## 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.

## 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.

## 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 have regard to 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.

# Photos and graphics

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Page iii	Summary of performance 2015–16—infographic
Page vi	Chapter break—stock photo
Page 6	CDPP Director—photo
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Page 15	Our strategic themes—graphic
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## GENERAL INFORMATION

More details are on our website at [www.cdpp.gov.au](http://www.cdpp.gov.au) including:

- *Prosecution Policy of the Commonwealth*
- Strategic Directions and Corporate Plan
- Portfolio Budget Statements.

The CDPP provides independent prosecution services that contribute to a fair, safe and just Australia where Commonwealth laws are respected, offenders are brought to justice and potential offenders are deterred.

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