

2019-2020

ANNUAL

REPORT



**ACT INTEGRITY
COMMISSION**

The ACT Integrity Commission acknowledges the Ngunnawal people as the traditional owners and custodians of the Canberra region. The region is also an important meeting place and significant to other Aboriginal groups.

We respect the Aboriginal and Torres Strait Islander people, particularly our Aboriginal staff, and their continuing culture and contribution they make to the Canberra region and the life of our city.

Contact for this report

General enquiries about this report should be directed to: officemanager@integrity.act.gov.au

Freedom of Information

Freedom of information requests can be made by emailing: info@integrity.act.gov.au

Accessibility

The ACT Integrity Commission is committed to making its information, services, events and venues accessible to as many people as possible. If you are deaf, or have a hearing or speech impairment, and need the telephone typewriter (TTY) service, please phone 13 36 77 and ask for 13 34 27. For speak and listen users, please phone 1300 555 727 and ask for 13 34 27. For more information on these services, contact us through the National Relay Service: www.relayservice.gov.au

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Information about the Commission and an electronic version of this annual report can be found on the website: www.integrity.act.gov.au

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ACT INTEGRITY COMMISSION



The Hon. Joy Burch MLA
Speaker
ACT Legislative Assembly
London Circuit
CANBERRA ACT 2601

Dear Madam Speaker

I am pleased to submit the 2019-20 Annual Report of the ACT Integrity Commission (the Commission). The Annual Report has been prepared in accordance with Section 7A of the *Annual Reports (Government Agencies) Act 2004* and Part 4.3 of the *Integrity Commission Act 2018*.

I certify the information in the attached annual report, and information provided for whole-of-government reporting, is an honest and accurate account and, subject to the constraints of section 221 of the *Integrity Commission Act 2018*, all material information on the operations of the Commission has been included for the period 1 July 2019 to 30 June 2020.

I also certify that fraud prevention has been managed in accordance with the *Public Sector Management Standards 2006 (repealed)*, Part 2.3 (see section 113, *Public Sector Management Standards 2016*).

On 17 December 2020, the acting Speaker, Mr Mark Parton, approved the Commission's request made under subsection 15(4) of the *Annual Reports (Government Agencies) Act 2004* to submit the Annual Report after the time required under subsections 15(2) or 15(3). Subsection 15(5) requires that you present the Annual Report to the Legislative Assembly as soon as practicable.

Yours sincerely

A handwritten signature in black ink, appearing to read "M Adams", with a long, sweeping tail.

The Hon. Michael Adams QC
Acting Integrity Commissioner

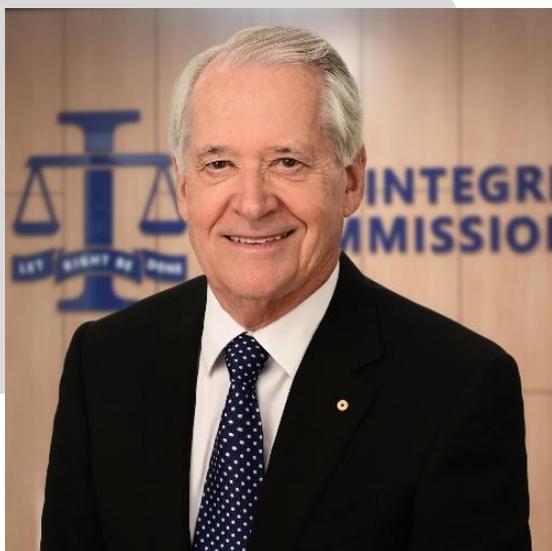
3 February 2021

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PART A

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THE COMMISSIONER



I have the honour to present the first Annual Report for the ACT Integrity Commission (**'Commission'**), created pursuant to the provisions of the *Integrity Commission Act 2018* (**'Act'**).

Integrity commissions are a relatively new adjunct to government administration. The first of such commissions was established in Hong Kong in 1984, followed by the creation of the Independent Commission Against Corruption in New South Wales in 1989, and similar bodies in Queensland in 2001, Western Australia in 2003, Tasmania in 2010, Victoria in 2011, South Australia in 2012, and the Northern Territory in 2017.

The Australian Capital Territory (**'ACT'**) is the final state or territory jurisdiction to initiate an oversight body, in recognition of the necessity to ensure accountable and transparent government and government services for all citizens of the ACT.

The ACT became self-governing on 6 December 1988 following the receipt of Royal Assent to the *Australian Capital Territory (Self-Government) Act 1988* (Cth). The concept of a commission designed to safeguard integrity among the public service, judicial officers and members of the government was first considered at the time of self-government of the ACT. In fact, as early as 1 June 1989, there were calls for an independent advisory committee against corruption during the seventh sitting day of the First Assembly.

Subsequently, on 27 November 1991, a member of the Residents Rally presented a Public Corruption Bill 1991 to the Legislative Assembly. The Bill lapsed, but it provided for the establishment of the committee to receive information relating to allegations of public officials' corruption and corruption by public authorities.

In its review, *Inquiry into an Independent Integrity Commission*, published October 2017, the Select Committee on an Independent Integrity Commission (**'Select Committee'**) made several recommendations, including that any commission should have a broad range of powers encompassing oversight of all the public sector, and any parties delivering contract work on behalf of the government. The recommendations also foreshadowed mandatory reporting of corruption by Directors-General, public hearings being undertaken, and guidance from the ACT's human rights legislation. The Committee also recommended the definition of corrupt conduct should mirror the definition in Part 3 of the *Independent Commission Against Corruption Act 1988* (NSW) (**'ICAC Act'**).

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The Legislative Assembly accordingly extensively considered the experience of other corruption agencies before formulating the model which it believed will best serve the ACT.

In October 2018, the Select Committee published a further report, which confirmed the findings of its earlier report. The Select Committee made further recommendations on specific issues, which are now contained in the Act. The administrative components of the Act came into operation on 1 July 2019.

Objects of the Act

It is convenient to note here the principal objects for which the Commission was established, as set out in s 6 of the Act as follows:

- Providing for the identification, investigation, and exposure of corrupt conduct; and
- Providing for the Commission to prioritise the investigation and exposure of serious corrupt conduct and systemic corrupt conduct; and
- Achieving a balance between the public interest in exposing corruption in public administration and the public interest in avoiding undue prejudice to a person's reputation; and
- Assisting in the prevention of corrupt conduct; and
- Co-operating with other integrity bodies; and
- Educating public officials and the community about the detrimental effects of corrupt conduct on public administration and the community and the ways in which corrupt conduct can be prevented; and
- Assisting in improving the capacity of the public sector to prevent corrupt conduct.

As provided for by s 6(c), the objects of the Act seek to achieve a balance between the investigation and exposure of corrupt conduct, while avoiding undue prejudice to a person's reputation. The same theme underlies other sections of the Act, for example, the necessity to notify the Inspector before holding a public examination (s 144), and the requirement to provide reasons justifying that decision. Natural justice must also be afforded, as provided by s 142 of the Act.

The Act has been carefully crafted to ensure that a person's reputation is to be protected so far as is reasonably possible where allegations of corruption are made against that person or extending to such a person. Reputational Repair Protocols will be notified in the next reporting period. These protocols will, as far as possible, avoid reputational damage to any person arising out of an investigation.

The Legislative Assembly confirmed my appointment on 4 June 2019, one month after the Act came into operation. As Commissioner, I provided an undertaking to the ACT Government that the Commission would commence operations on 1 December 2019. The Act provided for a staged introduction of operations, to allow for the necessary establishment arrangements to be made. To assist with that, the Head of Service and Clerk of the Assembly allocated three officers from the Office of the Legislative Assembly. The Commission records its profound appreciation for the assistance provided by those officers and acknowledges the valuable guidance and assistance which the Speaker of the Assembly, Ms Joy Burch MLA, provided.

This Annual Report contains the various milestones achieved in the lead-up to the commencement of operations. As a new agency it required the establishment of administration and financial processes, including recruitment of the Chief Executive Officer (**'CEO'**), the development of an appropriate logo, and a search for permanent premises.

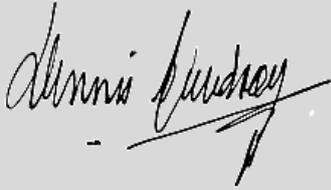
The Commission commenced operations on schedule on 1 December 2019. At 12:01am that day, the Commission's website was launched, which included information about contacting the Commission. Shortly thereafter, the Commission received its first corruption complaints.

The Commission initially operated from the North Building, Canberra City, in offices temporarily vacated by ACT Elections. Those premises were used while searches were made for permanent premises. In May 2020, the Commission entered into a lease of premises at Kingston, which will become its home.

The Commission was fortunate to recruit a CEO, Mr John Hoitink, who had been previously the Acting Chief Executive Officer, and Executive Director of the Investigation Division, of the NSW Independent Commission Against Corruption (**'NSW ICAC'**). Ongoing recruitment has identified other highly experienced and capable staff for a number of roles within the Commission.

The Commission's first seven months of operation have been challenging and rewarding. The Commission records with gratitude the assistance it has received from the various directorates within the ACT Government. The Commission has drafted Memorandums of Understanding (**'MOUs'**) with the heads of a number of partner agencies to assist in future operations. Such relationships will assist in the cooperation and involvement of government agencies in identifying corruption and educating officials concerning corruption prevention.

The Commission now looks forward to building its activities and carrying out the objects of the Act.

A handwritten signature in black ink, appearing to read "Dennis Cowdroy". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

The Hon Dennis Cowdroy AO QC
ACT Integrity Commissioner

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FOREWORD

The establishment of a new organisation within the ACT presented challenges ranging from the creation of basic administrative processes to the drafting and implementation of purpose designed policies and procedures to ensure Commission processes aligned with the Act. The recruitment of both experienced and specialist staff to an agency without permanent offices and without basic administrative infrastructure presented a novel challenge. I am pleased to say those staff who were attracted to being part of the building of this Commission have embraced the process.

An added layer of complexity arose with the advent of the COVID-19 pathogen. Although this presented some obstacles to Commission staff, those obstacles are minor in relation to the effect the virus has had on the ACT, Australia, and the global community. Commission staff commenced working from home in early March and continued to undertake their responsibilities in line with social distancing and isolation requirements.

As outlined by the Commissioner in his introduction to this, our inaugural Annual Report, the ACT is the final State/Territory jurisdiction to establish an integrity commission. To establish an agency with no history, no staff and no office presented a unique opportunity to build an organisation literally from the ground up. At commencement, the legislative framework had been established, an interim budget had been allocated, and temporary offices were occupied adjacent to the Legislative Assembly.

From there, it was necessary to develop relationships with key executive personnel in a number of agencies and develop an understanding of how the ACT public sector functioned. The Commission is grateful to the Head of Service and Clerk of the Assembly for the assistance of seconded senior staff from the Office of Legislative Assembly, as well as senior officers from other departments, who assisted with the initial planning and process development and notification of mandatory guidelines. The heads of the other ACT independent agencies, who are also independent officers of the Assembly, were of great assistance in providing their corporate knowledge and experience of the ACT public sector.

With the knowledge that the operational component of the Commission's operations was to begin on 1 December 2019, the development and initiation of a website and methodology for the lodgement of corruption reports, a document management system, and process for the assessment of reports all commenced in earnest.

The Commission is indebted to our counterparts within oversight agencies interstate. Rather than reinventing the wheel, all of the other oversight agencies around Australia were contacted and each of them willingly supplied those administrative and operational polices they could share so that we could leverage their collective experience to develop suitable procedures and policies for this Commission.

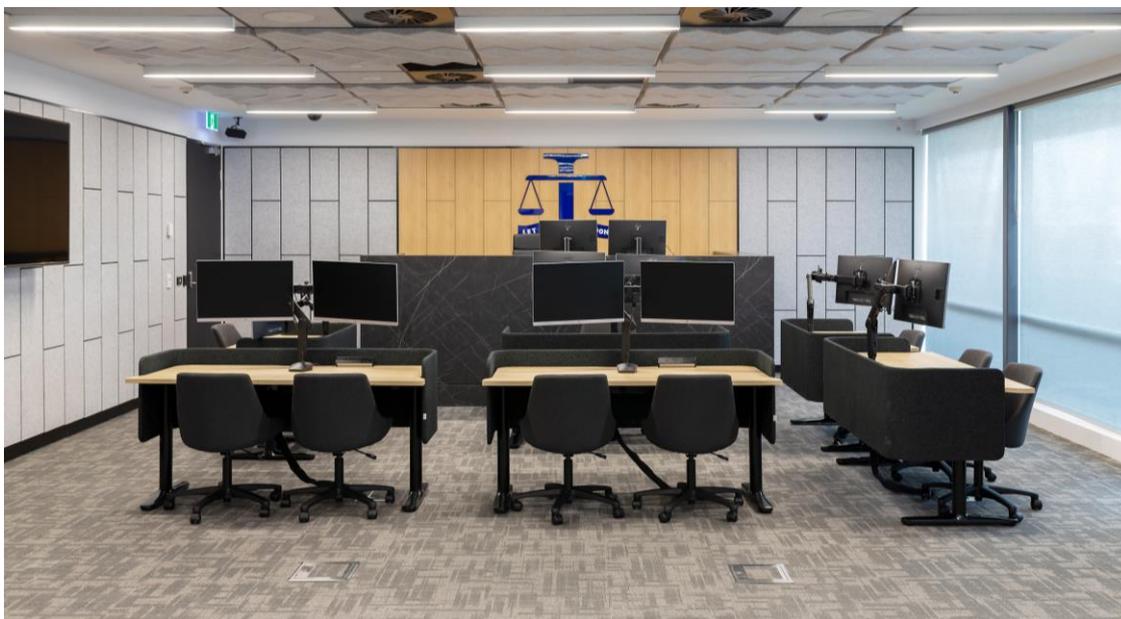
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The first corruption report was received on 2 December 2019 and, as at 30 June 2020, the Commission had received 76 corruption reports.

Draft MOUs were sent to all the independent officers of the Assembly, the Inspector of the Commission, the community policing arm of the Australian Federal Police (**‘ACT Policing’**) and the office of the Director of Public Prosecutions (**‘ACT DPP’**) during the reporting year. These MOUs will form the backbone of cooperation with these agencies as the Commission goes about its business.

The Commission temporarily occupied offices in the North Building and, though not fit for purpose, this reinforced the necessity for the Commission to have its own dedicated, independent offices. As a result, fourteen premises were inspected as being possible venues. Budget cases were drafted, and plans developed for a number of these premises. These budget submissions were presented to Government in line with established protocols for independent officers of the Assembly.

In late March the ACT Government announced a funding initiative known as the ‘Screwdriver Ready’ stimulus package. It was for projects that were able to commence rapidly, employ local tradespeople and companies, and conclude by 30 June 2020. The Commission lodged a submission and was successful in receiving partial funding to undertake construction of a new permanent office.



ACT Integrity Commission – Hearing Room

Construction was able to commence rapidly with the assistance of ACT Property Group and ACT Major Projects. All of the funding allocated from the Screwdriver Ready initiative was spent or allocated by the end of the reporting period, with a view to the Commission occupying the new premises by the end of August 2020. The design for the new office included a hearing room, secure evidence storage, interview and meeting rooms, as well as staff accommodation and facilities.

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ACT Integrity Commission – Entrance

The Commission has commenced its corruption prevention and education function with the inclusion of documentation on its website. Planning is underway for the inaugural corruption prevention community of practice later in the year.

A handwritten signature in black ink, appearing to read 'John Hoytink', written in a cursive style.

John Hoytink
Chief Executive Officer

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ABOUT THE COMMISSION

The Commission was established on 1 July 2019 with the passage of the Act. The role of the Commission is to **investigate, expose, educate about and prevent corruption** and foster public confidence in the integrity of government.

The Commission is an independent statutory agency with the Commissioner appointed as an independent officer of the Assembly. Staff of the Commission are responsible to the Commissioner in the performance of their functions under the Act.

Through the exercise of its functions, the Commission aims to make it more difficult for corruption to occur and remain undetected.

To carry out its functions, the Commission is afforded a broad suite of powers similar to those of other law enforcement agencies, including traditional policing tools and covert information-gathering powers. The Commission is also afforded a number of coercive powers similar to those of a Royal Commission, including the power to compel people to attend examinations and answer questions, and the ability to issue notices to compel the production of documents and other things.

Having access to these powers allows the Commission to investigate matters flexibly, having regard to the circumstances of each matter. It also provides a mechanism to gain valuable insights into the methods, motivations and actions of people engaging in corrupt conduct, which informs the Commission's corruption prevention and education work.

The operations of the Commission have brought to light legislative limitations which are addressed in **Appendix C**.

Corrupt conduct

Corrupt conduct is broadly defined in the Act to ensure the Commission can investigate and respond to a wide range of allegations. The Commission's primary focus remains the type of conduct that, if proven, would bring the ACT government's decision-making processes and reputation into serious disrepute.

The Commission prioritises the investigation of serious and/or systemic corrupt conduct. **Serious corrupt conduct** is conduct that is likely to threaten public confidence in the integrity of government or public administration in the ACT. **Systemic corrupt conduct** is corrupt conduct that reveals a pattern of corrupt conduct in one or more ACT public sector entities.

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Reporting corrupt conduct

Any person can report a matter to the Commission about conduct that may be corrupt conduct by a person or organisation that is covered by the Act. A person who reports a matter about suspected corrupt conduct is afforded certain protections under the Act against reprisal and detrimental action.

Importantly, the Act imposes a mandatory reporting requirement on certain public officials to report conduct they suspect, on reasonable grounds, to be serious or systemic corrupt conduct.

Mandatory corruption notifications

Public officials subject to the mandatory corruption notification requirement include:

- Heads of public sector entities and senior executive service (**SES**) officers;
- Certain statutory officers, including:
 - the Auditor-General;
 - the Ombudsman;
 - the Electoral Commissioner; and
 - the Clerk of the Legislative Assembly; and
- Members of the Legislative Assembly and their Chiefs of Staff.

While the mandatory corruption notification requirements differ slightly depending on the role performed by the public official, it is an offence for any public official subject to the mandatory notification requirement to fail to notify the Commission as soon as practicable of suspected serious or systemic corrupt conduct.

Examinations

The Commission may hold an examination as part of an investigation. Examinations may be held in public or in private. The Commission may require witnesses to attend an examination to provide information, documents and things relevant to a Commission investigation. Witnesses must attend an examination if summonsed and comply with any directions which are part of the summons relating to confidentiality and other matters. Witnesses must answer questions and provide documents and things, even if doing so would tend to incriminate the witness or make them liable to a civil penalty. Information obtained during an examination is not admissible against the witness in a criminal or civil proceeding, except in limited circumstances.

ORGANISATION OVERVIEW

Subject to the Commissioner's executive role, the day to day management of the Commission is the responsibility of the CEO. This includes developing and refining operational and administrative policies and managing the Commission's finances in partnership with the Chief Financial Officer. The CEO provides strategic leadership, direction and overall administration of the office.

Work areas

The Commission's work areas have been divided into the Investigations & Assessments Team, Legal Team, Corruption Prevention & Education Team, and Administration Team. Each of these areas is led by a Senior Director, except for the administration area which is led by the Office Manager.

Senior Management Group

The Senior Management Group ('**SMG**') comprises the Commissioner, the CEO, and the Senior Directors of Investigations & Assessments, Legal, and Corruption Prevention & Education. The SMG is the peak decision-making body of the Commission (subject to the decisions of the Commissioner).

The primary objectives of the SMG are to:

- promote the legislative objectives of the Act;
- provide effective leadership of the Commission;
- advance the strategic objectives of the Commission;
- effectively prioritise Commission resources in the pursuit of operational goals;
- consider and approve any new or revised policy and procedure to ensure the effective functioning of the Commission;
- promote consistency, transparency and lawfulness in decision making in achieving organisational goals;
- uphold the principles of integrity, equality, independence, trust, respect, professionalism and inclusivity; and
- ensure efficiency in all aspects of the Commission's operations.

The SMG critically considers any key decisions relevant to investigations. Key decisions are those decisions which may affect the allegation being investigated, the decision to refer or dismiss an

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investigation,¹ the decision to hold an examination for an investigation,² and a decision about whether that examination should be a private or public examination.³

Assessment Panel

The Assessment Panel (**'Panel'**) is a group comprising the Commissioner, the CEO and the Senior Directors of Investigations & Assessments, Legal, and Corruption Prevention & Education. The Panel provides direction and advice about how the Commission should deal with information that is alleged to concern or may concern corrupt conduct and/or whether the Commission or a referral entity should investigate or take other action in relation to the information. The Panel considers information and reports received from a referral entity and provides direction and advice on how the Commission should deal with that information or report.

The primary objectives of the Panel are to:

- advance the strategic objectives of the Commission;
- effectively prioritise and select corruption reports that should be the subject of further enquiry, including by way of investigation and corruption prevention advice, consistent with the strategic objectives and statutory functions of the Commission;
- ensure an appropriate course of action is followed in relation to individual matters;
- ensure Commission resources are deployed efficiently;
- promote consistency and transparency in the decision making in respect of the consideration of corruption reports; and
- to adopt a Commission-wide approach to the management of corruption reports, mandatory corruption reports, reports received from referral entities and other information received by the Commission which may or could involve corrupt conduct.

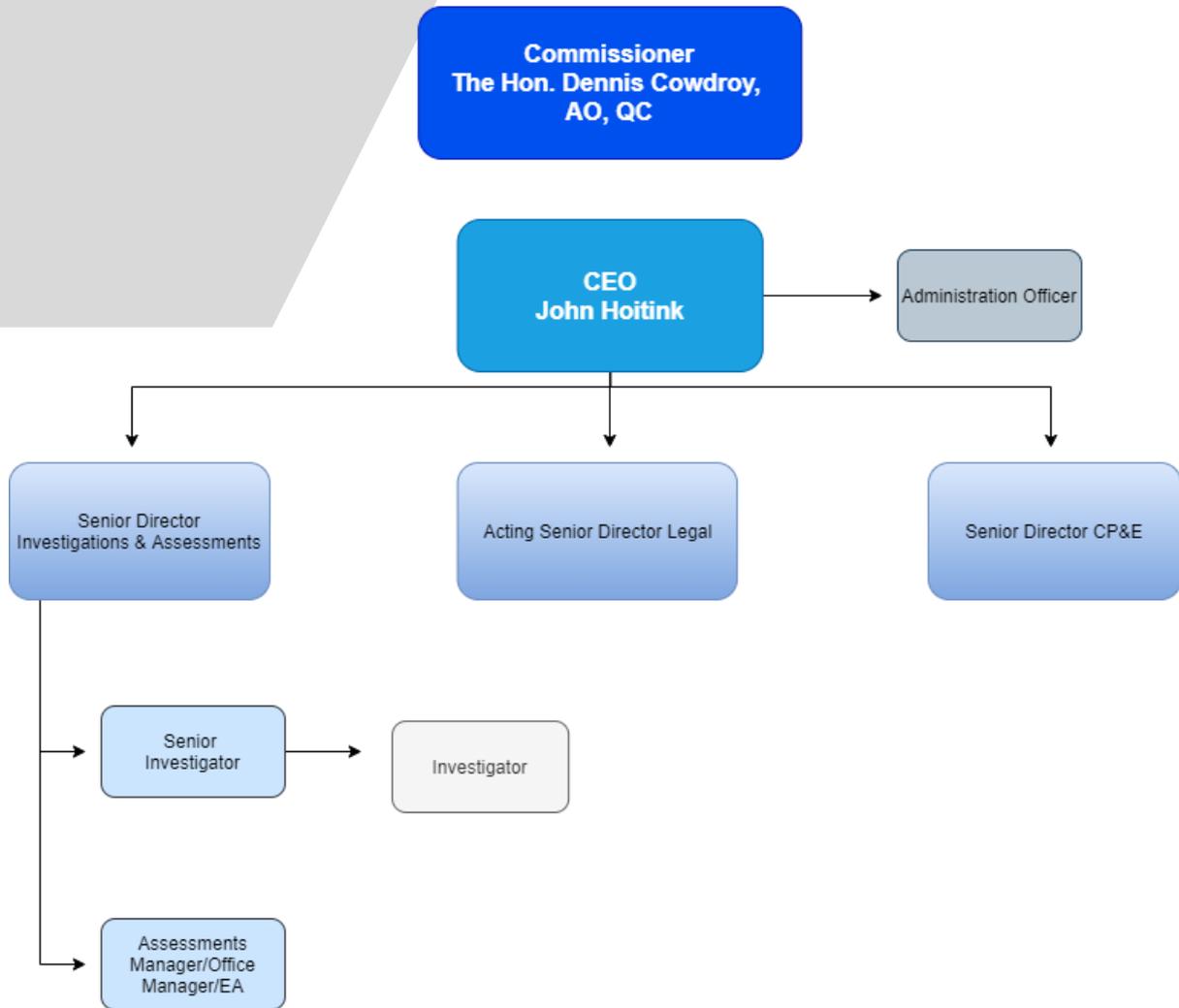
¹ Section 70 - all references to sections in this report refer to the *Integrity Commission Act 2018* unless otherwise specified.

² Section 140.

³ Section 143.



ACT INTEGRITY COMMISSION



Organisational chart as at 30 June 2020

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Integrity Commission Key Milestones



INVESTIGATIONS & ASSESSMENTS

The Commission's investigative function includes investigating conduct that is alleged to be corrupt conduct and referring suspected instances of criminality or wrongdoing to the appropriate authorities (additional investigative and oversight responsibilities have been assigned to the Commission under amendments to the *Public Interest Disclosure Act 2012* ('**PID Act**') coming into effect on 4 March 2021).

During the reporting period, the main challenges faced by the Commission centred around staffing levels, appropriate office facilities, appropriate investigative equipment, and the outbreak of COVID-19.

In early March 2020, the Commission's investigative function was staffed by two investigators; a contracted investigator and a seconded senior investigator from the South Australian Independent Commission Against Corruption ('**SA ICAC**'). These investigators were assisted by a seconded intelligence analyst from NSW Fair Trading between February and March 2020.

Due to the COVID-19 outbreak and the impending closure of the South Australian border, the SA ICAC investigator returned to South Australia, leaving only one contracted investigator working at the Commission. The Commission wishes to formally thank SA ICAC for their support and assistance during the Commission's first few months.

In March 2020, the Senior Director Investigations & Assessments commenced with the Commission. Given the high volume of preliminary inquiries and small number of investigators, recruitment was a high priority for the Team.

In April 2020, recruitment processes were commenced for a senior investigator and an investigator. These processes resulted in an investigator commencing in June 2020, and a senior investigator scheduled to commence in July 2020. Future recruitment activities were planned to fill the following roles: senior computer forensic specialist, intelligence analyst, an additional senior investigator and an investigator.

An arrangement was agreed with ACT Policing to provide a seconded investigator to the Commission in June 2020 to increase the Commission's investigative capacity through a Joint Agency Agreement. The Commission wishes to formally thank ACT Policing for its ongoing support and assistance. A MOU between the Commission and ACT Policing is being drafted to better enable exchange of information and to formalise the relationship between both agencies. Several other MOUs are being drafted including with the Office of the Public Sector Standards Commissioner and the Inspector of the ACT Integrity Commission ('**Inspector**').

The SMG developed and implemented numerous policies and procedures which provided organisational guidance and process to investigators.

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During the reporting period, the Commission purchased computer forensic equipment, began reviewing several case management systems, and procured other operational equipment.

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Assessments

The Commission's Assessments Team sits within the Investigations & Assessments Team and received its first corruption report on 2 December 2019. As the first point of contact for people making a corruption complaint, the Assessments Team is the public face of the Commission. Its primary function is to receive and assess corruption complaints from the individuals and ACT public sector entities regarding corrupt conduct.

In addition to receiving corruption complaints, the Assessments Team provides advice, guidance and information on the Commission's jurisdiction and process to the public, external agencies and to government staff.

In the reporting period, the staffing of the Assessments Team was challenging, particularly given the legislative obligation to commence operations on 1 December 2019. Staff from NSW ICAC were seconded to perform the assessment function and to assist in the development of policies and procedures. This provided an opportunity for Commission staff to be mentored in the assessments role by the experienced staff of the NSW ICAC. On behalf of the Assessment Team, the Commission would like to register its appreciation for the guidance and assistance provided by these experienced staff from a partner agency.

The Commission's administrative staff undertook both the assessments function and administrative roles until the role of Assessment Manager was advertised in May 2020, and a candidate appointed in the 2020/2021 financial year.

Although the Assessments Team was operating in conditions and accommodation which were less than optimal, the Commission was in the unique position to consider and select best practice policies and procedures from our partner agencies when establishing the assessment function. Assessment policies and procedures are continually refined in real time by the Assessments Manager in consultation with the Senior Director Assessments and Investigation to ensure the efficacy of the section.

The assessments process

The Commission receives corruption complaints under various provisions in the Act. These provisions are:

- section 57: anyone may make a corruption complaint;
- section 59: other entities may refer corruption complaints; and
- section 62: mandatory corruption notifications.

The *Integrity Commission (Mandatory Corruption Notification) Directions 2019 (No 2)*⁴ were notified on 19 December 2019. The Directions set out the obligations of mandatory reporters under the Act if they suspect, on reasonable grounds, that a matter involves serious or systemic corrupt conduct. Mandatory reporters are:

- the head of a public sector entity;
- an SES officer;
- a Member of the Legislative Assembly; and
- a chief of staff of a minister (including the Chief Minister) or of the Leader of the Opposition.

Once jurisdiction has been established, it is the responsibility of the Assessments Team to prepare a report on the corruption complaint for the Panel. To do this, an Assessment Officer communicates with the complainant (if necessary) to verify aspects of the complaint, undertakes a detailed assessment of the information provided and conducts open source research and enquiries to establish the facts. This is then synthesised into a comprehensive Panel report designed to assist the Panel to determine whether a matter should be dismissed, referred or investigated under s 70 of the Act.

The Panel is convened weekly by the Assessments Manager. Its functions are set out in the Commission's Assessment Panel Charter, which provides direction and advice on how the Panel deals with Panel reports. Each Panel member is provided with Panel report/s and is required to comment on the recommended course of action. Should a Panel member disagree with the recommended outcome they must provide written commentary to support their view/s. If a consensus cannot be reached, the Assessment Manager convenes a Panel meeting for further discussion and deliberation. If at the end of this meeting a consensus is still not reached, the Commissioner is the final arbiter.

In the reporting period the Commission received 76 corruption reports, with 22 reports being dismissed, seven referred to external entities and no reports being withdrawn. It took the Commission an average of 27.5 days to complete an assessment (refer **Appendix B, Table 4**). The Commission has established Key Performance Indicators ('KPIs') to measure the assessment of reports made to the Commission. These KPIs allow the ongoing monitoring of performance by the Assessments Team by identifying when a report is received, how a report is classified and how long it takes to report the matter to the Panel. Due to the embryonic nature of the Commission and staffing shortages, coupled with the effect of the COVID-19 pandemic, some KPIs have not been met. An increase in Assessment staff, expected in the next reporting period, will see the Team aim to meet the KPIs and continue to provide an efficient and effective Assessment function.

⁴ Notifiable instrument NI2019-816.

The investigation process

Generally, investigations undertaken by the Commission commence as preliminary inquiries. The purpose of a preliminary inquiry is to determine whether the Commission will dismiss or refer a corruption report or commence a full investigation.⁵

A preliminary inquiry provides the Commission with specific coercive powers to obtain documents or things which may assist in the process of deciding to refer, dismiss or investigate a corruption complaint. The recommendation of the investigator conducting a preliminary inquiry is contained in a Preliminary Inquiry Report which is distributed to the SMG for decision.

Should the preliminary inquiry identify evidence which tends to indicate corrupt conduct has occurred, the SMG will consider recommending to the Commissioner that a full investigation be commenced. The Commission may also commence an investigation on its own initiative. When an investigation commences, an operation name is assigned. A full investigation provides the Commission with a range of coercive powers, including requiring a person to attend for an examination, produce documents or things, and to undertake a search of premises.

The Commission does not, at present, have the power (or the means) to conduct telecommunications interceptions, which is a vital investigative tool. Nor can it, for obvious reasons, receive or use information derived from telecommunications interception conducted by other investigative bodies, including police. More detail is provided in **Appendix C**.

The Act requires the resources of the Commission to be focused on matters which rise to the level of serious or systemic corrupt conduct. This does not restrict the Commission's ability to decide to investigate any matter considered to be corrupt conduct.⁶

Our investigations

As at 30 June 2020, the Commission had commenced 10 preliminary inquiries, with two being escalated to full investigations. The remaining eight preliminary inquiries were still under review. All preliminary inquiries were the result of reports forwarded to the Panel by the Assessment Team (**Table 1**). During the reporting period the statutory powers exercised included the issue of notices to produce documents along with Confidentiality Notices, on five occasions (**Table 2**).

⁵ Section 100 enables the Commission to conduct an investigation if it suspects on reasonable grounds that the conduct in a conduct report may constitute corrupt conduct.

⁶ Section 23(3).

Table 1 Number of preliminary inquiries and investigations commenced in reporting period

Item	Total number	Referral source
Preliminary inquiry (s 86)	10	Assessment Panel
Full investigation (s 100)	2	Assessment Panel

Table 2 Use of statutory powers during reporting period

Item	Total number
Preliminary Inquiry Notice (document or thing) (s 90)	1
Preliminary Inquiry Confidentiality Notice (s 78)	1
Investigation Confidentiality Notice (s 79)	1
Request for information from head of public sector entity (s 89)	1
Examination Summons (s 147)	1



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Investigation outcomes

If, at any time during an investigation, the Commission is satisfied on reasonable grounds of any of the matters in s 71 (when corruption reports must be dismissed), the Commission must discontinue the investigation.⁷

At the completion of an investigation, the Commission must prepare a report (**'investigation report'**), which may include the Commission's findings, opinions and recommendations, and reasons for those findings, opinions, and recommendations. If a proposed report, or part of it, relates to a person or a public sector entity,⁸ the Commission must give the proposed report, or the relevant part of it, to the person or public sector entity and provide them with the opportunity to make written comments. A copy of the investigation report must be presented to the Legislative Assembly via the Speaker.⁹

An investigation report may contain a finding that a person has engaged in, is engaging in, or is about to engage in serious or systemic corrupt conduct. The Commission may recommend disciplinary action by an agency or refer a brief of evidence to the ACT DPP where it appears someone may have committed an offence(s).

Annual report requirements

Section 218(1) of the Act requires the Commission to include in the Annual Report a statement about a number of matters. **Appendix A** addresses each of those matters in turn.

⁷ Section 112.

⁸ Defined in s 14.

⁹ Section 189.

LEGAL

Overview

The Legal Team assists the Commission to perform its principal functions and exercise its statutory powers in a lawful, effective, ethical, and accountable manner by providing high-quality, accurate and timely legal services. In doing so, the Legal Team works collaboratively with the Commissioner, the CEO, the Investigations & Assessments Team, and the Corruption Prevention & Education Team.

Commission lawyers assist in the planning and conduct of all investigations and provide advice, as required, to other sections of the Commission. They may also act as counsel in examinations. Commission lawyers may also prepare briefs for and instruct counsel where appropriate. In due course they will also assist with the preparation of investigation reports, oversee the preparation of briefs of evidence for submission to the ACT DPP and liaise with ACT DPP prosecutors in relation to answering requisitions for further evidence and the conduct of any prosecutions.

The Legal Team also assists by providing advice to the Commission on policy and other organisational matters relevant to the establishment and operation of the Commission.

During the reporting period a Senior Director Legal was selected through a competitive recruitment process. Prior to their commencement, and during the reporting period, the position was temporarily filled by a Principal Solicitor seconded from the ACT Government Solicitor's Office. In the reporting period, the unit had one full time employee ('FTE') staff member.

Notifiable instruments

Prior to the engagement of the secondee, two notifiable instruments were prepared by the CEO:

1. *Integrity Commission (Mandatory Corruption Notification) Directions 2019 (No 2)* – NI2019-816 (pursuant to s 64(1)); and
2. *Integrity Commission Complaint Investigation Guidelines 2019* – NI2019-437.

Conflicts of interest – Commissioner

The Senior Director Legal is responsible for the maintenance of a conflicts of interest register for the Commissioner and staff of the Commission.

The Act requires the Commissioner to avoid conflicts of interest (s 31).

Where the Commissioner has a financial or other personal interest that conflicts, may conflict or may be perceived to conflict with the Commissioner's functions, the Commissioner must disclose the nature of the interest and the conflict or potential conflict to the Speaker and the Inspector (s 31(2)). The Commissioner must not take any part in considering a matter in relation to which the conflict of interest has arisen, except with the written approval of the Speaker and in accordance with any conditions included in the Speaker's approval (s 31(3)).

The Commission has established a conflicts of interest register in accordance with the requirements of s 32 of the Act. This includes:

- (a) a copy of each disclosure made by the Commissioner pursuant to s 31(2);
- (b) any approvals granted by the Speaker pursuant to s 31(3)(a) and details of how the Commissioner complied with the conditions on the Speaker's approval; and
- (c) if a proceeding is taken against the Commissioner that relates to a conflict of interest:
 - (i) details of the nature of the conflict of interest; and
 - (ii) if the Commissioner claimed to be unaware of the conflict of interest – details of how the Commissioner proved, or attempted to provide, that the Commissioner was not, at the material time, aware of the conflict of interest.

At the time of reporting there were no conflicts of interest disclosed by the Commissioner in accordance with s 31(2).

Conflicts of interest – staff of the Commission

At the time of reporting, a Conflict of Interest policy applicable to all Commission staff was in the process of being drafted. It is anticipated it will be completed early in the next financial year.

Staff of the Commission will be required to disclose certain personal interests to the Commission upon commencement of employment (or, alternatively, upon commencement of the Conflict of Interest Policy).

To date, staff have taken a cautious approach and reported all actual, perceived, or potential conflicts of interest to the CEO. These reports were entered onto the Conflicts of Interest Register by the CEO or the Acting Senior Director Legal.

Recommendations for change to ACT laws

As a result of the exercise of its functions over the course of the reporting year, the Commission has identified a number of changes to the Act and other ACT laws that it considers ought to be made. In accordance with s 218(2)(a) of the Act, these are outlined in **Appendix C**.

CORRUPTION PREVENTION & EDUCATION

Overview

During the reporting period, Corruption Prevention & Education was focused on raising awareness across the ACT public sector of the role of the Commission, including in relation to the corruption prevention and education functions the Commission performs.

The Commission's Corruption Prevention and Education Strategy (**'Strategy'**) was published on the Commission's website in April 2020. The Strategy outlines the Commission's approach to delivering its corruption prevention and education functions, which is underpinned by a commitment to work in partnership with stakeholders in the ACT public sector and Federal, State and Territory counterparts in other integrity and anti-corruption commissions around Australia.

This approach enables the Commission to understand the current and emerging corruption threats facing the ACT public sector and the broader ACT community. Understanding this environment allows the Commission to develop best-fit anti-corruption products and services which strengthen the integrity of the ACT public sector.

The Commission's ability to deliver its corruption prevention and education functions effectively is contingent on establishing and maintaining strong relationships with key stakeholders across the ACT public sector. During the reporting period, particular focus was given to establishing relationships with Senior Executives Responsible for Business Integrity Risk (**'SERBIRS'**) in each agency.

At the end of the reporting period, the Commission was preparing to host the inaugural ACT Integrity Commission Corruption Prevention Community of Practice (**'CPCoP'**). The CPCoP will bring together SERBIRS and other senior public sector officials with responsibility for integrity matters to:

- identify corruption risks and vulnerabilities;
- share information and updates on current and proposed initiatives;
- work together to counter threats to ACT public sector integrity; and
- strengthen their respective integrity systems.

The work undertaken during the reporting period provided the Commission with key insights into the education requirements of public officials and the broader ACT community. To address these needs, the unit/division undertook a range of education activities, including:

- publishing an information pamphlet to the Commission's website and in hard copy. The pamphlet summarises the role of the Commission, its functions, powers, and jurisdiction, and how to report suspected corrupt conduct to the Commission;
- making in person and online presentations to ACT public sector officials on the role of the Commission and reporting corruption, in addition to providing practical advice about how to deal with and effectively manage corruption risk and avoid corrupt compromise; and
- publishing an interactive decision-making guide to the Commission's website, which is intended to help mandatory reporters understand and meet their corrupt conduct reporting obligations.

The corruption prevention work of the Commission has also included the proactive distribution of several information briefs to ACT public sector agency heads and SERBIRs about corruption risks and vulnerabilities. The briefs included practical suggestions for agencies to consider in addressing these risks and vulnerabilities. Information brief topics included:

- managing corruption risks during the COVID-19 pandemic;
- records management and corruption; and
- advice on the mandatory corruption notification requirements in the Act.

The Team also published a range of corruption prevention materials to the Commission's website, including:

- advice on higher-corruption risk functions performed by, or on behalf of, the ACT public sector; and
- information on several of the reoccurring corruption risks and behaviours observed by the Commission in the course of its work.

At the end of the reporting period, the Commission was compiling an information brief for public sector agencies, which will provide a summary of the corruption vulnerabilities identified in matters before the Commission during 2019-20 and include recommendations for agencies in addressing these vulnerabilities within their respective operating environments.

The Team's focus in the coming year will see greater emphasis placed on engaging with the ACT community, including through the establishment of a social media presence, while also consolidating and building upon the work the unit has completed to date in partnership with ACT public sector agencies.

Corruption trends in the ACT public sector

A substantial part of the Commission's corruption prevention work is informed by reviewing and analysing matters which are reported to, or investigated by, the Commission. Using this information, the Commission can identify current and emerging corruption vulnerabilities, and how they might manifest into corrupt conduct. This analysis allows the Commission to provide ACT public sector agencies with recommendations aimed at strengthening their corruption controls and prevention measures in the areas where they will have the greatest impact. Some of the trends emerging from the reporting period are identified below.

Conflicts of interest

Managing conflicts of interest effectively and appropriately is an inherent part of working in the ACT public sector. However, despite a strong governance and policy framework around their management, conflicts of interest are poorly understood and regularly mismanaged. It is not uncommon for public officials to underestimate the risks associated with actual, potential, and perceived conflicts of interest, and overestimate their ability to manage these conflicts appropriately, increasing the risk of corrupt compromise and damaging the reputation of the public sector.

Public officials engaged in decision-making process, including large-scale procurement and recruitment exercises, are rarely required to declare that they **do not** have any actual or potential conflicts of interest. This approach, whereby declarations are only required by exception, affords public officials with significant discretion to determine what is – or is not – declared, and may increase the risk that conflicts of interest are concealed or go undeclared. To mitigate this risk, agencies should make conflict of interest declarations a mandatory component of any key decision-making process – including the requirement for public officials to declare that they have no known actual or potential conflicts of interest.

Records management

Good records management practice can act as a strong internal control against corrupt conduct when implemented and managed effectively. The creation of a 'paper trail' that clearly outlines how decisions have been made and by whom can make corrupt conduct more difficult to conceal. However, poor or inconsistent records management may increase the risk of corrupt conduct occurring or remaining undetected, disrupt or hinder investigations by law enforcement and oversight agencies, and negatively impact the integrity and reputation of the Government.

Record-keeping by senior officials is particularly important given the authority and discretion they are afforded to make key decisions and influence the decision-making of others. Maintaining clear

and accurate records which justify decisions taken, or advice provided, may prevent allegations of improper conduct, and reduce the likelihood that decisions will be challenged.

Undeclared relationships and associations

The ACT is a relatively small and interconnected community. It is reasonable to assume that a public official's duties will, from time to time, bring them into contact with people they know, or with whom they have a personal or professional relationship.

Undeclared relationships may inhibit the ability of ACT public sector entities to effectively manage any associated risks, including those involving corrupt conduct and/or compromise. For example, relationships between public officials and members of corporate entities with a specific interest in providing commercial or other services to the ACT Government may represent a significant corruption vulnerability if they are not declared and managed effectively.

Undeclared relationships, including those involving workplace colleagues or other personal and professional associations, may also increase the risk, or add weight to allegations, of favouritism or other types of corrupt conduct.

Establishing a pro-reporting culture, where officials clearly understand when, how, and to whom relationship declarations should be made, may reduce the likelihood that an undeclared relationship leads to corrupt conduct.

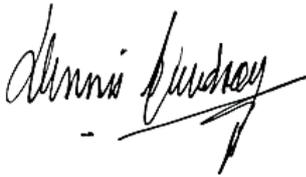
PART B

FINANCIAL STATEMENTS

INVESTIGATE | EXPOSE | PREVENT | EDUCATE

STATEMENT OF RESPONSIBILITY

In my opinion, the Financial Statements are in agreement with the Commission's accounts and records and fairly reflect the financial operations of the Commission for the year ended 30 June 2020 and the financial position of the Commission on that date.



The Hon Dennis Cowdroy AO QC
ACT Integrity Commissioner
4 August 2020

STATEMENT BY CHIEF FINANCIAL OFFICER

In my opinion, the Financial Statements have been prepared in accordance with the Australian Accounting Standards, and are in agreement with the Commission's accounts and records and fairly reflect the financial operations of the Commission for the year ended 30 June 2020 and the financial position of the Commission on that date.



Scott Hickey
Chief Finance Officer
ACT Integrity Commission
4 August 2020

ACT Integrity Commission
Operating Statement
for the year ended 30 June 2020

	Note No.	Actual 2020 \$'000	Original Budget 2020 \$'000
Income			
Controlled Recurrent Payments	3	1,768	2,668
Grants and Contributions		35	-
Total Income		1,803	2,668
Expenses			
Employee Expenses	4	1,022	1,553
Superannuation Expenses	5	105	147
Supplies and Services	6	489	968
Depreciation		3	-
Total Expenses		1,619	2,668
Operating Surplus		184	-
Total Comprehensive Income		184	-

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

ACT Integrity Commission
Balance sheet
at 30 June 2020

	Note	Actual	Original
	No.	2020	Budget
		\$'000	2020
			\$'000
Current Assets			
Cash and Cash Equivalents	7	1,118	-
Receivables		12	-
Total Current Assets		1,130	-
Non-Current Assets			
Plant and Equipment	8	58	-
Capital Works in Progress	9	863	-
Total Non-Current Assets		921	-
Total Assets		2,051	-
Current Liabilities			
Payables	10	894	-
Lease Liabilities	11	20	-
Employee Benefits	12	134	-
Total Current Liabilities		1,048	-
Non-Current Liabilities			
Lease Liabilities	11	38	-
Employee Benefits	12	6	-
Total Non-Current Liabilities		44	-
Total Liabilities		1,092	-
Net Assets		959	-
Equity			
Accumulated Funds		959	-
Total Equity		959	-

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

ACT Integrity Commission
Statement of changes in equity
for the year ended 30 June 2020

	Accumulated Funds Actual 2020 \$'000	Total Equity Actual 2020 \$'000	Original Budget 2020 \$'000
Balance at 1 July 2019	-	-	-
Comprehensive Income			
Operating Surplus	184	184	-
Total Comprehensive Income	184	184	-
Transactions Involving Owners Affecting Accumulated Funds			
Capital Injections	775	775	-
Balance at 30 June 2020	959	959	-

The above Statement of Changes in Equity should be read in conjunction with the accompanying notes.

ACT Integrity Commission
Statement of cash flows
for the year ended 30 June 2020

	Note	Actual	Original
	No.	2020	Budget
		\$'000	2020
			\$'000
Cash Flows from Operating Activities			
Receipts			
Controlled Recurrent Payments		1,768	2,668
Goods and Services Tax Input Tax Credits from the Australian Taxation Office (ATO)		9	-
Total Receipts from Operating Activities		1,777	2,668
Payments			
Employees		884	1,553
Superannuation		103	147
Supplies and Services		321	968
Goods and Services Tax Paid to Suppliers		21	-
Total Payments from Operating Activities		1,329	2,668
Net Cash Inflows from Operating Activities	15	448	-
Cash Flows from Investing Activities			
Payments			
Capital Works in Progress		105	-
Total Payments from Investing Activities		105	-
Net Cash (Outflows) from Investing Activities		(105)	-
Cash Flows from Financing Activities			
Receipts			
Capital Injections		775	-
Total Receipts from Financing Activities		775	-
Net Cash Inflows from Financing Activities		775	-
Net Increase in Cash and Cash Equivalents		1,118	-
Cash and Cash Equivalents at the Beginning of the Reporting Period		-	-
Cash and Cash Equivalents at the End of the Reporting	15	1,118	-

The above Statement of Cash Flows should be read in conjunction with the accompanying notes.

ACT Integrity Commission
Statement of appropriation
for the year ended 30 June 2020

	Original Budget 2020 \$'000	Total Appropriated 2020 \$'000	Appropriation Drawn 2020 \$'000
Controlled			
Controlled Recurrent Payments (CRP)	2,668	2,668	1,768
Capital Injections	-	775	775
Total Controlled Appropriation	2,668	3,443	2,543

The above Statement of Appropriation should be read in conjunction with the accompanying notes.

Column Heading Explanations

The *Original Budget* column shows the amounts that appear in the Statement of Cash Flows in the Budget Papers. This amount also appears in the Statement of Cash Flows.

The *Total Appropriated* column is inclusive of all appropriation variations occurring after the Original Budget.

The *Appropriation Drawn* is the total amount of appropriation received by the Commission during the year. This amount appears in the Statement of Cash Flows.

Reconciliation of Appropriation for 2019-20

	CRP 2020 \$'000	Capital Injections 2020 \$'000
Original Appropriation for 2019-20	2,668	-
Treasurer's Advance (FMA s 18)	-	775
Total Appropriated	2,668	775
Undrawn Funds	(900)	-
Total Appropriation Drawn	1,768	775

Controlled Recurrent Payments (CRP)

Variances between 'Original Budget' and 'Total Appropriated'

The difference of \$0.775 million between the *Original Budget* and the *Total Appropriated* is due to a capital injection from the Treasurer's Advance for the fit-out of the new office location in Kingston as part of the ACT Government's COVID-19 stimulus program.

ACT Integrity Commission
Controlled statement of appropriation
for the year ended 30 June 2020

Variances between 'Total Appropriated' and 'Appropriation Drawn'

The difference of \$0.900 million between the *Total Appropriated and Appropriation Drawn* is due to the delayed establishment of the Commission and recruitment of several positions.

ACT Integrity Commission
Note index to the financial statements
for the year ended 30 June 2020

Note	1	Objectives of the ACT Integrity Commission
Note	2	Basis of Preparation of the Financial Statements

Income Notes

Note	3	Controlled Recurrent Payments
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Expense Notes

Note	4	Employee Expenses
Note	5	Superannuation Expenses
Note	6	Supplies and Services

Asset Notes

Note	7	Cash and Cash Equivalents
Note	8	Plant and Equipment
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Liability Notes

Note	10	Payables
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Other Notes

Note	13	Financial Instruments
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Note	16	Related Party Disclosures
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ACT Integrity Commission

Notes to and forming part of the financial statements for the year ended 30 June 2020

NOTE 1 - OBJECTIVES OF THE ACT INTEGRITY COMMISSION

Operations and Principal Activities

The Commission is established by the Act as an independent statutory authority. Under s 23 of the Act, the Commission's functions primarily are to:

- investigate conduct that is alleged to be corrupt conduct;
- refer suspected instances of criminality or wrongdoing to the appropriate authority for further investigation and action;
- prevent corruption, including by:
 - researching corrupt practices; and
 - mitigating the risks of corruption.
- publish information about investigations conducted by the Commission, including lessons learned;
- provide education programs about the operation of this Act and the Commission, including providing advice, training and education services to:
 - the Legislative Assembly and the public sector to increase capacity to prevent corrupt conduct;
 - people who are required to report corrupt conduct under this Act; and
 - the community about the detrimental effects of corruption on public administration and ways in which to assist in preventing corrupt conduct.
- foster public confidence in the Legislative Assembly and public sector.

Section 20 of the Act provides that the Commission consists of the Commissioner. The Commissioner is an independent officer of the ACT Legislative Assembly. Subject to the Act and to other ACT laws, the Commissioner has complete discretion in the exercise of the Commission's functions.

The Commissioner is assisted by staff employed under the *Public Sector Management Act 1994* and the Act. The staff of the Commission are not subject to direction from anyone other than the Commissioner or another member of staff of the Commission authorised by the Commissioner to give directions.

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ACT Integrity Commission

Notes to and forming part of the financial statements for the year ended 30 June 2020

NOTE 2 - BASIS OF PREPARATION OF THE FINANCIAL STATEMENTS

LEGISLATIVE REQUIREMENT

The *Financial Management Act 1996* ('FMA') requires the preparation of annual financial statements for ACT Government Agencies.

The FMA and the *Financial Management Guidelines* issued under the FMA, requires the Commission's financial statements to include:

- i. an Operating Statement for the year;
- ii. a Balance Sheet at the end of the year;
- iii. a Statement of Changes in Equity for the year;
- iv. a Statement of Cash Flows for the year;
- v. a Statement of Appropriation for the year;
- vi. the significant accounting policies adopted for the year; and
- vii. other statements as necessary to fairly reflect the financial operations of the Commission during the year and its financial position at the end of the year.

These general-purpose financial statements have been prepared to comply with Australian Accounting Standards as required by the FMA. The financial statements have been prepared in accordance with:

- i. Australian Accounting Standards; and
- ii. ACT Accounting and Disclosure Policies.

ACCRUAL ACCOUNTING

The financial statements have been prepared using the accrual basis of accounting. The financial statements are prepared according to historical cost convention, except for financial instruments which are valued at fair value in accordance with (re)valuation policies applicable to the Commission during the reporting period.

CURRENCY

These financial statements are presented in Australian dollars.

INDIVIDUAL NOT-FOR-PROFIT REPORTING ENTITY

The Commission is an individual not-for-profit reporting entity.

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ACT Integrity Commission
Notes to and forming part of the financial statements
for the year ended 30 June 2020

REPORTING PERIOD

These financial statements state the financial performance, changes in equity and cash flows of the Commission for the year ended 30 June 2020 together with the financial position of the Commission as at 30 June 2020.

BUDGET FIGURES

To facilitate a comparison with the Budget Papers, as required by the FMA, budget information for 2019-20 has been presented in the financial statements. Budget numbers in the financial statements are the original budget numbers that appear in the Budget Papers.

ROUNDING

All amounts in the financial statements have been rounded to the nearest thousand dollars (\$'000). Use of '-' represents zero amounts or amounts rounded down to zero.

GOING CONCERN

The 2019-20 financial statements have been prepared on a going concern basis as the Commission has been funded in 2020-21 under section 7 of the FMA pending funding in the 2020-21 Budget and the 2019-20 Budget Papers including forward estimates for the Commission. The 2020-21 Budget will be presented to the Legislative Assembly subsequent to the signing of the Commission's 2019-20 financial statements.

ACT Integrity Commission
Notes to and forming part of the financial statements
for the year ended 30 June 2020

INCOME NOTE

NOTE 3 - CONTROLLED RECURRENT PAYMENTS

	2020
	\$'000
Revenue from the ACT Government	
Controlled Recurrent Payments	1,768
Total Controlled Recurrent Payments	<u><u>1,768</u></u>

Controlled Recurrent Payments are revenue received from the ACT Government to fund the costs of delivering outputs.

Controlled Recurrent Payments are recognised as revenues when the Commission gains control over the funding. Control over appropriated funds is obtained upon the receipt of cash.

ACT Integrity Commission
Notes to and forming part of the financial statements
for the year ended 30 June 2020

EXPENSES NOTES

NOTE 4 - EMPLOYEE EXPENSES

	2020
Employee Expenses	\$'000
Wages and Salaries	917
Annual Leave	36
Long Service Leave	51
Other Employee Benefits and On-Costs	8
Total Employee Expenses	1,022

Employee expenses include:

- short-term employee benefits such as wages and salaries, annual leave loading, and applicable on-costs, if expected to be settled wholly before twelve months (see - Note 12 Employee Benefits if longer than 12 months) after the end of the annual reporting period in which the employees render the related services;
- other long-term benefits such as long service leave and annual leave; and
- termination benefits.

On-costs include annual leave, long service leave, superannuation and other costs that are incurred when employees take annual leave and long service leave.

Total Employee Expenses for 2019-20 include the cost of seven staff, plus the Commissioner.

ACT Integrity Commission
Notes to and forming part of the financial statements
for the year ended 30 June 2020

NOTE 5 - SUPERANNUATION EXPENSES

	2020 \$'000
Superannuation Payment to ComSuper (for the PSSAP)	4
Superannuation to External Providers	101
Total Superannuation Expenses	105

Employees of the Commission will have different superannuation arrangements due to the type of superannuation scheme available at the time of commencing employment, including both defined benefit and defined contribution superannuation scheme arrangements.

For employees who are members of defined contribution superannuation schemes (the Public Sector Superannuation Scheme Accumulation Plan ('**PSSAP**') and schemes of employee choice), the Commission makes employer superannuation contribution payments directly to the employees' relevant superannuation fund.

All defined benefit employer superannuation contributions are recognised as expenses on the same basis as the employer superannuation contributions made to defined contribution schemes. The accruing superannuation liability obligations are expensed as they are incurred and extinguished as they are paid.

ACT Integrity Commission
Notes to and forming part of the financial statements
for the year ended 30 June 2020

NOTE 6 SUPPLIES AND SERVICES

	2020 \$'000
Contractors and Consultants ^a	208
Inspector Fees (Commonwealth Ombudsman)	96
Accommodation, Rent, Hire and Utilities	82
Training and Recruitment	33
Audit Fees ^b	32
Travel and Related Accommodation	20
Other Expenses	18
Total Supplies and Services	489

^{a)} Contractors and Consultants includes services provided by the ACT Government Solicitor and Shared Services.

^{b)} Audit Fees consists of financial audit services provided to the Commission by the ACT Audit Office. No other services were provided by the ACT Audit Office.

ASSETS NOTES

Assets – Current and Non-Current

Assets are classified as current where they are expected to be realised within 12 months after the reporting date. Assets which do not fall within the current classification are classified as non-current.

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ACT Integrity Commission
Notes to and forming part of the financial statements
for the year ended 30 June 2020

NOTE 7 - CASH AND CASH EQUIVALENTS

	2020
	\$'000
Cash at Bank	1,118
Total Cash and Cash Equivalents	<u>1,118</u>

The Commission holds one bank account with the Westpac Bank as part of the whole-of-government banking arrangements.

ACT Integrity Commission
Notes to and forming part of the financial statements
for the year ended 30 June 2020

NOTE 8 - PLANT AND EQUIPMENT

Plant and equipment includes right of use motor vehicles.

	2020 \$'000
Plant and Equipment	
Right-of-Use ('ROU') Plant and Equipment at cost	61
Less: Accumulated Depreciation ROU Plant and Equipment	(3)
Total Plant and Equipment	58

Reconciliation of Plant and Equipment

The following table shows the movement of Plant and Equipment during 2019-20.

	Plant and Equipment \$'000	Total \$'000
Carrying Amount at the Beginning of the Reporting Period	-	-
Additions	61	61
Depreciation	(3)	(3)
Carrying Amount at the End of the Reporting Period	58	58

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ACT Integrity Commission
Notes to and forming part of the financial statements
for the year ended 30 June 2020

NOTE 9 - CAPITAL WORKS IN PROGRESS

	2020
	\$'000
Leasehold Improvements	863
Total Capital Works in Progress	863

Reconciliation of Capital Works in Progress

The following table shows the movement of Capital Works in Progress during 2019-20.

	Leasehold Improvement Works in Progress \$'000	Total \$'000
Carrying Amount at the Beginning of the Reporting Period	-	-
Additions	863	863
Carrying Amount at the End of the Reporting Period	863	863

Capital Works in Progress are assets being constructed over periods of time in excess of the present reporting period. These assets often require extensive installation work or integration with other assets, and contrast with simpler assets that are ready for use when acquired, such as motor vehicles and equipment. Capital Works in Progress are not depreciated as the Commission is not currently deriving any economic benefit from them.

The Commission's Capital Works in Progress all relate to the fit-out of its recently leased premises in Kingston.

ACT Integrity Commission
Notes to and forming part of the financial statements
for the year ended 30 June 2020

LIABILITIES NOTES

Liabilities – Current and Non-Current

Liabilities are classified as current when they are due to be settled within 12 months after the reporting date or the Commission does not have an unconditional right to defer settlement of the liability for at least 12 months after the reporting date. Liabilities, which do not fall within the current classification, are classified as non-current.

NOTE 10 - PAYABLES

	2020 \$'000
Current Payables	
Trade Payables	43
Accrued Expenses	851
Total Current Payables	894

Classification of ACT Government/Non-ACT Government Payables

Payables with ACT Government Entities

Trade Payables	9
Accrued Expenses	179
Total Payables with ACT Government Entities	188

Payables with Non-ACT Government Entities

Trade Payables	34
Accrued Expenses	672
Total Payables with Non-ACT Government Entities	706
Total Payables	894

All Payables are not overdue.

Payables are initially recognised at fair value based on the transaction cost and subsequent to initial recognition at amortised cost, with any adjustments to the carrying amount being recorded

INVESTIGATE | EXPOSE | PREVENT | EDUCATE

ACT Integrity Commission
Notes to and forming part of the financial statements
for the year ended 30 June 2020

in the Operating Statement. All amounts are normally settled within 30 days of the invoice date, within 30 days of the receipt of goods and services, or within agreed payment terms. Payables include Trade Payables and Accrued Expenses.

The majority of the Commission's Payables relate to accrued fit-out costs for the new office in Kingston.

ACT Integrity Commission
Notes to and forming part of the financial statements
for the year ended 30 June 2020

NOTE 11 - LEASE LIABILITIES

The Commission has applied AASB 16 *Leases* from 1 July 2019. The Commission holds two motor vehicle leases and the terms are three years. These leases allow for extensions, but have no terms of renewal or purchase options, nor escalation clauses.

	2020
	\$'000
Current Lease Liabilities	
Lease Liabilities	20
Total Current Lease Liabilities	20
Non-Current Lease Liabilities	
Lease Liabilities	38
Total Non-Current Lease Liabilities	38
Total Lease Liabilities	58

Right-of-Use Assets

	Motor vehicles	Total
	\$'000	\$'000
Balance at 1 July 2019	-	-
Additions to right-of-use assets	61	61
Depreciation charge	(3)	(3)
Balance at 30 June 2020	58	58

ACT Integrity Commission
Notes to and forming part of the financial statements
for the year ended 30 June 2020

Lease Liabilities

The maturity analysis of lease liabilities at 30 June 2020 based on contractual undiscounted cash flows is shown below.

	2020 \$'000
Lease Liabilities	
Payable:	
- within one year	21
- later than one year but not later than five years	39
Total undiscounted lease liabilities	61
Lease liabilities included in the Balance Sheet	58
Operating Statement	

The amounts recognised in the operating statement relating to leases where the Commission is a lessee are shown below.

	2020 \$'000
Depreciation of right-of-use assets	3

ACT Integrity Commission
Notes to and forming part of the financial statements
for the year ended 30 June 2020

NOTE 12 - EMPLOYEE BENEFITS

Wages and Salaries

Accrued wages and salaries are measured at the amount that remains unpaid to employees at the end of the reporting period.

Annual and Long Service Leave

Annual and Long Service Leave, including applicable on-costs that are not expected to be wholly settled before 12 months after the end of the reporting period when the employees render the related service, are measured at the present value of estimated future payments to be made in respect of services provided by employees up to the end of the reporting period. Consideration is given to the future wage and salary levels, experience of employee departures and periods of service. At the end of each reporting period, the present value of future annual leave and long service leave payments is estimated using market yields on Commonwealth Government bonds with terms to maturity that match, as closely as possible, the estimated future cash flows.

Annual Leave liabilities have been estimated on the assumption they will be wholly settled within three years. At 30 June 2020, the rate used to estimate the present value of future annual leave payments is 100.9%.

The Long Service Leave liability is estimated with reference to the minimum period of qualifying service. For employees with less than the required minimum period of seven years of qualifying service, the probability that employees will reach the required minimum period has been taken into account in estimating the provision for long service leave and applicable on-costs.

At 30 June 2020, the rate used to estimate the present value of future payments for Long Service Leave is 113.6%.

The Provision for Annual Leave and Long Service Leave includes estimated on-costs. As these on-costs only become payable if the employee takes annual and long service leave while in service, the probability that employees will take annual and long service leave while in service has been taken into account in estimating the liability for on-costs.

Annual Leave and Long Service Leave liabilities are classified as Current Liabilities in the Balance Sheet where there are no unconditional rights to defer the settlement of the liability for at least 12 months. Otherwise it is classified as non-current because the Directorate has an unconditional right to defer the settlement of the liability until the employee has completed the required service.

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ACT Integrity Commission

Notes to and forming part of the financial statements for the year ended 30 June 2020

Significant judgements and Estimates

Significant judgements have been applied in estimating the liability for employee benefits. The estimated liability for Annual and Long Service Leave requires a consideration of the future wage and salary levels, experience of employee departures, probability that leave will be taken in service and periods of service.

The estimate also includes an assessment of the probability that employees will meet the minimum service period required to qualify for Long Service Leave and that on-costs will become payable.

The significant judgements and assumptions included in the estimation of Annual and Long Service Leave liabilities include an assessment by an actuary. This assessment is performed every three years. However, it may be performed more frequently if there is a significant change in the parameters underlying this assessment. The Australian Government Actuary performed this assessment in April 2019. The next actuarial review is expected to be undertaken by early 2022.

At 30 June 2020, the Commission employed seven FTE staff, plus the Commissioner.

Current Employee Benefits	2020 \$'000
Annual Leave	36
Long Service Leave	45
Accrued Salaries	51
Other Benefits	2
Total Current Employee Benefits	134
Non-Current Employee Benefits	
Long Service Leave	6
Total Non-Current Employee Benefits	6
Total Employee Benefits	140

Estimate of when Leave is Payable

Estimated Amount Payable within 12 months

Accrued Salaries	51
Other Benefits	2
Total Employee Benefits Payable within 12 months	53

Estimated Amount Payable after 12 months

Annual Leave	36
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Long Service Leave	51
Total Employee Benefits Payable after 12 months	87
Total Employee Benefits	140

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NOTE 13 - FINANCIAL INSTRUMENTS

Credit Risk

Credit risk is the risk that one party to a financial instrument will fail to discharge an obligation and cause the other party to incur a financial loss. The Commission's credit risk is limited to the amount of the financial assets it holds net of any allowance for impairment. The Commission's credit risk is managed by investing surplus funds with a high credit quality financial institution (Westpac Bank).

Credit risk is therefore considered to be low.

Liquidity Risk

Liquidity risk is the risk that the Commission will encounter difficulties in meeting obligations associated with financial liabilities that are settled by delivering cash or another financial asset. The main source of cash to pay these obligations is appropriation from the ACT Government which is paid on a fortnightly basis during the year. The Commission manages its liquidity risk by forecasting appropriation drawdown requirements to enable payment of anticipated obligations.

Carrying Amount of Each Category of Financial Asset and Financial

	Note No.	2020 \$'000
Financial Assets		
Cash and Cash Equivalents	7	1,118
Financial Liabilities		
Payables	10	43

The weighted average interest rate for Cash and Cash Equivalents is 1.51%.

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NOTE 14 - COMMITMENTS

Capital Commitments

Capital commitments contracted at reporting date that have not been recognised as liabilities, are payable as follows:

	2020
	\$'000
Capital Commitments	
Within one year	1,760
Total Capital Commitments	<u><u>1,760</u></u>

Other Commitments

The other commitments that have not been recorded as liabilities relate to the provision of ICT equipment by Shared Services. The Commission has numerous leases for equipment, including office equipment and ICT equipment. Where the value of the leased asset is low value the Commission has used the exemption for leases of low value assets and accounts for the expense through the Operating Statement as incurred.

Other Commitments

	2020
	\$'000
Non-cancellable operating lease commitments are payable as follows:	
Within one year	6
Later than one year but not later than five years	11
Total Other Commitments	<u><u>17</u></u>

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NOTE 15 - CASH FLOW RECONCILIATION

	2020
	\$'000
a) Reconciliation of Cash and Cash Equivalents at the End of the Reporting in the Statement of Cash Flows to the Equivalent Items in the Balance Sheet	
Total Cash and Cash Equivalents Recorded in the Balance Sheet	1,118
Cash and Cash Equivalents at the End of the Reporting Period as Recorded in the Statement of Cash Flows	1,118
b) Reconciliation of the Operating (Deficit) to the Net Cash Inflows from Operating Activities	
Operating Surplus	184
Add Non-Cash Items	
Depreciation of Property, Plant and Equipment	3
Cash Inflow Before Changes in Operating Assets and Liabilities	187
Changes in Operating Assets and Liabilities	
(Increase) in Receivables	(12)
Increase in Payables	133
Increase in Employee Benefit	140
Net Changes in Operating Assets and Liabilities	261
Net Cash (Outflow)/Inflow from Operating Activities	448

c) Reconciliation of Liabilities Arising from Financing Activities

	2019	Cash Flows	Non-cash changes		2020
	\$'000	\$'000	New Leases	Other	\$'000
	\$'000	\$'000	\$'000	\$'000	\$'000
Lease Liabilities (2020)	-	-	61	(3)	58
Debt	-	-	61	(3)	58

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NOTE 16 - RELATED PARTY DISCLOSURES

A related party is a person that controls or has significant influence over the reporting entity, or is a member of the Key Management Personnel ('KMP') of the reporting entity or its parent entity, and includes their close family members and entities in which the KMP and/or their close family members individually or jointly have controlling interests.

KMP are those persons having authority and responsibility for planning, directing and controlling the activities of the Commission, directly or indirectly.

KMP of the Commission are the Commissioner and Chief Executive Officer.

This note does not include typical citizen transactions between the KMP and the Commission that occur on terms and conditions no different to those applying to the general public.

(A) KEY MANAGEMENT PERSONNEL

A.1 Compensation of Key Management Personnel

All of the KMP of the Commission are employed and compensated by the Commission.

Compensation by the Commission to KMP is set out below.

	2020
	\$'000
Short-term employee benefits	644
Post employment benefits	65
Other long-term benefits	7
Total Compensation by the Commission to KMP	716

A.2 Transactions with Key Management Personnel

There were no transactions with KMP that were material to the financial statements of the Commission.

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NOTE 17 - BUDGETARY REPORTING

SIGNIFICANT ACCOUNTING JUDGEMENTS AND ESTIMATES

Significant judgements have been applied in determining what variances are considered 'major variances'. Variances are considered major if both of the following criteria are met:

- The line item is a significant line item: where either the line item actual amount accounts for more than 10% of the relevant associated category (Income, Expenses and Equity totals) or more than 10% of the sub-element (e.g. Current Liabilities and Receipts from Operating Activities totals) of the financial statements; and

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- The variances (original budget to actual) are greater than plus (+) or minus (-) 2.5% and \$500,000 of the budget for the financial statement line item.

Operating Statement Line Items	Original		Variance	Variance
	Actual	Budget¹		
	2019-2020	2019-2020		
	\$'000	\$'000	\$'000	%
Controlled Recurrent Payments ^a	1,768	2,668	(900)	(33.7)
Employee Expenses ^b	1,022	1,553	(531)	(34.2)

Variance Explanations

- a) Controlled Recurrent Payments – The variance of \$900,000 is mainly due to 2019-20 being the Commission’s first year of operation, with funding requirements lower than budget due to the delay in recruiting employees and acquiring resources.
- b) Employee Expenses – The variance of \$531,000 is mainly due to the timing of the establishment of the Commission, which delayed the recruitment of several positions.

Balance Sheet Line Items	Original		Variance	Variance
	Actual	Budget¹		
	2019-2020	2019-2020		
	\$'000	\$'000	\$'000	%
Cash and Cash Equivalents ^c	1,118	-	1,118	-
Capital Works in Progress ^c	863	-	863	-
Current Payables ^c	894	-	894	-

Variance Explanations

- c) Given the preliminary stage of development of the Commission when the 2019-20 budget was prepared no Balance Sheet items were budgeted for 30 June 2020.
1. Original Budget refers to the amounts presented to the Legislative Assembly in the original budgeted financial statements in respect of the reporting period (2019-20 Budget Statements). These amounts have not been adjusted to reflect supplementary appropriation or appropriation instruments.

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Statement of changes in equity

Variance explanations for these line items are covered in other financial statements.

Statement of Cash Flows Line Items	Actual	Original	Variance	Variance
	2019-2020	Budget¹		
	\$'000	\$'000	\$'000	%
Controlled Recurrent Payments ^d	1,768	2,668	(900)	(33.7)
Supplies and Services ^e	321	968	(647)	(66.8)
Employee ^f	884	1,553	(669)	(43.1)
Capital Injections ^g	775	-	775	-
Cash and Cash Equivalents at the End of the Reporting Period ^h	1,118	-	1,118	-

Variance Explanations

- a) Controlled Recurrent Payments – The variance of \$900,000 is mainly due to 2019-20 being the Commission’s first year of operation, with funding requirements lower than budget due to the delay in recruiting employees and acquiring resources.
 - b) Supplies and Services – The variance of \$647,000 is mainly due to the timing of the establishment of the Commission during the 2019-20 financial year.
 - c) Employee Expenses – The variance of \$669,000 is mainly due to the timing of the establishment of the Commission, which delayed the recruitment of several positions.
 - d) Capital Injections – The variance of \$775,000 is due to the fit-out of the Commission’s new office location in Kingston, which was not included in the Original Budget for 2019-20. Funding for the new office location was approved as part of the ACT Government’s COVID-19 stimulus program.
 - e) Cash and Cash Equivalents – The variance of \$1,118,000 is due to cash appropriation being drawn down to cover payment of accrued expenses and employee entitlements.
- ¹ Original Budget refers to the amounts presented to the Legislative Assembly in the original budgeted financial statements in respect of the reporting period (2019-20 Budget Statements). These amounts have not been adjusted to reflect supplementary appropriation or appropriation instruments.

PART C

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GLOSSARY

Some of the terms in this Annual Report have a particular meaning in the Act. The list below refers to the specific section of the Act where further information on each term can be located. The following is provided as a general guide in the use of each term.

TERM	MEANING
Corruption complaint (of corrupt conduct to the Commission)	<p>Means a report to the Commission about conduct that may be corrupt conduct, made by any person or entity other than people or entities subject to the mandatory corruption notification provisions of the Act.</p> <p>See s 57 of the Act.</p>
Confidentiality Notice	<p>Means a notice given by the Commission to a person directing the person to not disclose restricted information. Confidentiality Notices may be given where the disclosure of restricted information is likely to prejudice a Commission preliminary inquiry or investigation; the safety or reputation of a person; or the fair trial of a person who has or may be charged with an offence.</p> <p>See Part 3.2 of the Act.</p>
Mandatory Notification (of corrupt conduct to the Commission)	<p>Means a report to the Commission about conduct which a person who is subject to the mandatory corruption notification requirements reasonably believes or suspects is serious or systemic corrupt conduct.</p> <p>See Division 3.1.2 of the Act</p>
Preliminary Inquiry	<p>Means an inquiry carried out by the Commission to decide whether to dismiss, refer or investigate a corruption report. The Commission must not use certain coercive or covert information gathering powers when carrying out a preliminary inquiry.</p> <p>See Part 3.3 of the Act.</p>

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Referral (of corrupt conduct to the Integrity Commission)	Means a report to the Commission from a relevant entity about conduct that may be corrupt conduct which the relevant entity has received from a person in the form of a complaint. See s 59 of the Act.
Restricted information	Means any information given to or obtained by the Commission in the course of the Commission performing its functions and/or exercising its powers. See s 76 of the Act.
Serious corrupt conduct	Means corrupt conduct that is likely to threaten public confidence in the integrity of government or public administration. See s 10 of the Act.
Systemic corrupt conduct	Means instances of corrupt conduct that reveal a pattern of corrupt conduct in one or more public sector entities. See s 11 of the Act.

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Appendix A

Table 3 Section 218(1) requirements

Section 218(1) requirement	Requirement description	Commission statement
(a)	Conflicts of interest reported to the Speaker and Inspector under s 31	0
(b)	Corruption complaints made to the Commission under s 57	60 For information relating to these matters as required by s 218(1)(b)(i)-(iii), see Annexure B, Table 4
(c)	Corruption complaints referred to the Commission under s 59	3 For a description of each complaint, as required by s 218(1)(c), see Annexure B, Table 4
(d)	Corruption complaints withdrawn under s 60	0
(e)	Mandatory corruption notifications made by heads of public sector entities under s 61	13 For a description of each complaint, as required by s 218(1)(e) see Annexure B, Table 4
(f)	Corruption reports dismissed under s 71	22 For information relating to these matters as required by s 218(1)(f)(i)-(ii), see Annexure B, Table 5
(g)	Confidentiality Notices issued under	s 78 – 1

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	ss 78 and 79	s 79 – 1 see also Table 2
(h)	Preliminary inquiries carried out under ss 86 and 87	s 86 – 10 preliminary inquiries s 87 – 0 preliminary inquiries
(i)	Days of the year spent conducting preliminary inquiries	122
(j)	Preliminary inquiry notices issued under s 90	1
(k)	Investigations conducted under s 100	2 One investigation relates to misconduct by a public official and the other investigation relates to misuse of public funds and maladministration. ¹⁰ The number of days between the day the Commission received the corruption report and the day the Commission decided to conduct the investigation was 22 and 12 respectively. Neither investigation was completed in the reporting period.
(l)	Investigations conducted under s 101	0
(m)	Joint investigations conducted under s 104	1
(n)	Corruption reports referred to: (i) the inspector under s 105 (ii) a referral entity under s 107 and the number withdrawn under s 109 (iii) the ACT Judicial Council under s 110 (iv) a prosecutorial entity under s 111	(i) 0 (ii) 7 referrals, 0 withdrawn (iii) 0 (iv) 0

¹⁰ 'No further detail is able to be provided in response to s. 218(k)(i)(A) by reason of s. 221(a).

(o)	Investigations discontinued under s 112(1)	0
(p)	Search warrants issued under s 122	0
(q)	Examinations held under s 140	0
(r)	Examination summonses issued under s 147	1
(s)	Suppression orders issued under s 154	0
(t)	Arrest warrants issued under s 159	0
(u)	Applications for contempt of the Commission made under s 167	0
(v)	Private recommendations made under s 179	0
(w)	Investigation reports presented to the Legislative Assembly under s 189	0
(x)	Confidential investigation reports given to the relevant Legislative Assembly committee under s 192	0
(y)	Legal advice directions made under s 193	0
(z)	Information sharing entities to whom the Commission has disclosed information under s 196	6 For information about the general nature and extent of the information disclosed, see Appendix B, Table 6
(za)	Prosecutions and termination actions arising out of investigations	0
(zb)	Special reports presented to the Legislative Assembly under s 213	0
(zc)	Confidential special reports given to the relevant Legislative Assembly Committee under s 216	0
(zd)	Times the Commission exercised	(i) 0

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	<p>functions under the following legislation:</p> <p>(i) <i>Crimes (Assumed Identities) Act 2009</i>;</p> <p>(ii) <i>Crimes (Controlled Operations) Act 2008</i>;</p> <p>(iii) <i>Crimes (Protection of Witness Identity) Act 2011</i>;</p> <p>(iv) <i>Crimes (Surveillance Devices) Act 2010</i>.</p>	<p>(ii) 0</p> <p>(iii) 0</p> <p>(iv) 0</p>
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Appendix B

Table 4 Description of corruption complaints and assessment timeframe (s 218(1)(b), (c) and (e) information)

Complaint number	Description of corruption complaint	Time taken (days)*	Type of report**
1	Misuse of public funds	46	s 57
2	Conflict of interest	46	s 57
3	Misuse of public funds	107	s 57
4	Maladministration	46	s 57
5	Corrupt decision making/influence	45	s 57
6	Misuse of public funds	26	s 57
7	Misuse of public funds	129	s 57
8	Conflict of interest	N/A	s 62
9	Misconduct	1	s 57
10	Conflict of interest	37	s 57
11	Misuse of public funds	40	s 57
12	Collusion	1	s 57
13	Corrupt decision making	74	s 57
14	Corrupt decision making	85	s 57
15	Corrupt recruitment process	1	s 57
16	Corrupt influence	1	s 57
17	Corrupt recruitment/other process	72	s 57
18	Misuse of public funds	91	s 57
19	Corrupt decision making/influence	54	s 57
20	Corrupt recruitment process	14	s 57
21	Corrupt recruitment process	14	s 57

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22	Corrupt recruitment process	N/A	s 62
23	Misconduct	1	s 62
24	Collusion between agencies	69	s 57
25	Unlawful activity	83	s 57
26	Corrupt recruitment process	1	s 57
27	Mistreatment and corrupt decision making	1	s 57
28	Human rights impingement	1	s 57
29	Conflict of interest	67	s 57
30	Fraud	27	s 57
31	Maladministration	1	s 57
32	Misuse of public funds	12	s 57
33	Maladministration/cronyism	12	s 57
34	Collusion between agencies	47	s 59
35	Fraud	21	s 57
36	Collusion	1	s 57
37	Misuse of public funds/conflict of interest/influence	14	s 59
38	Unlawful activity	40	s 62
39	Collusion	1	s 57
40	Conflict of interest	53	s 62
41	Fraud	4	s 62
42	Unlawful activity	4	s 62
43	Maladministration	1	s 57
44	Maladministration	2	s 57
45	Maladministration	1	s 57
46	Unlawful activity	6	s 62
47	Maladministration	1	s 57
48	Maladministration	1	s 57
48	Collusion	1	s 57
50	Maladministration/nepotism	14	s 57

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51	Unlawful activity	102	s 57
52	Unlawful activity	1	s 57
53	Unlawful activity	N/A	s 62
54	Unlawful activity	7	s 57
55	Unlawful activity	N/A	s 62
56	Corrupt recruitment process	16	s 57
57	Fraud	1	s 57
58	Corrupt influence/conflict of interest	81	s 59
59	Fraud	N/A	s 62
60	Corrupt influence	56	s 57
61	Fraud	N/A	s 62
62	Maladministration	1	s 57
63	Fraud	1	s 57
64	Misuse of public funds	1	s 57
65	Corrupt recruitment process	3	s 57
66	Maladministration	1	s 57
67	Collusion	59	s 57
68	Maladministration	1	s 57
69	Maladministration	1	s 57
70	Collusion	N/A	s 62
71	Collusion	6	s 57
72	Maladministration	1	s 57
73	Corrupt recruitment process	20	s 57
74	Mismanagement of information	1	s 57
75	Collusion	1	s 57
76	Unlawful activity	1	s 57

* Time taken relates to the time the corruption complaint is received until the matter is decided by the Assessment Panel.

**Under s 57, any person may make a corruption report, under s 59 other entities may refer corruption report, s 62 is a mandatory corruption report.

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Table 5 Legislative grounds for dismissal of corruption complaint under s 71 (s 218(1)(f)(i)-(ii) information)

Matter	Grounds for decision to dismiss under s 71
1	s 71(2), s 71(3)(d), s 71(3)(h)
2	s 71(2), s 71(3)(d)
3	s 71(2), s 71(3)(d)
4	s 71(2), s 71(3)(f)
5	s 71(2), s 71(3)(k)
6	s 71(2), s 71(3)(d)
7	s 71(2), s 71(3)(b), s 71(3)(c), s 71(3)(i)
8	s 71(2), s 71(3)
9	s 71(2), s 71(3)(d), s 71(3)(f)
10	s 71(2), s 71(3)(f), s 71(3)(i)
11	s 71(2), s 71(3)(d) s 71(3)(g)(i), (ii), (iii)
12	s 71(2), s 71(3)(k)
13	s 71(2), s 71(3)(f), s 71(3)(i)
14	s 71(2), s 71(3)(d)
15	s 71(2), s 71(3)(b)
16	s 71(2), s 71(3)(d), s 71(3)(h)
17	s 71(2), s 71(3)(d)
18	s 71(2), s 71(3)(d), s 71(3)(f), s 71(3)(h)
19	s 71(2), s 71(3)(d), s 71(3)(h)
20	s 71(2), s 71(3)(d), s 71(3)(h)
21	s 71(2), s 71(f), s 71(k)
22	s 71(1)(c)

Table 6 Disclosure of information by the Commission to information sharing entities under s 196 (s 218(1)(z) requirement)

Entity number¹¹	Information sharing entity	Description of information disclosed¹²	Extent of information disclosed
1	Public Sector Standards Commissioner	<ul style="list-style-type: none"> • Allegations of maladministration • Allegation of cronyism • Allegation of misuse of public resources • Allegation of maladministration outside the Commission's jurisdiction 	Corruption reports
2	ACT Human Rights Commissioner	<ul style="list-style-type: none"> • Allegations of Maladministration outside the Commission's jurisdiction 	Corruption reports
3	ACT Ombudsman	<ul style="list-style-type: none"> • Allegation of maladministration outside the Commission's jurisdiction • Allegation of maladministration 	Corruption reports
4	ACT Inspector of Correctional Services	<ul style="list-style-type: none"> • Allegation of maladministration outside the Commission's jurisdiction 	Corruption report
5	Chief Minister, Treasury and Economic Development Directorate	<ul style="list-style-type: none"> • Allegation of maladministration 	Corruption report
6	Australian Federal Police	<ul style="list-style-type: none"> • Allegation of criminal conduct outside the Commission's jurisdiction • Information disclosed under joint 	Corruption reports and other information received by the Commission in the exercise of its

¹¹ Where information has been shared with an information sharing entity under s 196 on more than one occasion, those multiple instances have been grouped together in this table.

¹² The Commission is restricted from providing further information about the nature of the information disclosed, by reason of ss 76, 221 and 297 (as applicable).

Entity number ¹¹	Information sharing entity	Description of information disclosed ¹²	Extent of information disclosed
		agency agreement	functions
7	A referral entity, pursuant to s 196(3)(d)	<ul style="list-style-type: none"> <li data-bbox="608 349 983 456">• The fact of an allegation of corrupt conduct relevant to referral entity's jurisdiction 	Notice of fact of Commission investigation into allegation

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Appendix C

The Commission has identified a number of legislative amendments to ACT laws it considers ought to be made as a result of the exercise of the Commission's functions. An overview of the suggested amendments is contained below.

The Commission will take responsibility for a number of functions under the PID Act in early March 2021, following the amendments introduced by the *Public Interest Disclosure Amendment Act 2020*. The Commission anticipates that the need for amendments to be made to the PID Act may be identified in due course, following the exercise of the Commission's functions under it.

The *Administrative Arrangements 2020 (No 3)* place the Act and the PID Act under the Chief Minister's purview.

Amendments required regarding procedural matters

- (a) **A provision equivalent to s 39 of the ICAC Act** – the Commission considers a provision to enable an order that the Director-General of Justice and Community Safety Directorate produce a detainee for examination at the Commission is required. The Commission notes there is provision in s 217A of the *Corrections Management Act 2007* to bring a detainee before a court as a result of a court order. The Commission is considered to be a 'court', and its examinations 'civil proceedings' for the purposes of that provision (s 217A(2)). However, the provision is only operative if the detainee *consents* to be so brought. An amendment is sought to enable a detainee to be brought before the Commission when they do not consent;
- (b) **A revision of s 9(1)(a) to include a fourth category of conduct equivalent to s 9(1)(d) of the ICAC Act** – the jurisdiction provision in the ICAC Act mirrors that of the ACT (s 10), but also extends the definition of corrupt conduct further. Section 9(1)(d) of the ICAC Act includes in its definition, conduct that could constitute or involve, in the case of conduct of a Minister of the Crown or a member of a House of Parliament, a substantial breach of the applicable code of conduct. There is no equivalent in the ACT. Without such an amendment, it is difficult for the Commission to examine the conduct of Ministers and Members of the Legislative Assembly if they have misused their position but their conduct does not amount to a criminal offence, a serious disciplinary offence or constitute reasonable grounds for dismissing, dispensing with the services of or otherwise terminating the services of a public official;
- (c) **An amendment to insert a provision equivalent to s 21 of the ICAC Act** – such a provision would provide the Commission with the power to issue a notice to a public official or public

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sector entity requiring the official or entity to produce a statement of information, and to issue a Confidentiality Notice in connection with such a notice. This is a valuable investigatory tool, especially for obtaining non-contentious information about systems and policies. No such provision currently exists in the Act;

- (d) **An amendment to insert a provision equivalent to s 35(2) of the ICAC Act** – s 35 of the ICAC Act is broadly equivalent to s 147 of the Act and gives the ICAC the power to summons a witness and take evidence. Subsection 35(2) of the ICAC Act further allows the Commission to order the production of a document or thing in the course of a hearing/examination, as matters arise. There is no equivalent in the Act;
- (e) **Amendment to s 134** – s 134 requires the Commission to return a thing seized under Part 3.5 to the owner (or the ACT must pay reasonable compensation) unless a prosecution for an offence against a ACT law in connection with the thing is begun within one year after the day the seizure is made or an application for the forfeiture of the seized thing is made to a court under the *Confiscation of Criminal Assets Act 2003* (or another ACT law) is made within one year after the day of seizure. This time frame is too narrow to permit all of the necessary steps to occur – i.e. for the Commission to have seized the thing, undertaken all relevant investigations, held both private and (if necessary) public hearings, prepared an investigation report pursuant to Part 3.9, and referred the matter to the ACT DPP for prosecution. The Commission considers the time frame ought be lengthened to ensure investigations are comprehensively undertaken and not prematurely concluded. Such an amendment would also prevent the ACT from being liable to pay reasonable compensation to the owner of a thing before an investigation to which it relates is complete;
- (f) **Amendment to s 156(1)(c)** – this provision requires the Commission to tell a witness in an examination about their rights and obligations under s 148(2). However, the provision is meant to refer to s 148(3), and the reference to s 148(2) is a typographical error. Section 148(2) says an examination summons must state the nature of the matters about which a person is to be questioned unless an exception applies. The witness has certain rights outlined in s 148(3). The Commission has contacted the Parliamentary Counsel’s Office, which confirmed the reference to s 148(2) is a typographical error in the legislation, and the provision should instead refer to s 148(3). An amendment is sought to refer to the correct subsection;
- (g) **Amendment to s 90(2)(a) (Power to issue a preliminary inquiry notice) and s 147(2)(a) (Power to issue examination summons)** – both of these subsections require the Commission to issue a preliminary inquiry notice or an examination summons only if satisfied the production of a document or other thing is ‘necessary’ for the preliminary inquiry or investigation. The Commission considers that ‘necessary’ in both provisions ought be replaced with ‘for the purpose of assisting the Commission’. This mirrors the language in the

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ICAC Act (for example, s 20A(2)), and would prevent the Commission from being unduly constrained in the exercise of its functions;

(h) **Amendment of s 159 (Examination – warrant to arrest witness who fails to appear):**

(i) **A provision equivalent to s 36 of the ICAC Act** – introducing a provision of this kind would allow the Commission to issue or apply for an arrest warrant where it is probable that a person whose evidence is desired, necessary and relevant to an investigation under the Act will not attend the Commission to give evidence unless compelled to do so, is about to, or is making preparations to leave the State and the person’s evidence will not be obtained by the Commission if the person departs; and

(ii) **An amendment to allow authorised officers and/or investigators to apply to a Magistrate for an arrest warrant** – as s 159 currently reads, it is the Commission who may apply to a Magistrate for a warrant. Pursuant to s 20, the Commission consists of the Commissioner, so it is only the Commissioner who may apply to a Magistrate for the warrant. It is, to a certain extent, inappropriate for one judicial (or quasi judicial) officer to be required to apply to another judicial officer for an arrest warrant. While the power in s 159 may be delegable, it is the Commission’s preference that the section be amended to enable staff of the Commission, under the Commissioner’s direction, to apply to a Magistrate;

(i) **Amendment to s 160(5)(c)** – an amendment is sought to enable a person who is named in an arrest warrant to be brought before the Commission ‘as soon as practicable’, as opposed to ‘immediately’ is considered necessary. This would allow for a person who is arrested after-hours to be brought to the Commission the next morning, and not require the Commission to convene in the middle of the night (for example);

(j) **Amendment to s 174 (Meaning of privilege)** – the Commission notes that this section may have to be amended as a consequence of any amendments to ss 95 and 175 (as proposed in (k) below);

(k) **Amendments to s 95 (Preliminary inquiry notice – claiming privilege or secrecy) and s 175 (Privileges against self-incrimination and exposure to civil penalty to not apply)** – these sections abrogate two privileges that would otherwise be available to a witness/party who is required to produce a document or other thing or give evidence subject to an examination summons. A raft of other privileges, such as legal professional privilege and public interest immunity, are not expressly precluded by the Act. This allows individuals/entities to claim a wide range of privileges in support of their refusal to produce documents or provide answers to questions in an examination. The object of the Act is to ensure a full investigation in the

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public interest of matters that involve the commission of possible offences or serious misconduct that are peculiarly within the knowledge of certain persons (and who cannot reasonably be expected to make their knowledge available unless compelled). It is critical to the efficient and effective operation of the Commission that the Act be expanded to abrogate the remaining privileges (with the exception of parliamentary privilege) in appropriate circumstances.¹³ Such amendments would bring the Act in line with the provisions of the ICAC Act (ss 24 and 37(2)), the *Royal Commissions Act 1923* (NSW) (s 17), and the *Royal Commissions Act 1902* (Cth) (ss 2(5), 6AA which allows a Royal Commission to compel the production of documents that are subject to legal professional privilege).

Amendments required regarding extension of secrecy provisions

- (l) **An amendment to Part 3.10 to insert an equivalent provision to s 111(4)(e) of the ICAC Act** – such an amendment would allow for an exception to the secrecy provisions for disclosures by Commission staff to registered medical practitioners and registered psychologists in relation to treatment/care/counselling being provided, and to extend the secrecy provisions to the treating practitioner (s 111(5) of the ICAC Act). This is an important provision that recognises the physical and psychological impacts of the Commission’s workplace, and would allow Commission staff to seek the care and treatment they need;
- (m) **An amendment to Part 3.10 to non-publication restrictions for persons who have given evidence or are about to give evidence at a private or public hearing to share information with a medical practitioner/registered psychologist (equivalent to s 112(3) of the ICAC Act)** –a provision of this kind recognises the stressors that can be placed on those appearing before the Commission. Such a provision exists in the ICAC Act;
- (n) **The insertion of a general exception to secrecy provisions akin to s 111(4)(c) of the ICAC Act** – the Commission considers it necessary to have a broad, general exception to its secrecy provisions, to permit the disclosure of information in appropriate circumstances as the need arises. It is proposed that this general exception be available ‘in accordance with a direction of a Commissioner or Inspector, if a Commissioner or Inspector certifies that it is necessary to do so in the public interest’, or similar circumstances. Such a provision is necessary to facilitate the Commission carrying out its core functions. For example, such a provision could be relied upon to provide necessary information to other agencies, to obtain relevant evidentiary material from them. By way of more specific example, non-law enforcement Commonwealth agencies, which are not compellable by the Commission, may be willing to provide the Commission with documents, but may only be able to do so following

¹³ In Chapter 7 of The Hon Peter Hall QC’s seminal work on commissions of inquiry, *Investigating Corruption and Misconduct in Public Office* (Thomson Reuters), 2nd ed, 2009, he sets out the importance of the abrogation of the majority of privileges to the work of corruption commissions.

receipt of a 'submission' from the Commission justifying the request (including in order to waive their own secrecy requirements). Without a general exception to the secrecy provisions currently in the Act, the Commission will be constrained from obtaining all relevant information and material required for its investigations.

Amendments proposed regarding eligibility requirements for employment at the Commission

- (o) **Amendment of s 50 (staff of the Commission - eligibility for appointment)** – the Commission is of the view that the requirement that the Commission must not appoint a person as a member of staff if they have been an ACT public servant in the previous five years has caused and will continue to cause some recruitment difficulties. In accordance with the *Public Sector Management Act 1994*, even a casual contractor or volunteer for the ACT government is considered a 'public servant' and is excluded from eligibility. The Commission raises for consideration whether an exception to this eligibility criterion ought be included. For example, an amendment to the effect that the Commissioner can employ a person notwithstanding the general prohibition in s 50, if satisfied that it is appropriate to do so in all the circumstances (and where such circumstances might include, for example, highly specialised subject matter expertise). Appropriate arrangements exist within the Commission for dealing with conflicts of interest as and when they arise.

Amendments required regarding reporting requirements in the Annual Report

- (p) **Amendment to s 218** – this provision lists various Commission events/exercises of Commission powers, and mandates that the numbers of each must be specified in the Annual Report. This includes matters such as a description of each matter investigated (s 218(1)(k)(i)(A)). The provisions within Part 4.3 that govern when information can be excluded from the Annual Report do not unambiguously permit the Commission to exclude information about an investigation even if it would prejudice that investigation to include it. This is an anomaly in the Act. For the avoidance of doubt, the Commission considers that an amendment is required to state expressly that where any Commission investigation might be prejudiced, the Commission need not comply with the requirements of s 218;
- (q) **Amendment of s 221(a)** – this section provides that the Commission must not include in the Annual Report any information that would compromise another investigation. The section does not refer to 'any investigation' or 'an investigation', rather 'another investigation'. This is an anomaly in the Act. For the avoidance of doubt, the Commission considers that the word 'another' ought be substituted by 'an'. This would facilitate and support the proposed amendments to s 218 above.

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New legislation required to allow the Commission to be recognised under the *Telecommunications (Interception and Access) Act 1979 (Cth)*

- (r) In order to fully discharge its functions the Commission needs to be able to apply for warrants authorising the interception of telecommunications, access stored communications and access telecommunications data pursuant to the *Telecommunications (Interception and Access) Act 1979 (Cth)* (**'TIA Act'**). The TIA Act also governs the Commission's ability to receive information and material acquired by other agencies (such as the AFP) pursuant to that Act. Access to such information is a critical investigatory tool the Commission currently lacks.

In order to apply for warrants and access stored communications and telecommunications data, the Commission must be declared an eligible authority, and a criminal law-enforcement agency under the TIA Act. Each of Chapters 2, 3 and 4 of the TIA Act have different eligibility requirements.

Recognition under the TIA Act can only occur once the Commission has made a submission to the Minister for Home Affairs (Cth) (**'Home Affairs Minister'**).¹⁴ If that submission is accepted, legislative change to the TIA Act then needs to be passed by the Commonwealth Parliament. Prior to a submission being made however, the ACT Legislative Assembly needs to pass legislation to ensure 'law enforcement agencies' within the ACT comply with certain requirements in the TIA Act.

The required new ACT legislation would have to impose certain obligations on the Commission, the ACT Attorney-General and the Commission's Inspector. They are (broadly) that:

- the Commission must keep certain warrant documentation;
- the Commission must give a written reports about certain matters;
- the Commission must give a nominated ACT Minister an annual report about matters connected to the TIA Act;
- the nominated ACT Minister must give the Home Affairs Minister an annual report;
- the Commission is required to keep restricted records securely and ensure only authorised people have access;
- the Commission is required to destroy non-required restricted records;
- the Inspector must conduct regular inspections of the Commission's records pertaining to the TIA Act;

¹⁴ The Commonwealth Minister for Home Affairs is responsible for administering the TIA Act pursuant to the *Administrative Arrangements Order -1/2/2020 (Cth)*.

- the Inspector must report to the nominated ACT Minister about the result of such inspections;
- an inspection report may include an opinion the TIA Act has been contravened; and
- the nominated ACT Minister is to give the Home Affairs Minister a copy of any inspection report received.

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