



CDPP

Australia's Federal Prosecution Service



ANNUAL REPORT **2016–17**

COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS



COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS



Australia's federal
prosecution service



SERVICE



Contributing
to a fair,
safe and
just society



SOCIETY



Prosecuting
crimes against
Commonwealth
law for more than
30 years



JUSTICE



Providing advice to assist the investigative process

ADVISE



Bringing cases to a close through effective prosecutions

PROSECUTE



Publishing case outcomes to deter offenders and educate the community

EDUCATE

SUMMARY OF PERFORMANCE 2016–17 AT A GLANCE

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

PARTNERS



Partner agencies that referred cases

58



Commonwealth agencies

39



State/territory agencies

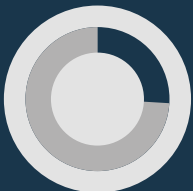
19



Cases referred

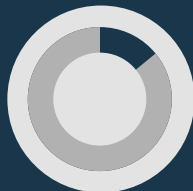
3,147

TOP REFERRING AGENCIES—MATTERS REFERRED



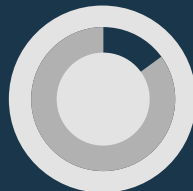
Australian Federal Police

26%



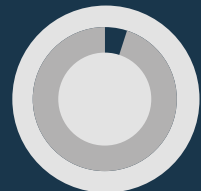
Department of Human Services—Centrelink

14%



State and territory police

15%



Australian Border Force
Australian Fisheries Management Authority

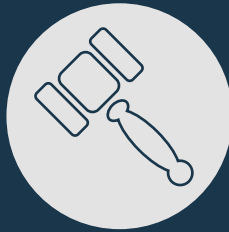
5%

PROSECUTIONS



Matters before the court

5,015



Cases finalised

3,004



Prosecutions resulting in a conviction

2,249

PROSECUTIONS



Prosecutions resulting in imprisonment

1,228

APPEALS



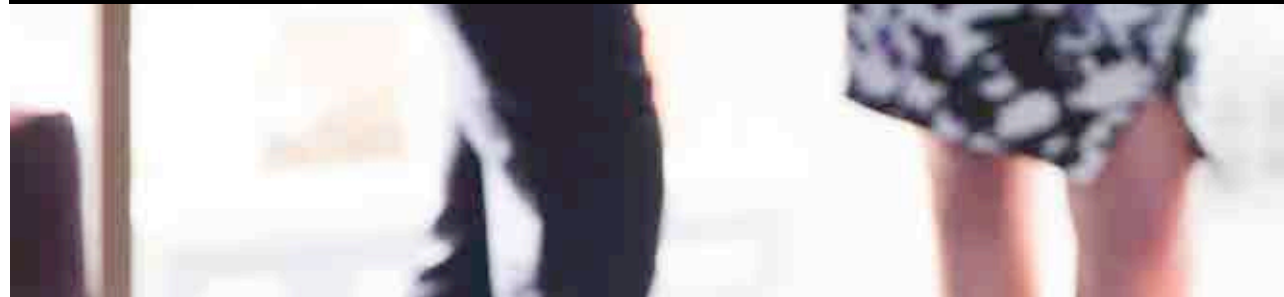
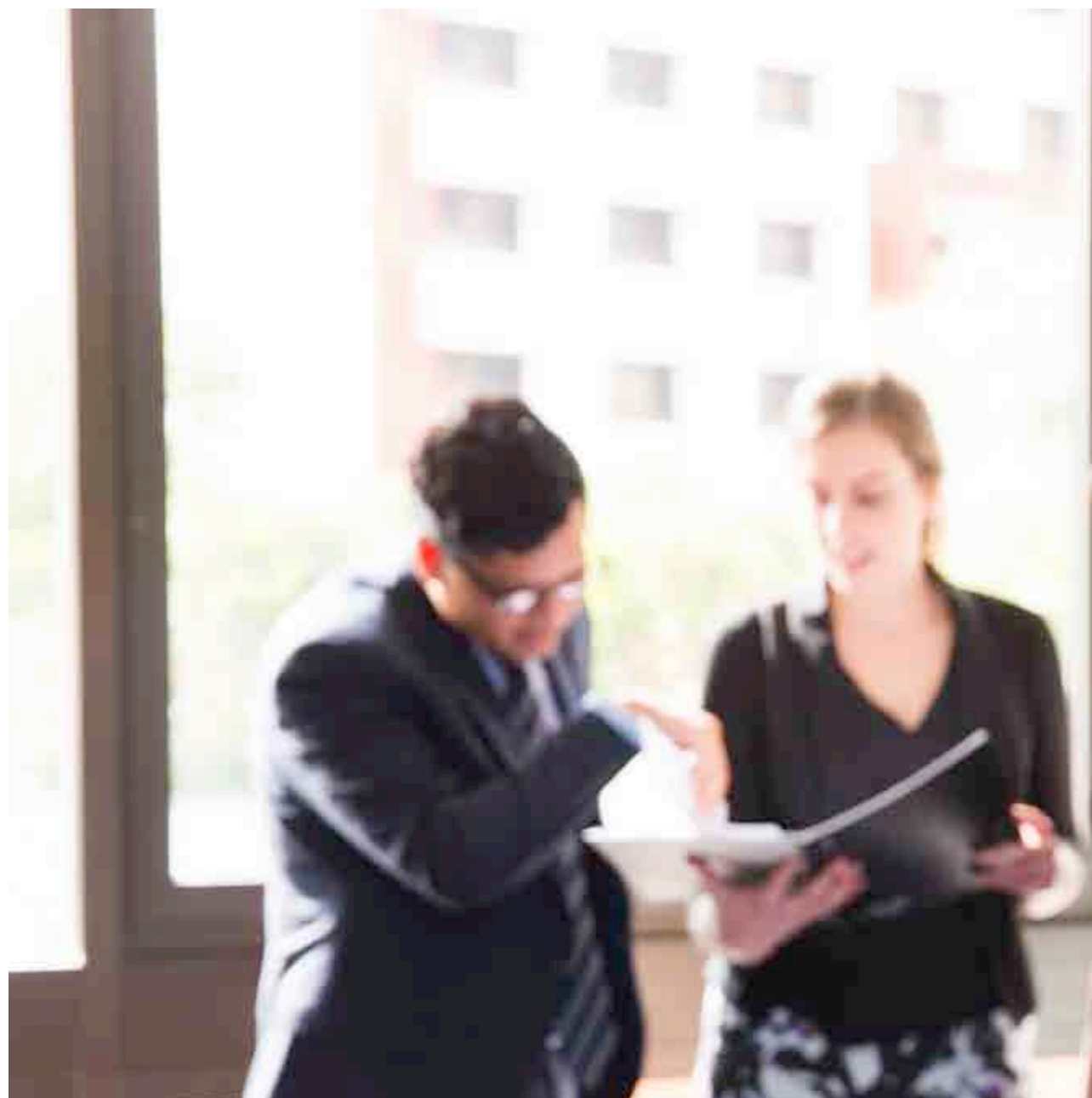
Prosecution appeals filed

26



Successful appeals against the inadequacy of sentence

14





ANNUAL REPORT **2016–17**

COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS

LETTER OF TRANSMITTAL



CDPP

Australia's Federal Prosecution Service

22 September 2017

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

Dear Attorney-General

I am pleased to present the annual report for the Commonwealth Director of Public Prosecutions (CDPP) for the year ended 30 June 2017.

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

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

Yours sincerely

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

Sarah McNaughton SC
Commonwealth Director of Public Prosecutions

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DIRECTOR'S REVIEW

Introduction

Our prosecution work is detailed, multi-faceted and increasingly involves sophisticated criminal networks and global offending. Our motivation is to bring offenders to justice. This focuses our efforts to effectively prosecute matters and, through this work, to contribute to a fair, safe and just society for the benefit of the broader community.

The scale and scope of our prosecution work is generated by our partner agencies, referring cases for assessment and prosecution. For partner agencies, effective prosecutions result in the conclusion of their matters—the culmination of extensive, thorough and resource intensive investigations.

During 2016–17, the complexity and volume of our prosecution work remained steady, and I am pleased to report that we continued to achieve our aim and meet our performance targets.

Performance

By measuring and reporting on our performance, we build public confidence that we are achieving our purpose: to provide an independent prosecution service that contributes to the respect and maintenance of Commonwealth law and public respect in the justice system through the prosecution of crimes.

Year-on-year our performance is consistently high. This success is due to our ability to adapt to the changing nature of criminality and the varying number and complexity of briefs referred.

Our national practice group model has proven to be a key enabler, providing the necessary flexibility to move resources between practice groups and jurisdictions to manage the caseload. This flexibility is coupled with an unwavering commitment to improve our assessment timeframes, processes and systems.

This approach is reflected in our performance results for 2016–17. We achieved 100 per cent compliance with the required prosecution test, and 99 per cent of our prosecutions resulted in a conviction.

We recognise partner agencies rely on us for the effective and timely prosecution of every matter that passes the prosecution test. The weight of this responsibility is ever-present, driving us to continually improve, regardless of external pressures or fiscal constraints.

This year we made significant improvements to our resources, both for our own staff and for our partner agencies, and undertook initiatives to transform our work practices, improve our efficiency, and strengthen and enhance our liaison with partner agencies.

Reflecting on our achievements, it is clear that the transformation and evolution of the CDPP—coupled with the willingness of staff to innovate, collaborate and adopt new work practices being embraced by our partners and stakeholders—is integral to our success in the past 12 months.

The year in review

Connecting with our counterparts in the Australian justice system

The CDPP is an integral member of Australia's justice system. Since joining the CDPP in May 2016, I have actively reinforced this by connecting with a wide range of government and legal stakeholders, the courts, state and territory Directors of Public Prosecutions, and international counterparts. The purpose has been to identify what we are doing well, share ideas, discuss emerging issues and law reform, and draw on our stakeholders' experience to improve our prosecution services for the digital age.

Federal Prosecutors have also engaged with international counterparts on high-level law enforcement projects. Through presentations, roundtable discussions and training, our prosecutors are sharing our knowledge and making significant contributions to investigating, prosecuting and developing legal frameworks in our region and beyond. A summary of our international engagements is provided on page 39 to 41.

Educating the community

We take seriously our responsibility to educate the community. We regularly publish case outcomes to deter criminal conduct and educate the community about our role prosecuting offences against Commonwealth law.

I personally welcomed the opportunity to address many conferences and forums throughout the year to raise the profile of our work and discuss specific aspects of the law and its application. Examples included delivering presentations on recent developments and contemporary challenges in Commonwealth criminal law, issues in terrorism prosecutions and current challenges facing prosecuting agencies.

Such speaking opportunities provide a platform to deliver important information about our legal practice, including outlining challenges and emerging trends to our stakeholders.

Importantly, these forums allow us to educate the community about the role of the CDPP, promote the dedication of our staff, the strength of our partnerships, and our commitment to our purpose and achieving our outcome.

Legal practice

This year we experienced an increase in requests for pre-brief advice, and an increase in complex cases ranging from sophisticated Centrelink benefit frauds to foreign bribery cases, and from foreign fishing to planned acts of domestic terrorism.

I remain committed to taking an active role in complex matters, including instituting appeals against sentences considered inadequate. With the support of our talented legal practice, several such prosecution appeals were successful this year. Most notably this work included two complex terrorism appeals resulting in the significant increase of sentences. The court emphasised that, in sentencing those convicted of terrorism offences, importance should be placed on general deterrence and denunciation above the personal circumstances of the offender. The details of these appeals are from page 102.

By maintaining an active role in the management of legal matters, I have identified further opportunities to improve the legal practice and better equip staff to undertake their prosecution work. These practical insights have helped shape the CDPP's digital transformation agenda.

Transforming our legal practice

While our national practice group model is proving successful, we can do more to optimise the model and transform our work practices to realise the full benefits of working flexibly and consistently, nationally.

We are committed to improving our technology, systems and processes to provide staff with the knowledge, skills and tools to thrive and progress to their full potential. Through our digital transformation, we are embedding a culture of innovation, collaboration and diversity to enable and support the CDPP to meet performance targets, while providing staff with opportunities to grow and advance their careers.

Commonwealth Solicitor for Public Prosecutions

In February 2017, Andrea Pavleka was appointed to the role of Commonwealth Solicitor for Public Prosecutions for a period of 18 months, after her predecessor Mark Pedley was appointed Judicial Registrar of the Supreme Court of Victoria. The responsibilities of the role have been expanded to oversee the improvement of our legal practice and the operational changes necessary to advance our transformation agenda.

Business improvement

Since establishing our National Business Improvement practice group in May 2016, we have made significant progress leading many key initiatives to overhaul the way we work, now and into the future. Initiatives include:

- consulting with partner agencies to develop digital e-brief referral standards
- developing a new online Digital Referrals Gateway to enable briefs of evidence to be submitted securely online
- delivering an improved precedents system to standardise legal correspondence nationally
- implementing new systems to enable lawyers to interrogate evidence more efficiently
- scoping a new Business Management Solution to improve the end-to-end management of cases
- upskilling staff through the introduction of new software packages and training programs.

The focus is now on advancing these initiatives to deliver lasting change that will ensure our case management practices continue to be best practice.

Recognising outstanding contribution

Our people are integral to the work of the CDPP. This year we launched the inaugural Law Week Awards, to align with National Law Week. These awards identified achievers at every level of the organisation through peer-based nominations. I was impressed by the diversity of nominations received and the opportunity to celebrate the outstanding contribution of individuals and teams—teams that often comprise more than three generations working together to support each other.

The awards highlighted the calibre of staff at the CDPP and their willingness to be part of new initiatives—a willingness that will be central to our change agenda moving forward.

More information about the awards is on page 164.

Looking forward

This past year was an exciting time of discovery, culminating in the introduction of many progressive initiatives that are fundamental to improving the legal practice and keeping pace with the expectations of our partner agencies and the wider community.

The year ahead will see a continued focus on the implementation of digital solutions to improve our work practices.

Our priorities for the year ahead include:

- improving our prosecution services through more efficient planning and assessment of complex multi-faceted briefs
- increasing our identification of cases with potential for early resolution
- improving our digital capability through new systems, tools and targeted solutions via our intranet and case management system
- strengthening our early engagement and collaboration with partner agencies to inform and drive more effective investigation and prosecution outcomes
- working with partner agencies to allow electronic briefs to be received and processed
- activating an innovation program to uncover ideas for change, procedural improvements and eliminate inefficient practices
- driving efficiencies through the introduction of a national administration service offer to deliver legal support services consistently and more efficiently
- informing and enabling staff to take an active role in our digital transformation.

I am encouraged by the progress we have made during 2016–17. The Executive Leadership Group drove the CDPP's digital transformation and staff embraced the opportunity to learn new skills and play an active role in the modernisation of our organisation. Through the efforts of all staff, we continue to meet our performance targets in an environment where the nature and complexity of criminal activity is continually evolving.

We are able to achieve our performance targets and purpose through the dedication and commitment of our talented staff and the strength of our relationships with partner agencies, as evidenced by the initiatives, projects and case studies provided in this annual report.

I am proud of our achievements and pleased to present the CDPP's 2016–17 Annual Report.



Sarah McNaughton SC
Commonwealth Director of
Public Prosecutions



We are embedding a culture of innovation, collaboration and diversity, so we can continue to meet our performance targets, the needs of our partner agencies, and the expectations of the Australian community.

SARAH McNAUGHTON SC, DIRECTOR



Our partners rely on us to bring their cases to a close



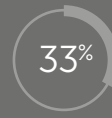
58
partner
agencies



5,015
matters before the
courts in 2016–17



67%
Commonwealth
matters



33%
state and
territory matters



10
offices around
the country



452
staff



308
practicing lawyers
working across all
jurisdictions and levels
of court



74
new Federal
Prosecutors
joined in
2016–17

CHAPTER 1



OVERVIEW

ABOUT US

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

We are a Commonwealth statutory agency with staff in offices around the country. While the CDPP is in the Commonwealth Attorney-General's portfolio, we operate independently.

OUR OUTCOME

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

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

OUR PURPOSE

To provide an independent prosecution service that contributes to the respect and maintenance of Commonwealth law and public respect in the justice system through the prosecution of crimes.

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

OUR AIM

To be fair, consistent and professional in everything we do—recognising, valuing and developing the knowledge, skills and commitment of our people to deliver Australia's federal prosecution service.

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

OUR STRATEGIC THEMES

Our strategic themes inform our planning, guide our actions, set our priorities and help us achieve our purpose.

01



OUR
SERVICE

Providing
an efficient
and effective
prosecution service

02



OUR
PARTNERS

Engaging partner
agencies and
stakeholders

03



OUR
PEOPLE

Investing in our
people

The matters we prosecute are diverse and complex, reflecting the evolving and expanding nature of offences against Commonwealth law.

OVERVIEW

Our role prosecuting offences against Commonwealth law

The CDPP is an independent prosecution service established by parliament to prosecute alleged offences against Commonwealth law.

We provide an effective, ethical, and high quality criminal prosecution service for Australia in accordance with the *Prosecution Policy of the Commonwealth*.

The matters we prosecute are diverse and complex, reflecting the evolving and expanding nature of offences against Commonwealth law.

Dealing with a diverse range of crimes

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

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

Our prosecutions are increasingly transnational in nature and often involve large quantities of electronic evidence.

Operating independently

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

The DPP Act sets out the functions and powers of the Director, including independent responsibility for conducting prosecutions for offences against laws of the Commonwealth.

The Commonwealth Solicitor for Public Prosecutions takes a lead role in supporting the Director to fulfil our statutory obligations, with the Executive Leadership Group overseeing the legal and corporate functions of the CDPP.

More information about the role of the Director, Commonwealth Solicitor for Public Prosecutions and Executive Leadership Group is in *Chapter 2: National practice*.

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

However, the Commonwealth Attorney-General has power under section 8 of the DPP Act to issue directions or guidelines to the Director. Such directions or guidelines must be in writing and tabled in Parliament, and there must be prior consultation between the Attorney-General and the Director. The CDPP is bound by such directions or guidelines issued by the Attorney-General. Seven directions have been issued in more than 30 years of operation, with none issued during the reporting period.

Serving the public interest for more than 30 years

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

In 2016–17, a total of 58 partner agencies referred cases to the CDPP—comprising 39 Commonwealth investigative agencies including the Australian Federal Police, and 19 state and territory agencies including state and territory police.

This year our top referring agencies, representing almost 75 per cent of all cases referred, were the:

- Australian Federal Police
- Department of Human Services—Centrelink
- state and territory police
- Australian Border Force
- Australian Fisheries Management Authority.

As we have no investigative function, we rely on these partner agencies to provide briefs of evidence. The matters referred must pass a two-stage test before a prosecution commences. That is, there must be sufficient evidence to prosecute the case, and the prosecution must be in the public interest.

Throughout the prosecution process we work closely with partner agencies, including requisitioning additional evidence when required, however, we make decisions in relation to a prosecution independently of those responsible for investigation.

Working across all jurisdictions nationally

We undertake legal work in the courts of every Australian state and territory. We are also responsible for prosecuting offences against the laws of Jervis Bay and Australia's external territories.

In 2016–17, we were consulted on an initiative that has resulted in our jurisdiction expanding to encompass Norfolk Island prosecutions from 5 August 2017.

Building capability through specialist national practice groups

Our national practice group model enables us to effectively assess and progress our prosecution work. The model comprises specialist national teams who consistently prosecute specific categories of crime, across all jurisdictions. This national approach has enabled us to harness the expertise of our staff, improving both the timeliness and effectiveness of our prosecutions. Importantly, this dynamic model has enabled us to be agile and focus our efforts, adapting as required through considered allocation of matters to specialists in our national network of prosecutors.

Our practice groups are:

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

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

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

There is more information about our Deputy Directors from page 28, and detailed information about their practice groups from page 42.

Enabling and supporting our legal practice

Our legal practice groups are supported by our customer-focused and collaborative Corporate Services Group, led by our Chief Corporate Officer. This group provides essential services and solutions necessary to support the efficient operations of our busy legal practice. Functions include finance, people, specialist national legal administrative support, library and research services, records management, internal audit, governance, communications, and information technology.

More information about the role of the Chief Corporate Officer is on page 30. An overview of corporate functions is on page 120.

Designing prosecution services around our partner agencies

The prosecution process is well-defined and as a result we have developed prosecution services to align with every stage—from pre-brief advice and brief assessments to prosecutions before the courts, appeals and case-reviews.

We also encourage tailored training and secondments to exchange and build capability and drive improvements in the prosecution process.

Each legal practice group connects with partner agencies to establish and build strong working relationships. Insights gained from these close working relationships influence our prosecution services, which must adapt to the changing nature of criminality and partner agency needs.

More information about our prosecution services is provided on page 33.

Working as an integral member of the Australian justice system

We are an integral member of the Australian justice system and remain committed to upholding the highest standards.

We work with legal counterparts at every level of the justice system and actively participate in legislative reform, social justice and procedural forums to advance our prosecution service to meet the expectations of the broader community.



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

Advancing the interests of justice

We advance the interests of justice by working with partner agencies to enforce criminal law for the benefit of the community. We recognise the importance of adopting the highest professional and ethical standards in prosecutions.

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

Treating victims of crime with courtesy, dignity and respect

It is important in all prosecutions that victims are treated with courtesy, compassion, cultural sensitivity and respect for their dignity and entitlements. In matters where there is a victim, we recognise they have an important role in the prosecution process, and that their role depends on the circumstances of the case. We do not act on behalf of a victim as private sector solicitors act for their clients. Rather, in carrying out our functions, we act on behalf of the whole community.

Our *Victims of Crime Policy* guides and supports victims and witnesses through the prosecution process.

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

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

More information about this service is on page 70.

Connecting with state and territory Directors of Public Prosecutions

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

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

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

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

Educating the community about our role

We aim to build confidence in the federal justice system by educating the community about our role. To do this we actively:

- promote the outcome of our prosecutions
- highlight the positive working relationships we have established with partner agencies and state and territory counterparts
- regularly participate in legal working groups and committees
- attend relevant conferences and events
- provide input into legislative reform.

Promoting prosecution outcomes not only educates the community about the consequences of committing crimes against Commonwealth law, but also deters potential offenders.

Providing a local presence with national reach

With few exceptions, Commonwealth prosecutions are carried out in state and territory courts in accordance with applicable state and territory procedural law, pursuant to the provisions of the *Judiciary Act 1903*.

We have prosecutors strategically placed around the country in our offices in Sydney, Brisbane, Melbourne, Adelaide, Perth, Canberra, Hobart, Darwin, Cairns and Townsville.

In smaller offices, it is common for prosecutors to work across a range of practice groups.

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

More information about our national legal practice is from page 22.

NATIONAL PRACTICE GROUPS

Prosecuting categories of Commonwealth crime



Commercial
and Financial
Corruption



Illegal
Imports and
Exports



Human
Exploitation
and Border
Protection



International
Assistance
and Specialist
Agencies



Organised
Crime and
Counter-
Terrorism



Revenue
and Benefits
Fraud

Transforming our systems and processes



National Business
Improvement



Legal Business
Improvement

Corporate Services—
enabling and
supporting the
legal practice

CHAPTER 2



NATIONAL PRACTICE

NATIONAL PRACTICE

Organisation structure

Our organisational structure comprises specialist legal practice groups and a corporate services group dedicated to enabling and supporting the legal practice. Together these groups form our national practice group model.

The model enables us to deliver a unified and nationally consistent federal prosecution service harnessing the expertise of our knowledgeable and professional staff to respond to the changing nature and complexity of criminal activity. This creates national consistency in our approach—we are agile, flexible and able to allocate staff to practice groups in response to the referrals from partner agencies and changes to our budget or operating environment.

As the volume and diversity of matters referred is outside our control, our national approach builds the capability of our people, enabling them to work consistently across a range of crime types and jurisdictions or specialise where necessary.

A priority for the Director and the Executive Leadership Group is to optimise the model to ensure it continues to evolve and deliver benefits including improvements in our brief assessment timeframes, early resolution of matters, timely pre-brief advice, and effective investigative/prosecution outcomes.

Executive Leadership Group

The Executive Leadership Group is the key advisory group to the Director. The Executive Leadership Group comprises the Director as Chair, the Commonwealth Solicitor for Public Prosecutions, the Chief Corporate Officer, and the Deputy Directors who lead our practice groups.

The Executive Leadership Group offers a broad range of expertise and specialist knowledge. Members are:

- Sarah McNaughton SC, Commonwealth Director of Public Prosecutions
- Andrea Pavleka, Commonwealth Solicitor for Public Prosecutions
- David Adsett, Deputy Director, International Assistance and Specialist Agencies/National Business Improvement
- Scott Bruckard PSM, Deputy Director, Organised Crime and Counter-Terrorism
- James Carter, Deputy Director, Revenue and Benefits Fraud
- Mark de Crespigny, Deputy Director, Illegal Imports and Exports/Human Exploitation and Border Protection
- Shane Kirne, Deputy Director, Commercial, Financial and Corruption
- Gaby Medley-Brown, Chief Corporate Officer.



Through our national practice group model, we have established a dynamic and agile prosecution service that can adapt and respond to the ever-changing nature and complexity of matters referred by partner agencies.

ANDREA PAVLEKA, COMMONWEALTH SOLICITOR FOR PUBLIC PROSECUTIONS





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

Commonwealth Director of Public Prosecutions, Sarah McNaughton SC

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

Ms McNaughton has 29 years' experience as a legal practitioner, holding a range of roles in private practice and with the CDPP. She has been a respected member of the New South Wales Bar since 1996 and was appointed Senior Counsel in 2011.

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

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

The role of the Director

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

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

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

The Director delegates most of those functions or powers to staff of the CDPP. The Director and staff together constitute a statutory agency and the Director is the head of that statutory agency.

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

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

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

Commonwealth Solicitor for Public Prosecutions, Andrea Pavleka

In February 2017, the Director, appointed Ms Andrea Pavleka as the Commonwealth Solicitor for Public Prosecutions for an 18-month term.

Ms Pavleka was previously the Deputy Director of the Illegal Imports and Exports/ Human Exploitation and Border Protection Practice Group.

Ms Pavleka first joined the CDPP's Melbourne Office 26 years ago. Prior to joining the Executive Leadership Group, Ms Pavleka was a Federal Prosecutor responsible for major criminal litigation including some of our most complex and long-running trials. She was a member of the senior executive in the Melbourne Office for more than 10 years, where she was Assistant Director for branches including general prosecutions (encompassing drug and fraud prosecutions), tax and people smuggling, and more recently, organised crime and counter-terrorism.

Ms Pavleka holds a degree in Law from the Australian National University.

The role of the Commonwealth Solicitor for Public Prosecutions

The Commonwealth Solicitor for Public Prosecutions is responsible for working with legal practice groups and the corporate group to ensure we have the essential systems, processes and culture in place to allow us to:

- foster a greater team-based approach to the way we manage our matters
- ensure we harness our combined knowledge and experiences
- encourage better engagement with partner agencies to drive the early resolution of cases
- develop a strong culture and agile workforce, accepting of doing our work in a more flexible way
- ensure staff are developed via diverse work experiences (within and outside the organisation) and have access to relevant and high quality training and education
- continue our positive work with partner agencies in regard to liaison and court work, and continue to improve on our timeliness in delivering services to them.

In May 2017, the responsibilities of the Commonwealth Solicitor for Public Prosecutions expanded to include the Legal Business Improvement branch, which is responsible for legal processes, procedures, data and performance reporting. Elevating this function to the Solicitor reinforces the Director's emphasis on transforming the CDPP, improving day-to-day operations of the legal practice and achieving national consistency, with policy and procedure integral to this.

This change has enabled the National Business Improvement team to focus on developing and delivering the new Business Management Solution, to transform and modernise our case management practices, now and into the future. More information about the Business Management Solution is on page 113.

The Commonwealth Solicitor for Public Prosecutions, the broader Executive Leadership Group, and all CDPP staff work together to support the Director in delivering Australia's federal prosecution service.

Deputy Director International Assistance and Specialist Agencies/ National Business Improvement, David Adsett

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

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

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

Mr Bruckard leads the Organised Crime and Counter-Terrorism Practice Group and has national responsibility for terrorism, large scale drug and tobacco importation, firearms trafficking, money laundering, war crimes and national security prosecutions. Mr Bruckard, who joined the CDPP in 1987, has managed this practice group and been a member of the CDPP senior executive since 2014.

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

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

Deputy Director Revenue and Benefits Fraud, James Carter

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

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

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

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

Mr de Crespigny has national responsibility for a large variety of crime types, including general drug and precursor importation offences, money laundering, child exploitation offences, human trafficking, slavery and people smuggling.

Mr de Crespigny has had a long and distinguished career with the CDPP, having joined in 1989. He has worked in the Adelaide, Sydney and Canberra Offices. In addition to conducting Commonwealth prosecutions across numerous crime types, Mr de Crespigny has experience in providing national coordination for specific areas of practice and managing the CDPP's relationship with a variety of partner agencies.

Mr de Crespigny has been a member of the Senior Executive Service for more than 10 years, initially as the Assistant Director of our Legal Advice branch in Canberra and most recently, playing an integral role in leading our Hobart and Canberra Offices as part of the International Assistance and Specialist Agencies Practice Group.

Mr de Crespigny holds a Bachelor of Laws and Bachelor of Commerce from the Australian National University.

Deputy Director Commercial, Financial and Corruption, Shane Kirne

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

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

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

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

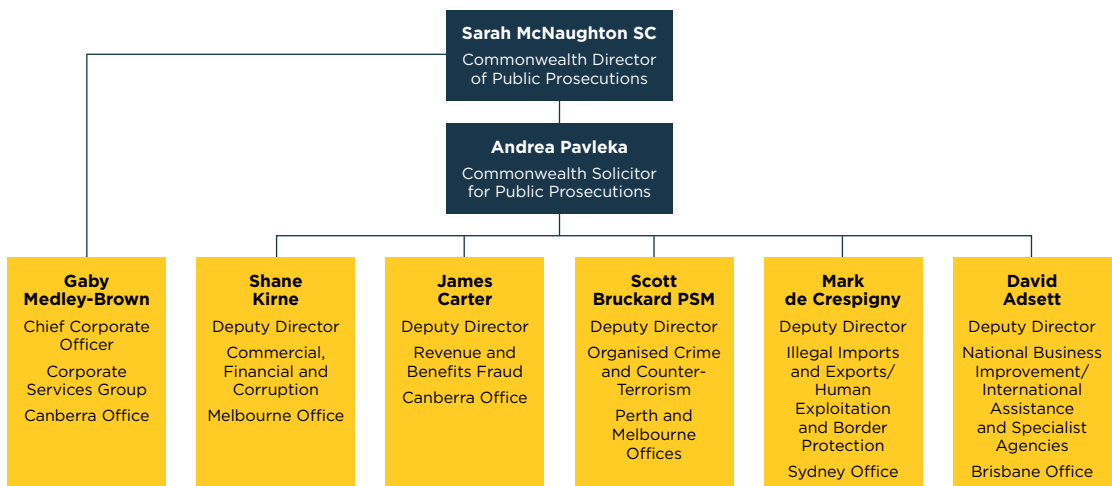
Chief Corporate Officer, Gaby Medley-Brown

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

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

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

Figure 1: Organisation chart at 30 June 2017



National practice group model

Through our national practice group model, we have established a dynamic and agile prosecution service that can adapt and respond to the ever-changing nature and complexity of matters referred by partner agencies.

The volume, timing and complexity of incoming briefs of evidence cannot be predicted as our partner agencies work to keep the public safe, apprehending and charging offenders as crimes are committed. This has a significant impact on our prosecution workload and our people. We must work diligently to meet our performance targets. By building the capability of our people within our practice groups and enabling them to develop their skills across crime types, we are able to respond effectively and meet these demands.

Our national practice group model is maturing

Since introducing this model in 2014, we have made only minor changes to the categories of crime prosecuted by our national practice groups. This has allowed prosecutors to specialise in a range of crime types for a period of time, while still having the flexibility to explore work in different jurisdictions and practice groups where opportunities arise.

The *Prosecution Policy of the Commonwealth* provides the framework for all our prosecutions. This means our prosecutors can move seamlessly from one practice group to another.

More information about the prosecution work of each practice group is provided from page 42.

Prosecution Policy of the Commonwealth

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

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

Two-stage prosecution test

The *Prosecution Policy of the Commonwealth* provides a two-stage test for all matters referred by partner agencies. Both criteria must be satisfied before a prosecution commences:

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

In determining if there is sufficient evidence to prosecute a case, we must be satisfied that there is *prima facie* evidence of the elements of the offence, and a reasonable prospect of obtaining a conviction.

In making this decision, our prosecutors must evaluate how strong the case is likely to be when presented in court. They must take into account matters such as the availability, competence and credibility of witnesses, their likely effect on the arbiter of fact (magistrate or jury), and the admissibility of any alleged confession or other evidence. They also consider any lines of defence open to the alleged offender and any other factors that could affect the likelihood of a conviction.

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

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

Public interest factors vary from case-to-case and may include:

- whether the offence is serious or trivial
- mitigating or aggravating circumstances
- the youth, age, intelligence, physical health, mental health or special vulnerability of the alleged offender, witness or victim
- the alleged offender's criminal history and background
- the passage of time since the alleged offence
- the availability and efficacy of any alternatives to prosecution
- the prevalence of the alleged offence and the need for general and personal deterrence
- the attitude of the victim
- the need to apply regulatory or punitive imperatives
- the likely outcome in the event of a finding of guilt.

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

The decision to prosecute must be made impartially and must not be influenced by any inappropriate reference to race, religion, sex, national origin or political association. The decision to prosecute must not be influenced by any political advantage or disadvantage to the government.

The policy is available on our website at www.cdpp.gov.au.

Compliance with the prosecution test

From 1 November 2015, our prosecutors have certified compliance in addressing the two-stage test for prosecutions in the *Prosecution Policy of the Commonwealth* by completing a *Prosecution Policy Declaration*.

Since introducing this new performance metric, we have achieved 100 per cent compliance.

Initially compliance was measured at the brief assessment and indictment signing stages of the prosecution process, based on a sampling of cases and certification by the relevant case officer or supervisor. From June 2017, we have extended the performance metric to apply to all of our practice, including partner agency arrests, indictable matters at post-committal stage, and breach matters. These declarations are entered electronically into our case recording and information management system, CRIMS. This has been an important initiative to confirm and capture evidence that the *Prosecution Policy of the Commonwealth* has been addressed, and specifically that there is a *prima facie* case, reasonable prospects of a conviction, and that prosecution is required in the public interest at each stage of the prosecution process.

More information about our performance metrics and results is on page 130.

Working with partner agencies

The formation of our national practice groups has provided new opportunities to collaborate with, and support, partner agencies. We now engage with partner agencies earlier and more frequently, and we work together to consider strategic issues and how our prosecution services can advance our partner agencies' enforcement strategies.

Our practice group model also encourages consistent liaison and coordination arrangements, including proactively identifying and addressing common or systemic issues, providing pre-brief advice, and other prosecution services.

We have formalised our prosecution service offering by establishing guidance for prosecutors to inform their dealings with partner agencies and stakeholders nationally.

As a result, our effective investigation–prosecution partnerships result in well targeted prosecutions that:

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

The insights gained from working effectively with partner agencies continually shape our prosecution services, ensuring they are improved to keep pace with changing processes and procedures.

In 2016–17 we made significant progress in drafting electronic brief referral guidelines for partner agencies to review and provide input, and we advanced the development of an online referrals gateway for the secure online lodgement of these electronic briefs. This is one example of how our prosecution services are transforming for the digital era.

Our prosecution services for partner agencies

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

Liaison

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

The Deputy Director responsible for each practice group is responsible for liaison with partner agencies. Liaison occurs through coordinated meetings, supported by a network of dedicated liaison officers, and timely inter-agency working groups or conferences.

For partner agencies whose referrals are handled by more than one practice group, a lead practice group is assigned. For example, the Commercial, Financial and Corruption Practice Group takes a lead role in liaising with the Australian Criminal Intelligence Commission. The Revenue and Benefits Fraud Practice Group manages our relationship with the Australian Taxation Office. The Illegal Imports and Exports Practice Group takes the lead on liaison with the Department of Immigration and Border Protection (which includes the operational agency, Australian Border Force).

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

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

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

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

Providing pre-brief advice

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

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

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

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

Brief assessments

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

In non-arrest matters, federal prosecutions commence following our assessment of a brief of evidence and the issuing of a summons, charge or court attendance notice.

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

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

Our Federal Prosecutors work with partner agencies to:

- provide sound and independent legal advice
- share specialist knowledge and experience of the prosecution process
- assess briefs, including identifying legal issues, relevant public interest considerations and evidentiary deficiencies (evidence must be carefully assessed in accordance with the *Prosecution Policy of the Commonwealth* to ensure admissible, substantial and reliable evidence substantiates any case presented in court)
- frame and present the prosecution case fairly and effectively

- address the international aspects of prosecuting (such as mutual assistance and extradition)
- deal with complex legal, evidentiary, practical and logistical issues.

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

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

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

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

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

Online resources—Partner Agency Portal

We provide a range of resources relevant to the investigation process through a dedicated and secure Partner Agency Portal.

The portal provides agencies with:

- guidelines for dealing with us
- brief preparation guidelines
- offence guides including an analysis of the elements of an offence and draft charges
- legal manuals.

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

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

CASE STUDY

Collaborating with partner agencies to improve our prosecution services

In October 2016, we launched our Partner Agency Portal, which gives our partner agencies secure online access to current resources to support their investigations. We recognise that the currency and quality of resources we provide lead to more efficient and effective prosecutions.

Strengthening this link between investigations and prosecutions was a driving force behind the Partner Agency Portal, along with feedback from partner agencies about their requirements.

The portal's design and structure is based on rich insights provided by our partner agencies, and our own prosecutors. In particular, we sought input from the Australian Federal Police through a series of user workshops.

With this input from partner agencies, we worked with experts to design, test and build the portal, which was reviewed by members of the Cross Agency Investigative Procedures Forum, comprising representatives from key partner agencies, including the CDPP.

A network of lawyers, including Federal Prosecutors and external counsel, then worked over eight months to review, revise and add to our suite of resources. The investment by our people and broader counsel network is evident in the scope of resources now available, with more to come.

Partner Agency Portal resources include:

- guidelines on dealing with the CDPP
- guidelines on disclosure
- guidelines on preparing briefs
- an overview of our services throughout the prosecution process
- video case studies covering pre-brief advice, training and case reviews
- offence guides and manuals for partner agencies.

'The AFP welcomed the opportunity to provide input and suggestions to the CDPP during the design phase, and we have been pleased to see many of our ideas implemented in the new site, including the introduction of subscriber updates issued when new resources are added, as well as version control for key operational resources such as the Search Warrant Manuals and National Offence Guides. The look and feel of the new site, including how thoughtfully structured and easy to navigate it is, has led to increased usability for our investigators.'

AFP Investigations Quality, Standards and Practices Team

PARTNER AGENCY PORTAL

As we continue to develop the Partner Agency Portal, we will add new resources, and share news as well as case outcomes. The launch of the portal is just the start of a new digital dialogue with our partner agencies, facilitated through this online channel.

We will continue to expand the portal's capability with the aim of accepting digital briefs, and further enhancing it in line with the needs of our partner agencies.

The screenshot shows the CDPP (Australian Federal Prosecution Service) website. At the top, there is a navigation bar with links for 'Home Page', 'General Resources', 'Offence Guides', 'Warrant Manuals', and 'Favourites'. A search icon is visible on the right. Below the navigation bar is a large banner with the text 'PARTNER CONSULTATION: DRAFT e-BRIEF REFERRAL GUIDELINES'. To the right of the banner, there are several news items: 'Norfolk Island Prosecutions', 'Partner Consultation: Draft e-Brief Referral Guidelines', 'Significant decision for proof of intention to import drugs (Smith v The Queen)', and 'Commonwealth Penalty Units: Value'. Below the banner, there are three main sections: 'Partnersing with agencies', 'Resources updated', and 'CDPP publications'. The 'Resources updated' section lists several manuals and acts, including the Tax Manual, Centrelink Manual, Australian Federal Police Act 1979 - s60A, ASIC Act 2001 Element Analysis and Draft Charges, and Corporations Act 2001 - s1308(2) Element Analysis and Draft Charges. The 'CDPP publications' section lists 'Prosecution Policy of the Commonwealth', 'Updated Victims of Crime Policy', and 'Latest media releases'.

Providing information after cases conclude

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

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

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

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

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

Electronic brief submission

Contemporary prosecuting increasingly involves the management and presentation to courts of significant amounts of evidence. We use electronic resources to support this work where possible.

We have been collaborating with the Australian Federal Police to develop new electronic brief referral guidelines. This will establish an agreed standard for the online and electronic submission of thorough and complete briefs of evidence.

We have also been developing and trialing a new online referrals gateway for electronic briefs. Once introduced, this gateway will drive further efficiencies in the investigation-prosecution process through the timely submission of online and structured briefs for assessment. These advances in our brief submission processes will ensure we keep pace with the technology and processes being embraced by law enforcement agencies nationally.

Commonwealth Sentencing Database

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

Ensuring proper disclosure

An important and ongoing issue is ensuring proper disclosure in prosecutions, as provided for in our *Statement on Disclosure in Prosecutions Conducted by the Commonwealth*, which we updated during the year. The statement supports clear understanding and compliance with our very important disclosure obligations in every case.

We continue to work with partner agencies to help them meet disclosure obligations by producing resources for investigators. The statement is on our website at www.cdpp.gov.au.

International engagement

As the reach of criminal networks extends around the globe, international engagement is increasingly important.

We actively participate in forums, events and working groups as we work with counterparts to address the challenges of transnational crime through the investigative–prosecution process in our respective jurisdictions.



CASE STUDY

Engaging with our international partners



Canada

Presented on 'online revenge attacks' at the 29th International Conference of the International Society for the Reform of Criminal Law

United Kingdom

Met with international counterparts

Malta

Presented at the Beyond Foreign Terrorism Fighters: Disrupting and Prosecuting Plots Directed and Inspired by Islamic State and Other Terrorist Organisations Conference

A busy year of international engagement activities included facilitating a roundtable on people smuggling in Sri Lanka, presenting at an international meeting on terror plots in Malta, and hosting a delegation of prosecutors visiting Australia from China.

Engaging with our international counterparts on high-level law enforcement projects is an important part of our work. Through presentations, roundtable discussions and training, our prosecutors are sharing knowledge and making significant contributions to investigating, prosecuting and developing legal frameworks in our region and beyond.

INTERNATIONAL ENGAGEMENT HIGHLIGHTS



NATIONAL PRACTICE GROUPS



Commercial,
Financial and
Corruption



Illegal
Imports and
Exports



Human
Exploitation
and Border
Protection



International
Assistance
and Specialist
Agencies



Organised
Crime and
Counter-
Terrorism



Revenue
and Benefits
Fraud

Our prosecution services in practice

Our national practice groups work individually and collectively to achieve our purpose: *to provide an independent prosecution service that contributes to the respect and maintenance of Commonwealth law and public respect in the justice system through the prosecution of crimes.*

While practice groups focus on different categories of crime, a common approach underpins all their efforts:

- the *Prosecution Policy of the Commonwealth* guides decisions
- proactive liaison activities strengthen partner agency relationships
- referrals, while unpredictable in their complexity and volume, are assessed within set timeframes
- action plans focus efforts on achieving our outcome, as defined annually in our corporate plan.

The unwavering commitment of our people enables the CDPP to meet our prosecution targets year-on-year. The diversity and complexity of our prosecution work is demonstrated in each practice group profile.

Together, our practice groups deliver Australia's federal prosecution service.



COMMERCIAL, FINANCIAL AND CORRUPTION PRACTICE GROUP

Deputy Director: Shane Kirne

MATTERS MANAGED

- » Complex, large-scale or international tax fraud with an international dimension
- » Fraud by company directors and other breaches of directors' duties
- » *Corporations Act 2001* offences including financial market offences, insider trading, market manipulation, insolvent trading and other regulatory offences
- » Offences involving financial services or consumer credit
- » Bribery of foreign public officials
- » Serious cartel offences where businesses agree with competitors to price fix, bid rig, manipulate share markets or restrict outputs for goods or services
- » Money laundering linked to financial crime
- » Referrals from the Serious Financial Crime Taskforce
- » Abuse of public office
- » Offences against the Australian Crime Commission Act 2002—providing false or misleading evidence or failing to answer questions under an examination

REFERRALS

Referrals during
2016–17

157

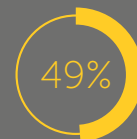
Matters on hand
as at 30 June 2017

257



TOP REFERRING AGENCIES

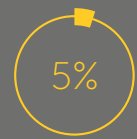
In 2016–17 the top referring agencies
to this practice group were:



AUSTRALIAN
SECURITIES AND
INVESTMENTS
COMMISSION



AUSTRALIAN
FEDERAL
POLICE



AUSTRALIAN
TAXATION
OFFICE



AUSTRALIAN
COMPETITION
AND CONSUMER
COMMISSION

THE ROLE OF THE COMMERCIAL, FINANCIAL AND CORRUPTION PRACTICE GROUP

This practice group is responsible for prosecuting serious financial crimes and corruption offences. In July 2016, this practice group also commenced the first cartel prosecution, demonstrating the increasingly complex nature of 'white collar' offending (see case study on page 46).

These white collar crimes are typically difficult to detect and investigate, and prosecutions are often hard-fought. This type of crime can have devastating consequences for victims including investors, employees and honest taxpayers. Broader impacts can include corporate collapses, widespread job losses, loss of investor savings, and reduced tax income for infrastructure and other essential public investments.

Taskforce prosecutions

We are continuing to prosecute cases arising from Project Wickenby—a multi-agency operation to combat offshore tax evasion. Although Project Wickenby formally ended on 30 June 2015, a number of resulting prosecutions are still before the courts.

The multi-agency Serious Financial Crime Taskforce was formed following the conclusion of Project Wickenby. We continue to work as an active member of this group, providing advice on investigations into offshore tax evasion, fraudulent use of trust structures and superannuation funds, phoenix fraud and fraudulent gold bullion schemes.

Trends—the changing focus of investigations and prosecutions

During 2016–17, we were increasingly involved in foreign bribery investigations and prosecutions. There was a significant increase in the number of requests for pre-brief advice from the Australian Federal Police regarding these matters, and subsequently referrals also increased.

In New South Wales we are prosecuting three individuals, who have pleaded guilty to foreign bribery offences, arising from an investigation into Lifese Engineering Pty Ltd and the contracts it won for a government-funded construction project in Iraq. This matter, which is ongoing, highlights the challenging nature of emerging offences not commonly prosecuted.

CASE STUDY

Australia's first prosecution for cartel offences involved alleged market sharing agreements in the international motor vehicle shipping industry.

Nippon Yusen Kabushiki Kaisha (NYK) is the parent company of a global logistics and bulk shipping group based in Japan, with over 33,000 employees. The company's Car Carrier Group provides ocean transport services to supply new passenger cars, trucks, buses and commercial vehicles from overseas manufacturers to Australia.

Dating back as far as 1997, NYK had an arrangement or understanding with other global vehicle shipping companies so that they would not seek to alter their existing market shares of cargo from manufacturers or otherwise try to win existing business from each other (a cartel referred to as the Respect Agreement).

Legislation criminalising cartel conduct commenced in Australia on 24 July 2009. However, NYK continued with the Respect Agreement for the next three years, contrary to section 44ZZRG(1) of the *Competition and Consumer Act 2010* (Cth). NYK's offending conduct involved:

- five other global shipping companies and their subsidiaries
- three separate cartel provisions relating to fixing freight rates, bid rigging and customer allocation
- six different shipping routes for vehicles to Australia, from India, Thailand, Japan, Indonesia, North America and Europe
- shipping services supplied to 10 vehicle manufacturers

- revenue of \$54.9 million, profit of \$15.4 million, and 69,348 new vehicles imported into Australia, from contracts entered into as a result of bids affected by the conduct (as estimated by NYK).

The offending ended on 6 September 2012, when Japanese and United States authorities raided the offices of NYK and a number of other shipping companies.

We became involved by providing pre-brief advice as part of the Australian Competition and Consumer Commission investigations into criminal cartel conduct. This was the first contemporary cartel prosecution in Australia (a previous prosecution in the early 1900s under different legislation was overturned on appeal).

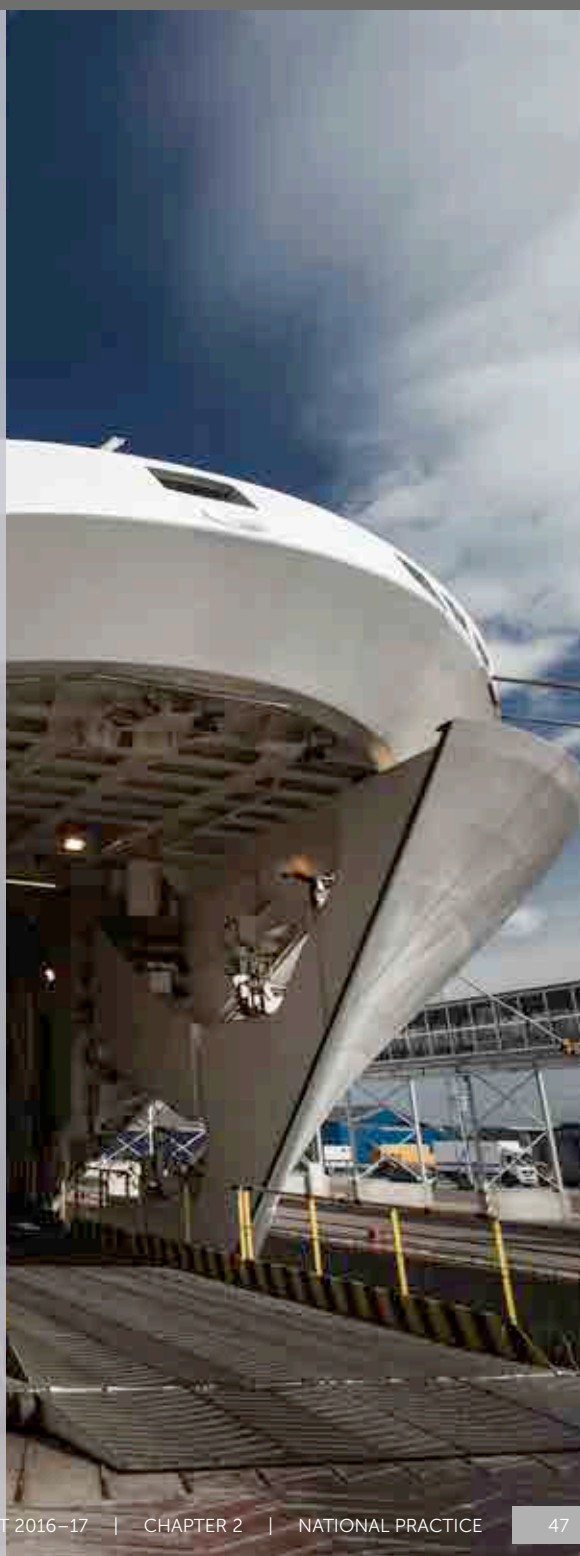
In April 2017, NYK pleaded guilty on arraignment in the Federal Court to one rolled-up criminal offence of giving effect to cartel provisions, contrary to section 44ZZRG(1) of the *Competition and Consumer Act*. The maximum penalty for the offence was \$100 million, being 10 per cent of NYK's relevant annual turnover in the 12 months prior to the commencement of the offence.

FIRST MODERN CARTEL PROSECUTION IN AUSTRALIA

On 3 August 2017, NYK was convicted and fined \$25 million. The sentencing judge stated that if not for the company's early guilty plea and cooperation, the fine would have been \$50 million. In handing down sentence Justice Wigney stated:

Cartel conduct of the sort engaged in by NYK warrants denunciation and condign punishment [punishment appropriate to the crime]. It is inimical to and destructive of the competition that underpins Australia's free market economy. It is ultimately detrimental to, or at least likely to be detrimental to, Australian businesses and consumers. The penalty imposed on NYK should send a powerful message to multinational corporations that conduct business in Australia that anti-competitive conduct will not be tolerated and will be dealt with harshly.

This matter was investigated and referred by the Australian Competition and Consumer Commission.



Stakeholder engagement

Foreign bribery

The Organisation for Economic Co-operation and Development (OECD) Working Group on Bribery monitors implementation and enforcement of the OECD Anti-Bribery Convention. The Working Group will deliver its report on the Phase 4 evaluation of Australia's compliance with the Convention in December 2017. We have worked intensively with the Attorney-General's Department, the Australian Federal Police and other agencies to draft Australia's answers to the Working Group's questionnaires and to prepare for the follow up on site evaluation.

In August 2016, we hosted the public launch of the Exposure Draft of the *AFP and CDPP Best Practice Guideline—self-reporting of foreign bribery by corporations*. The draft guidelines have been refined following review of public submissions and will be released early in 2017–18.

The Australian Federal Police hosted the Advanced Foreign Bribery Investigator Forum in May 2017. The forum focused on foreign bribery laws, intelligence gathering methods and investigation techniques. A lawyer from the Commercial, Financial and Corruption Practice Group's Melbourne branch attended the forum, along with senior Australian Federal Police investigators, a representative from the Australian Securities and Investments Commission, and international delegates from the United Kingdom National Crime Agency and the City of London Police, the United States Federal Bureau of Investigation and the Royal Canadian Mounted Police.

The forum was followed by the annual meeting of the International Foreign Bribery Taskforce in Sydney. The taskforce comprises specialised law enforcement representatives from Australia, the United States, Canada and the United Kingdom. This year, a number of our lawyers attended parts of the meeting and participated in discussion panels on the public open day.

Deferred prosecution agreement scheme

A proposal to introduce a deferred prosecution agreement scheme in Australia attracted attention during the year. We would play an integral role in such a scheme, with responsibility for determining whether to enter into negotiations for a deferred prosecution agreement with an alleged offender as well as negotiating the terms of such an agreement. We have been actively involved in discussions to develop the scheme and the Commercial, Financial and Corruption Practice Group's Deputy Director has spoken about the proposal at numerous internal and external forums.

Liaison with partner agencies

Pre-brief advice leads to better prosecution outcomes

Providing pre-brief advice is an integral part of our prosecution service, and the benefits of this early and timely engagement continue to lead to better prosecution outcomes.

Through consultation prior to the full brief of evidence being referred, we are able to work with partner agencies to explore whether a suspect might be willing to enter an early plea of guilty and, if so, to identify charges that adequately reflect the criminality alleged.

Guilty pleas lead to the timely and appropriate resolution of matters. They save significant investigative, prosecution, court and community resources and are in the public interest.

In November 2016, working with Australian Securities and Investments Commission, the Commercial, Financial and Corruption Practice Group agreed and signed a joint best practice guideline, *Assessing pre-brief guilty plea proposals*.

Specialist advice focuses investigations

The Commercial, Financial and Corruption Practice Group prosecute some of the most complex types of Commonwealth crime, both factually and legally. For this reason, providing tailored pre-brief advice on matters such as the elements of an offence, evidentiary issues and potential lines of further inquiry, assists investigators with their time-critical work—ensuring investigations are conducted in a strategic, focused and efficient manner.

This year has seen a significant increase in the provision of pre-brief advice, most notably with the Australian Federal Police in foreign bribery investigations, as part of our role with the Serious Financial Crime Taskforce, and part of the Australian Competition and Consumer Commission investigations into criminal cartel conduct.

Building knowledge and capability through secondments

During the year, a number of our prosecutors were seconded from the practice group into partner agencies. A principal Federal Prosecutor from Melbourne was seconded to the Australian Taxation Office for six months to work with its Investigations branch on a number of significant investigations, and a second Principal Federal Prosecutor from Melbourne continued a 12-month secondment to the Australian Securities and Investments Commission.

In a reciprocal arrangement, the practice group hosted a lawyer from the Australian Taxation Office for 12 months.

These opportunities not only build the capability of the individual prosecutors and lawyers involved. The knowledge gained strengthens partnerships and creates a common understanding of our respective roles and the complexity of the investigation-prosecution process.

Legislative reform

All CDPP practice groups actively participate in legislative reform. During the year, the Commercial, Financial and Corruption Practice Group participated in the following significant law reform processes:

- Members of the practice group worked closely with the Attorney-General's Department and other agencies in drafting proposed amendments to the foreign bribery offence provisions in the Criminal Code (Cth) and the legislation to introduce a Deferred Prosecution Agreement scheme in Australia.
- The practice group, together with the Australian Competition and Consumer Commission, contributed to amendments to criminal cartel provisions to be introduced in the Competition and Consumer Amendment (Competition Policy Review) Bill 2017.
- We worked closely with the Attorney-General's Department on the provisions of the Crimes Legislation Amendment (Powers, Offences and Other Measures) Bill 2017 to increase the maximum penalty for offences of general dishonesty under the Criminal Code (Cth).
- Deputy Director, Shane Kirne, participated in a panel leading the Government taskforce reviewing the Australian Securities and Investments Commission's enforcement regime. The panel is chaired by Treasury and includes senior representatives of the Australian Securities and Investments Commission and the Attorney-General's Department.
- In December 2016, Deputy Director, Shane Kirne, gave evidence before the Senate Economics References Committee Inquiry into criminal, civil and administrative penalties for white collar crime.

We take a proactive approach to legislative reform. Our unique perspective at the prosecution end of the investigative process provides us with particular insights about the application of the law—a view often valued by stakeholders and partner agencies alike.

International engagements tackle global offending

In December 2016, members of the practice group located in Sydney hosted two executives from the Singapore Attorney-General's Chambers, to discuss better ways of dealing with complex white collar prosecutions.

In March 2017, the Deputy Director, Shane Kirne, and other members of the practice group located in Melbourne presented a seminar for the First Deputy Chief Prosecutor and a delegation of other prosecutors from the People's Procuratorate of Heilongjiang Province, People's Republic of China. The seminar covered a range of topics including the Australian prosecution process and the CDPP's role and practices.

These types of opportunities provide an important forum to exchange expertise and explore the global aspects of offending, particularly in relation to emerging crime types.

Update on Raymond Clifford Osborne case

While accurate at the time of publishing, Raymond Osborne (who was a defendant in a Project Wickenby matter) has since been acquitted on appeal. References to this matter have been redacted from the PDF and HTML versions of the 2015–16 Annual Report on our website.

CASE STUDY

Excessive tax credit claims result in imprisonment

Resort Hunter Valley Pty Ltd (RHV) was part of a group of companies known as the Hightrade Group. RHV was a property developer responsible for building a hotel resort at Pokolbin at the Hunter Valley, New South Wales between 2003 and 2007.

Under A New *Tax System (Goods and Services Tax) Act 1999* (GST Act), an entity can claim input tax credits from the Australian Taxation Office for purchases made or supplies obtained in the course of trade. If the input tax credits claimed are greater than any GST due for that period, the Australian Taxation Office pays a refund to the entity for the difference.

Between April 2002 and February 2007, Li Zhang, Song (Peter) Chang and Simon Chee-To Chan conspired to prepare and make excessive refund claims in Business Activity Statements lodged with the Australian Taxation Office on behalf of RHV, with the intention of dishonestly causing a loss to the Commonwealth.

Business Activity Statements lodged on behalf of RHV overstated expenditure by approximately \$115.5 million. This resulted in RHV receiving a total of \$10.5 million in income tax credits, in excess of what it was entitled to. This amount was then either paid to RHV by the Australian Taxation Office or used by RHV to offset its GST payments.

In March 2015, we commenced proceedings against Chang for one charge against section 135.4(3) of the Criminal Code—conspiracy to cause a loss. On 2 June 2017, Chang was sentenced to five years and six months' imprisonment to be served in part, concurrently with another sentence for a similar offence, which led to an effective sentence of six years and six months, with a non-parole period of four years and six months.

This case highlights the consequences of inflating Business Activity Statements.

This matter was investigated and referred by the Australian Taxation Office.

CASE STUDY

Siphoning funds for personal gain does not pay

Andrew Sigalla was a director of ASX-listed company, TZ Limited. Between 8 December 2006 and 2 March 2009, Sigalla used his position as a director to dishonestly and with intent gain a benefit for himself or a third party through the deliberate transfer of funds from TZ Limited bank accounts and, in one case, by TZ Limited issuing fully paid shares without any payment. The total value of the funds and shares was over \$8.6 million, of which approximately \$7.5 million was directed to Sigalla for his own benefit and/or the benefit of private companies he controlled.

In 2013, Sigalla was charged with 24 offences against section 184(2)(a) of the *Corporations Act 2001*.

On 22 November 2016, following a five-week trial in the New South Wales Supreme Court, Sigalla was convicted on all counts. The maximum penalty for each offence is five years' imprisonment.

On 10 February 2017, Sigalla was sentenced to an overall effective sentence of 10 years' imprisonment with a non-parole period of six years. Upon his release, Sigalla will be automatically prohibited from acting as a director for five years.

This sentence brought to a close a complex and time-consuming analysis and investigation, demonstrating that even the most complex offending can be uncovered and prosecuted successfully.

This matter was investigated and referred by the Australian Securities and Investments Commission.

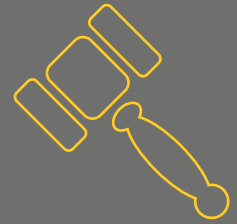


INTERNATIONAL ASSISTANCE AND SPECIALIST AGENCIES PRACTICE GROUP

Deputy Director: David Adsett

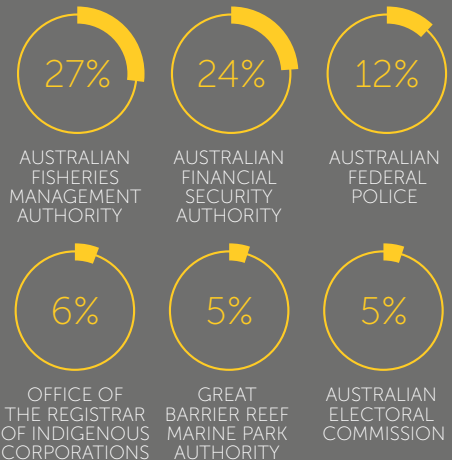
MATTERS MANAGED

- » Administration of justice offences
- » Aviation compliance
- » Bankruptcy
- » Building and construction industry
- » Census offences
- » Crimes at sea
- » Defence
- » Education and training compliance
- » Electoral offences
- » Environment
- » Extradition and mutual assistance
- » Fisheries
- » Indigenous corporations
- » Industrial chemicals
- » Intellectual property
- » Marine safety
- » Offences against Commonwealth officials and property
- » Radiocommunications
- » Secrecy and browsing offences
- » Specific regulatory offences
- » Therapeutic goods
- » Tobacco advertising
- » Work, health and safety compliance



TOP REFERRING AGENCIES

In 2016–17 the top referring agencies to this practice group were:



REFERRALS

Referrals during 2016–17

618

Matters on hand as at 30 June 2017

472

THE ROLE OF THE INTERNATIONAL ASSISTANCE AND SPECIALIST AGENCIES PRACTICE GROUP

This practice group is responsible for international assistance, including extradition and mutual assistance, and prosecuting matters referred by specialist agencies.

In addition, the practice group coordinates proceeds of crime work, and our obligations under the *Freedom of Information Act 1982* and *Privacy Act 1988*.

Specialist agency prosecutions

Specialist agencies refer matters relating to a diverse range of Commonwealth criminal laws. Much of this work is specialised and compliance-focused.

The International Assistance and Specialist Agencies Practice Group's partners include:

- Australian Building and Construction Commission
- Australian Bureau of Statistics
- Australian Commission for Law Enforcement Integrity
- Australian Communications and Media Authority
- Australian Criminal Intelligence Commission
- Australian Electoral Commission
- Australian Fisheries Management Authority
- Australian Federal Police and state and territory police
- Australian Financial Security Authority
- Australian Grape and Wine Authority
- Australian Maritime Safety Authority
- Australian Pesticides and Veterinary Medicines Authority
- Australian Skills Quality Authority
- Civil Aviation Safety Authority
- Clean Energy Regulator
- Comcare
- Department of Defence
- Department of Education and Training
- Department of Employment
- Department of the Environment and Energy
- Department of Health
- Department of Industry, Innovation and Science
- Department of Infrastructure and Regional Development
- Fair Work Ombudsman
- Foreign Investment Review Board
- Great Barrier Reef Marine Park Authority
- National Measurement Institute
- National Offshore Petroleum Safety and Environmental Management Authority
- Office of the Director of Military Prosecutions
- Office of the Registrar of Indigenous Corporations
- Tertiary Education Quality and Standards Agency
- Therapeutic Goods Administration (within the Department of Health).

To efficiently process matters referred by specialist agencies, this practice group has established a Centralised Referral Model (CRM). The model applies to matters dealt with both summarily and on indictment, and provides a forum to centralise expertise in the assessment and management of specialist agency work.

Trends—foreign fishing detections on the rise

During the reporting period, there was a significant increase in the number of referrals from the Australian Fisheries Management Authority. This was primarily due to that agency's intelligence work and compliance strategies, which have been undertaken to deter foreign fishing, resulting in a high rate of detections in Australian waters.

Liaison—connecting and collaborating with partner agencies

During 2016–17, the International Assistance and Specialist Agencies Practice Group implemented a liaison strategy for dealing with our partners. Our strategy is designed to foster expertise in specialist agency matters and to enhance our relationships, so we can work efficiently and effectively with these agencies to assist them to achieve their strategic objectives.

We are committed to continuing to enhance the quality of the service we deliver to our partners and to further strengthen our relationships through traditional forms of engagement and more innovative approaches. Ongoing engagement with our partners takes the form of national liaison meetings, case-based communications, training opportunities, workshops, field trips and secondments.

These forums provide a valuable opportunity to discuss trends and identify issues arising within the investigative or prosecution processes. During the reporting period, members of the International Assistance and Specialist Agencies Practice Group participated in three significant workshops with key stakeholders:

- Australian Financial Security Authority
- Department of Defence
- Department of Education and Training.

Secondments upskill our people and partners

Building capability is a key benefit of secondments. This was particularly the case when a Federal Prosecutor participated in a secondment to the Australian Electoral Commission. The prosecutor prepared resources and provided training to assist the Australian Electoral Commission in conducting failure to vote prosecutions arising from the 2016 Federal Election.

The secondment resulted in the development of tailored resources for prosecutors preparing to receive briefs of evidence, equipping them with essential guidance to progress matters efficiently.

Legislative reform

This year the International Assistance Team within International Assistance and Specialist Agencies Practice Group worked closely with the Attorney-General's Department to deliver proposals contained in the Crimes Legislation Amendment (International Crime Cooperation and Other Measures) Bill 2016 that included amendments to the *Mutual Assistance in Criminal Matters Act 1987*, *Extradition Act 1988* and *Foreign Evidence Act 1994*.

These amendments will ensure:

- Australia can effectively respond to requests from the International Criminal Court and international war crimes tribunals
- Magistrates, Judges and relevant courts have sufficient powers to make orders necessary for the conduct of extradition proceedings
- foreign evidence can be appropriately certified and the application of foreign evidence rules can extend to proceedings in the external territories and the Jervis Bay Territory
- provisions on proceeds of crime search warrants are enhanced, clarifying which foreign proceeds of crime orders can be registered in Australia and clarifying the roles of judicial officers in domestic proceedings to produce documents or articles for a foreign country, and other documents of a minor or technical nature.

During the reporting period, the International Assistance and Specialist Agencies Practice Group were also consulted on expanding our jurisdiction to encompass Norfolk Island. As a result we will commence prosecutions in Norfolk Island from 5 August 2017.

International engagement explores processes and emerging crime types

On 26 July 2016, the practice group Deputy Director, David Adsett, attended the 29th International Conference of the International Society for the Reform of Criminal Law in Canada. Mr Adsett presented a paper titled 'Online Revenge Attacks: Legislative Responses', which examined the 2016 Senate Inquiry into 'Revenge Porn', and legislative developments in Australia, and other jurisdictions around the world.

This visit also provided an opportunity to meet with the Nova Scotia Public Prosecution Service and Public Prosecution Service of Canada.

On 3 May 2017, the International Assistance team in International Assistance and Specialist Agencies Practice Group hosted a meeting with New Zealand police liaison officers. As the International Assistance team has responsibility for overseeing the management of both incoming and outgoing New Zealand extradition requests, this was a welcome opportunity to engage with New Zealand police to discuss the unique requirements governing the extradition process.

International assistance key to the prosecution of transnational crime

International assistance, specifically extradition and mutual assistance, is vital to effectively investigate and prosecute serious offences such as terrorism, people smuggling, drug trafficking, sexual servitude, bribery of foreign officials, money laundering, and offences relating to child exploitation and abuse material.

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

CASE STUDY

On 26 May 2017, 29-year-old Melissa Jade Higgins was sentenced by the New South Wales District Court to seven years' imprisonment with a non-parole period of four years for fraudulently claiming more than \$3.64 million in child care benefits, forging documents and dealing with the proceeds of crime. She will not become eligible for parole until May 2021.

On 80 occasions between 20 September 2013 and 25 March 2015, Higgins used her child day care business—Aussie Giggles in Albury, New South Wales—to fraudulently claim the Special Child Care Benefit, which is meant to subsidise children from disadvantaged and vulnerable backgrounds.

Higgins' claims were in regard to 14 children, but she was found to have lied about when they attended, and the number of hours they attended. She also claimed a much higher hourly rate than the standard rate charged by Aussie Giggles.

Higgins lodged the false claims for the Special Child Care Benefit electronically by using an integrated software program via the Child Care Management System maintained by the Department of Human Services.

Higgins dealt with the proceeds of the false claims by moving some \$3.62 million, between company and personal bank accounts.

Specifically, Higgins was charged with:

- 66 counts of obtaining a financial advantage by deception, contrary to sections 11.2 and 134.2 of the Criminal Code (Cth)
- 14 counts of using a forged document contrary to section 145.1 of the Criminal Code (Cth)
- one count of dealing with money/property believed to be proceeds of crime worth \$1 million or more, contrary to section 400.3 of the Criminal Code (Cth).

This prosecution highlights the determination of law enforcement agencies and the extensive investigative efforts to stop people rorting the family day care system.

Higgins has lodged an appeal.

This matter was jointly investigated by the Australian Federal Police and the Department of Education and Training.

LARGEST SINGLE CASE OF PROVEN CHILDCARE FRAUD IN AUSTRALIA'S HISTORY

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

Extradition

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

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

In the case of outgoing extradition requests, we prepare documents in support of requests for extradition in serious cases where a person is wanted for prosecution for an offence against Commonwealth law, or to serve a sentence of imprisonment, and is found to be in a foreign country.

Outgoing requests

During the reporting period, we requested that the Attorney-General's Department make five extradition requests to foreign countries in relation to prosecutions we were conducting.

Three people were surrendered to Australia during 2016–17 as a result of extradition requests made in previous years. A further 10 requests from previous years are ongoing, including one request to New Zealand.

Incoming requests

Requests from New Zealand are made on a police-to-police basis and are referred to us by the Australian Federal Police. We appear on behalf of New Zealand in extradition proceedings before a Magistrate to determine whether a person will be surrendered, and in any review or appeal arising from those proceedings.

During the reporting period, we appeared on behalf of New Zealand in relation to three matters. Those proceedings resulted in two people being surrendered to New Zealand.

Mutual assistance

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

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

The mutual assistance regime rests on a network of international relations and obligations together with the willingness of participating countries to provide assistance to each other. This international network is underpinned by a number of bilateral treaties and multilateral conventions. Australia has ratified 30 bilateral mutual assistance treaties and a number of multilateral conventions, which bind the signatories to provide mutual assistance to each other. These include the:

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

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

The Attorney-General's Department is Australia's central authority for mutual assistance. We are responsible for drafting mutual assistance requests to foreign countries to support Australian criminal proceedings for federal offences where charges have been laid against the alleged offender or where we received specific funding to draft mutual assistance requests related to a particular matter or type of matter. By arrangement with the Attorney-General's Department, in drug-related matters we provide detailed information to the department to facilitate mutual assistance requests.

During the reporting period, we were involved in the preparation of 50 outgoing requests made by Australia to 22 foreign countries. These outgoing requests were generally made in conjunction with Commonwealth investigative agencies or joint taskforces comprising law enforcement officers from Commonwealth, state and territory agencies.

Freedom of information

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

Privacy

There were no reports served on the CDPP by the Privacy Commissioner under section 30 of the *Privacy Act 1988* in 2016–17.

Confiscation of criminal assets

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

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

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

Between 1 July 2016 and 30 June 2017, a total of \$1,084,299 was recovered through action we took under the POCA 2002.

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

Other legislation related to proceeds of crime or corruption

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

The CDPP also has statutory duties under the *Crimes (Superannuation Benefits) Act 1989* and Part VA of the *Australian Federal Police Act 1979*. Our function is to bring applications to forfeit the employer-funded component of superannuation payable to Commonwealth and Australian Federal Police employees who have been convicted of corruption offences. No superannuation orders were made in 2016–17 pursuant to the *Crimes (Superannuation Benefits) Act 1989*.

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

CASE STUDY

Provider of interactive gambling service convicted

Luke Gregory Brabin ran a business and websites collectively referred to as 'Poker Asia Pacific'. He was also sole director and shareholder of Plus EV Pty Ltd, which he used to run the website 'PlayPoker' by paying an intermediary company. The site allowed people based in Australia to register accounts and play online poker for Australian dollars. Approximately 5,500 of 6,000 registered players on PlayPoker were based in Australia. The PlayPoker website generated about \$10,000 revenue per month, by taking a two per cent commission on the amount gambled in each hand of poker.

On 5 May 2017, Brabin was convicted and fined \$10,000 in the Southport Magistrates Court for intentionally providing an interactive gambling service to customers in Australia, contrary to section 15(1) of the *Interactive Gambling Act 2001*.

Brabin had pleaded guilty to the offence, and the Magistrate indicated there was a need for general deterrence.

This is the first conviction under section 15(1) the *Interactive Gambling Act 2001* and goes towards developing an important precedent in this area.

This matter was investigated and referred by the Australian Federal Police.

CASE STUDY

Work health and safety conviction after processing plant fire

In July 2013, an employee was injured in a chemical fire at Cleanaway's Wingfield Chemical Waste Processing Plant near Port Adelaide.

On 19 April 2017, waste management company Cleanaway (formerly Transpacific Industries Pty Ltd) was convicted in the South Australian District Court for breaching section 32 of the *Work Health and Safety Act 2011*.

The court found that the company had failed in its duty to ensure the health and safety of workers. The Judge considered there was a high degree of culpability, and imposed a fine of \$650,000 after taking into account the company's guilty plea.

The result demonstrates the significant consequences for businesses that fail in their obligations to workers.

This matter was investigated and referred by Comcare.

HUMAN EXPLOITATION AND BORDER PROTECTION PRACTICE GROUP

Deputy Director: Mark de Crespigny

MATTERS MANAGED

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

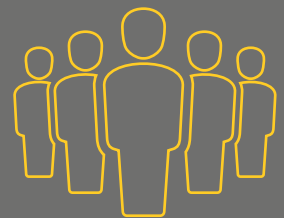
REFERRALS

Referrals during
2016–17

623

Matters on hand
as at 30 June 2017

608



TOP REFERRING AGENCIES

In 2016–17 the top referring agencies
to this practice group were:



STATE AND
TERRITORY
POLICE



AUSTRALIAN
FEDERAL
POLICE



AUSTRALIAN
BORDER
FORCE

THE ROLE OF THE HUMAN EXPLOITATION AND BORDER PROTECTION PRACTICE GROUP

The Human Exploitation and Border Protection Practice Group is responsible for prosecuting a wide variety of offence types including child exploitation offences, trafficking in persons and slavery, people smuggling, passport and migration offences, offences committed by way of telecommunications services or computers, and offences arising from federal community policing.

The Human Exploitation and Border Protection Practice Group works closely with partner agencies including the Australian Federal Police, Australian Border Force, the Department of Foreign Affairs and Trade (Australian Passport Office), and state and territory police. A significant proportion of the work involves victims, including child victims. Prosecutors in this area work closely with investigators and our Witness Assistance Service to ensure that in the course of dealing with this very challenging work, victims are treated with courtesy, compassion, cultural sensitivity and respect for their dignity.

This year, the practice group worked to improve assessment timeframes for briefs referred by partner agencies, a common goal across all practice groups. We also worked diligently to ensure all trials were fully prepared and run with the most appropriate charges, and that victims were appropriately consulted.

Stakeholder engagement explores modern slavery

Human trafficking and slavery remains a focus for key stakeholders including the Attorney-General's Department. This year, we provided input into the department's report to the Interdepartmental Committee on Human Trafficking and Slavery. As an extension of this work, we also contributed to the whole-of-government submission to the Parliamentary inquiry into Human Trafficking and Slavery.

Regular liaison ensures early engagement

The Human Exploitation and Border Protection Practice Group continues to strengthen relationships with partner agencies. The matters referred to the practice group often require early engagement and pre-brief advice.

In addition to continuing to prosecute cases arising from these investigations, the practice group engaged in regular national and regional liaison with the Australian Federal Police, Australian Border Force, state and territory police and other agencies to ensure that the strategic objectives of each agency were well understood.

These forums also provided a valuable opportunity to discuss trends, identify systemic issues within the investigative or prosecution processes, as well as identifying potential law reform and training requirements. As a result of this liaison, specialist training on the prosecution process was provided to the Australian Federal Police, Australian Border Force, and state and territory police.

The practice group also participates in a number of working groups, including the Operational Working Group on Human Trafficking and Forced Marriage convened to discuss issues particularly around the support of victims of human trafficking.

We also gave a presentation on the prosecution process to the Labour Exploitation Working Group in April 2017, and we continue to be an active member of this group.

Legislative reform

Legislative reform often tackles emerging crime types, and 'revenge porn' is a current example. In November 2016, the Human Exploitation and Border Protection Practice Group contributed to a response to the Attorney-General's Department focused on the issue of revenge porn. The questions centred around the adequacy of using a section 474.17 offence in the context of revenge porn—that is using a carriage service to menace, harass or cause offence—and whether there should be a new specific offence of non-consensual distribution of private sexual material under state or federal laws; and how to prevent the inappropriate application of such laws to children and young people.

The practice group has also provided input into the Commonwealth proposals related to vulnerable witnesses and took

part in discussions with a number of institutions on the classification of child exploitation material.

We also have an ongoing role in providing input into legislative reform in this dynamic area.

In addition, we provided a response to the Royal Commission into Institutional Responses to Child Sexual Abuse on 17 October 2016.

International engagements

As well as our core prosecution work, we also saw an increase in international engagements, providing prosecutors with an opportunity to strengthen and forge new partnerships internationally. This is particularly important as many of our matters involve transnational offenders and networks.

Cybercrime

With advances in technology, criminal networks are becoming more sophisticated. As a result, cybercrime was a key topic of discussion with international counterparts this year. The practice group participated in the Pacific Islands Law Officers Network (PILON) Cybercrime Workshop in the Kingdom of Tonga in May 2017, and provided significant input to the Australian Attorney-General's Department to assist Tonga to draft a Cybercrime Bill for Tonga to accede to the Budapest Convention on Cybercrime.

Human trafficking

Human trafficking has wide-reaching impacts, and the views of the Human Exploitation and Border Protection Practice Group are often highly valued.

In 2016, we contributed to the *Trafficking in Persons Report* prepared by the Attorney-General's Department.

Also in collaboration with the Attorney-General's Department, the practice group engaged with the Malaysian Attorney-General's Chambers regarding Prosecution and Investigation Training on Human Trafficking in a three-day program in February 2017 in Kuala Lumpur.

In April 2017, the practice group provided advice to the Attorney-General's Department as part of the Bali Process on Law and Justice responses in the Asia-Pacific region to people smuggling, human trafficking and transnational crime. The response was on cases related to financial investigation in trafficking persons and the anti-money laundering framework.

In June 2017, our contribution to the discussion on human trafficking continued when a member of the practice group presented a case study on human trafficking that highlighted inter-agency cooperation, evidence of victims and the Australian requirements of prosecution disclosure.

The practice group also contributed to the Attorney-General's Department whole-of-government submission to the New South Wales Legislative Council Select Committee on Human Trafficking, including forced marriage.

These examples highlight the ongoing and sustained interest in human trafficking and the legislative, investigative and prosecution challenges that arise as a result of this type of offending.

Training international counterparts

Between 31 October and 1 November 2016, and again in March 2017, the Human Exploitation and Border Protection Practice Group participated in the Sri Lanka Prosecutor Pairing Program in Sydney and Melbourne respectively. We have now engaged with Sri Lankan prosecutors in this training on seven occasions.

In June 2016, the Australian and Sri Lankan governments reiterated their commitment to work together at the third Joint Working Group on People Smuggling and Transnational Crime. As part of this commitment, a member of the practice group travelled to Sri Lanka with representatives from the Attorney-General's Department to lead discussions and facilitate training on evidentiary requirements for people smuggling cases in Colombo in November 2016 and March 2017. Attendees included senior officials from the Sri Lankan Attorney-General's criminal division, navy, immigration department and coast guard, as well as Australian Department of Foreign Affairs and Trade and navy officials.

Also in June 2017, a member of the practice group attended and provided training at a workshop organised by the International Organization of Migration in relation to human trafficking in Beijing, China.

CASE STUDY

In February 2017, four Taiwanese men were imprisoned after pleading guilty in the Brisbane Magistrates Court to being the ring leaders of a scam, which ran call centres staffed by 57 Taiwanese slaves who were forced to work 15 hours a day, seven days a week, without payment.

Hidden in two luxury Brisbane homes, the Taiwanese nationals had arrived in Brisbane on working holiday visas, but had their passports taken away. They had to make up to 60 calls each per shift. The calls were to trick wealthy Chinese citizens into revealing their bank balances, pretend they were suspected of money laundering, and demand the victims pay a large fine in return for not being prosecuted.

The syndicate was discovered in August 2015 when one of the victims escaped and raised the alarm. The Australian Federal Police immediately launched an investigation, called Operation Arc, into the transnational Taiwanese organised crime syndicate running the fraudulent call centres.

The successful prosecution resulted in:

- Yu-Hao Huang being sentenced to three years' imprisonment for causing a person to enter into or remain in servitude, with release on recognisance after serving 548 days. Huang was the boss of the house the victim escaped from, and was in charge of the day-to-day operation and management of the house, including liaising with other syndicate members and arranging deliveries. Huang was deported as soon as he was released from custody.
- Bo-Syun Chen was sentenced to 2.5 years' imprisonment for causing a person to enter into or remain in servitude, with release on recognisance after serving 541 days. Chen was Huang's second in command at the house. He enforced the rules of the house and maintained order and discipline. Along with Huang, Chen would verbally abuse and threaten the victim, and told him it was impossible for him to leave. Chen was deported as soon as he was released from custody.
- Wu-Nan Chen was sentenced to two years' imprisonment for supporting a criminal organisation, and three years and three months' imprisonment for dealing in proceeds of crime worth \$50,000 or more, with a non-parole period of 519 days. Between 19 March 2015 and 16 September 2015, Chen had provided more than \$68,000 worth of purchases and payments for work, appliances and devices for the two houses and received an international funds transfer from Taiwan for more than \$93,000 into his account, to carry out the fraud. This was the first conviction and sentence for the offence of supporting a criminal organisation in Australia.

FOUR MEN GUILTY OF RUNNING A SCAM CALL CENTRE

- Sheng-Jiun Huang was sentenced to 18 months' imprisonment for negligently dealing in proceeds of crime worth \$100,000 or more, and 2.5 years' imprisonment for recklessly dealing in proceeds of crime worth \$100,000 or more, with release on recognisance after serving 436 days in custody.

The Judge took into account the early guilty pleas by all four defendants, and weighed this against the fact all were charged with very serious offences, and that the victim had suffered psychological trauma and was concerned for his future and that of his family.

For Huang and Chen, the Judge also took into account the fact they had no criminal history, little involvement in or knowledge of the hierarchy or workings of the criminal organisation, and that they had been recruited on the basis they would be paid 20,000 to 30,000 Taiwanese dollars (A\$868–\$1,300) per month plus a five per cent bonus.

This matter was investigated and referred by the Australian Federal Police.



Transnational organised crime

In August 2016, senior members of the Practice Group participated in a roundtable meeting at the Attorney-General's Department in Canberra, focused on Smuggling of Migrants Protocol (supplementing the United Nations Convention against Transnational Organised Crime), of which 13 countries are signatories.

Following the roundtable meeting, the Attorney-General's Department invited a member of the practice group to attend the Expert Group Meeting at the United Nations Office on Drugs and Crime in Vienna in mid-November 2016. Also in attendance were representatives from the judiciary, prosecution and police agencies, government and non-government organisations from Canada, the European Union, Germany, Greece, Indonesia, Italy, Malaysia, Mexico, Sri Lanka, Tunisia, the United Kingdom and the United States.

Victims and witnesses

It is important in all prosecution action that victims are treated with courtesy, compassion, cultural sensitivity and respect for their dignity and entitlements.

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

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

Witness Assistance Service

Our Witness Assistance Service is a national service provided by two qualified social workers located in our Sydney and Melbourne offices.

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

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

Referrals to the service

The Witness Assistance Service Referral Guidelines require that all identifiable child victims and victims of slavery, sexual servitude and forced marriage offences are referred to the Witness Assistance Service by prosecutors. During the reporting period, we amended the guidelines to introduce a referral timeframe that requires all such victims be referred to the Witness Assistance Service within 21 days of the CDPP receiving the matter. This amendment aims to ensure the most vulnerable victims of crime are provided with information and support from as early as possible in the prosecution process.

In 2016, the Witness Assistance Service received and accepted 399 new victims/witness referrals, relating to 122 matters. A total of 156 (39 per cent) of all new victims/witnesses referred were children. There were 2,054 instances of contact with victims/witnesses referred to the service.



The Human Exploitation and Border Protection Practice Group deals with some of the most complex and confronting crimes involving people.

MARK DE CRESPIGNY, DEPUTY DIRECTOR



Our Witness Assistance Service is an integral part of the practice group.

- » Commitment: treat victims and witnesses with courtesy, compassion, cultural sensitivity and respect for their dignity and entitlements
- » Service: provide a dedicated victims and witness service nationally
- » Support: keep victims and witnesses informed throughout the prosecution process
- » Consistency: educate prosecutors to ensure victims and witnesses are referred to the service

This year marked a significant increase in the total number Witness Assistance Service referrals compared with previous years, and a number of new referrals involving adult victims and witnesses were declined due to a lack of capacity within the Witness Assistance Service.

In response to the ever increasing number of referrals to the Witness Assistance Service and associated policy obligations towards victims of crime, the Executive Leadership Group approved the addition of two new Witness Assistance Officers, who we expect to recruit by the end of 2017. This further demonstrates the CDPP's commitment to support the most vulnerable victims and witnesses.

Table 1: New witness assistance service referrals in 2016–17

OFFENCE TYPE	VICTIMS/WITNESSES*	MATTERS
Online child sex exploitation	317	74
Child sex offences outside Australia	11	4
Sexual slavery	1	1
Forced marriage	3	2
Terrorism	8	2
Drugs	4	2
Miscellaneous	55	37
Total	399	122

* Includes parents/caregivers of child victims

Information resources for victims including the *Witness Assistance Service Referral Guidelines* are available on our website at www.cdpp.gov.au.

Training and education

The Witness Assistance Service also provides training to CDPP staff in relation to victims' issues. During the reporting period, the Witness Assistance Manager, in collaboration with a Principal Federal Prosecutor, delivered national victim training to staff from across the CDPP. This national training included a follow-up session that formed part of mandatory training for legal staff in the Illegal Imports and Exports Practice Group, and Human Exploitation and Border Protection Practice Group, with the aim of raising awareness about victim-related policy, legislation and practice issues.

A total of 56 staff from across the CDPP attended this training. In addition, the Witness Assistance Service provided numerous formal and informal induction training sessions to new legal staff throughout the reporting period.

Decision-making

We have amended our policy and practices in relation to decision-making concerning sexual offences that involve children and introduced a 'right of review' by the Director.

In February 2017, an internal Practice Group Instruction was issued that escalated the level of decision-making to the Practice Group Deputy Director in relation to a decision not to commence a prosecution against a defendant or to wholly discontinue a prosecution for child exploitation offences involving child complainants. This instruction requires the prosecutor to consult with the child complainant, or where appropriate their parents or guardian, to seek their views in relation to such prosecution decisions. Once a decision is made, the CDPP will notify the complainant of the decision and advise them of their right to seek a review by the Director.

National Victims of Crime Liaison Group

We established a National Victims of Crime Liaison Group, which began meeting for the first time during 2016–17. Co-chaired by the Assistant Director (Legal Business Improvement) and the Witness Assistance Manager, the group is made up of staff from each office around the country, and group met quarterly for the purpose of assisting the CDPP to provide the best possible support for victims of crime. This group is also an important channel to share information and identify opportunities for ongoing improvement.

Stakeholder engagement

National conference

In August 2016, the Witness Assistance Manager attended and delivered a presentation at the 2016 Victims and Justice National Conference in Melbourne titled: 'Identifying Victims of Commonwealth Crime. Policy and Practice Developments'.

Victims of crime

On 1 June 2017, the Human Exploitation and Border Protection Practice Group provided its *Victims of Crime Policy* and associated comments to the Attorney-General's Department International Legal Assistance area to assist Pacific Island countries involved in the Pacific Islander Law officer Network (PILON) to implement vulnerable witness protections.

International delegations

In November 2016 and April 2017, the Witness Assistance Service delivered presentations to delegations of prosecutors and police from Sri Lanka. These types of presentations assist international counterparts with their own processes and procedures with a view to supporting victims and witnesses of crime in their jurisdictions.

CASE STUDY

Conviction for possessing child exploitation material

On 19 August 2016, Zhiguo Miao, was sentenced in the Sydney District Court to a total effective sentence of two years and three months' imprisonment with a non-parole period of one year and three months. He had pleaded guilty to offences relating to possessing and accessing child exploitation material including a child sex doll.

Miao ordered the child doll over the internet from the Australian agent of a Chinese-based company. He requested that the doll be shipped in parts to avoid detection, but some parts were seized by law enforcement authorities and the rest of the body of the doll was found at Miao's residence during a search warrant conducted by the Australian Federal Police.

A search warrant was also executed at the residence of a 44-year-old Sydney man James Friess, the Australian agent of the Chinese-based company.

Friess was subsequently charged. Following pleas of guilty, Friess was sentenced on 22 July 2016 in the Sydney District Court to nine months' imprisonment, to be served by way of an intensive corrections order, for disseminating the child sex doll and for possessing and accessing child exploitation material.

Both offenders initially challenged whether possession or dissemination of a child sex doll is an offence under New South Wales law.

Following legal argument, a District Court Judge ruled that a child sex doll can fall within the definition of child abuse material in section 91FB of the *Crimes Act 1900* (NSW). As a result possession and dissemination of a child sex doll can be an offence under New South Wales law.

On 10 May 2017 the New South Wales Court of Criminal Appeal dismissed Miao's appeal against sentence.

This matter was investigated and referred by the Australian Federal Police.

On 13 June 2017, the Sydney District Court sentenced Bryan Beattie to 10 years' imprisonment, with a non-parole period of six years, for offences related to causing a child under 16 years to engage in sexual intercourse outside Australia, and possessing child abuse material.

The offences were committed between 2011 and 2012, and involved 451 child abuse files, including 132 child abuse webcam videos that the offender instigated, paid for and directed over Skype in real time. The offender used the shows for sexual gratification and recorded them for repeated viewing. A total of 17 child victims from the Philippines were involved. The victims were especially vulnerable members of society, predominately prepubescent and subject to financial hardship. The offender paid approximately \$100 for each video.

The offender was a member of several internet sites that facilitated the sharing of child abuse material, and had been collecting prohibited material since 2000.

On 7 July 2017, the Director filed an appeal against sentence on the grounds that the result was manifestly inadequate. At the time of writing, the appeal was listed for hearing in the New South Wales Court of Criminal Appeal on 20 September 2017.

This matter was investigated and referred by state police.

ILLEGAL IMPORTS AND EXPORTS PRACTICE GROUP

Deputy Director: Mark de Crespigny



MATTERS MANAGED

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



TOP REFERRING AGENCIES

In 2016–17 the top referring agencies to this practice group were:

REFERRALS

Referrals during
2016–17

543

Matters on hand
as at 30 June 2017

750



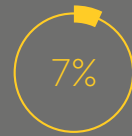
AUSTRALIAN
FEDERAL
POLICE



AUSTRALIAN
BORDER
FORCE



STATE AND
TERRITORY
POLICE



DEPARTMENT OF
AGRICULTURE
AND WATER
RESOURCES

THE ROLE OF THE ILLEGAL IMPORTS AND EXPORTS PRACTICE GROUP

The Illegal Imports and Exports Practice Group is responsible for prosecuting offences associated with protecting the integrity of Australia's borders, including general drug and precursor importation offences, drug-related money laundering, general money laundering, quarantine offences, wildlife imports and exports, and other import and export offences such as those involving illicit tobacco, weapons or steroids. Offences of these types can have devastating impacts on the Australian community and the Australian economy.

This is a high volume, arrest driven, indictable practice group, undertaking the largest number of trials conducted by the CDPP.

Prosecutors in this practice group are skilled criminal litigators and negotiators and spend a significant proportion of each year undertaking committal hearings and instructing in trials, usually in relation to drug and precursor importations or money laundering.

Cases are complex and can involve large amounts of evidence, and often involve transnational offending (see case study examples from page 80).

Liaison activities deliver process improvements

The Illegal Imports and Exports Practice Group works closely with partner agencies, forging strong relationships due to the time-critical nature of these matters. Our partner agencies include the Australian Federal Police, the Australian Border Force/ Department of Immigration and Border Protection, the Department of Agriculture and Water Resources, AusTrade, and state and territory police.

Apart from providing core prosecution services to agencies during the year, the practice group also engaged in regular national and regional liaison meetings with partner agencies to ensure a comprehensive understanding of the strategic objectives of each agency.

These forums also provided a valuable opportunity to discuss trends, identify systemic issues within the investigative or prosecution processes, and identify potential law reform and training requirements. This led to the practice group delivering targeted training to the Australian Federal Police, Australian Border Force, and state and territory police.

During 2016–17, the practice group became the lead agency for liaison with the Investigations Standards section of the Australian Federal Police and, through this, developed mutually beneficial systems to ensure timely feedback on matters to help drive process improvements within the Australian Federal Police.

Legislative reform looks at legal procedure

During 2016–17, the Illegal Imports and Exports Practice Group provided significant input into a number of legislative reform proposals, including state proposals related to bail and criminal procedure and Commonwealth proposals related to vulnerable witnesses. In addition, the practice group has been providing input into the classification of child exploitation material, often involving transnational offending.

International engagements

The practice group is often called on to contribute to forums and reports at an international level.

In February 2017, the practice group contributed to a report by the Australian Transaction Reports and Analysis Centre (AUSTRAC) to the Asia/Pacific Group on Money Laundering. This is just one example of how the CDPP's expertise and opinions are valued at an international level.





CASE STUDY

On 2 August 2016, the Adelaide District Court sentenced Hongtao Zhang to four years and eight months' imprisonment with a non-parole period of two years for a range of offences. Zhang had pleaded guilty to charges relating to importing tobacco products intending to defraud the revenue, possessing tobacco goods knowing they were imported with the intent to defraud, dealing with money or property reasonably suspected of being the proceeds of crime, and attempting to possess a false foreign passport.

This court result followed an investigation that began when Zhang arrived at the Adelaide International Airport on 15 January 2016. A mobile phone in his possession showed evidence of cigarette smuggling. Zhang was arrested, and Australian Border Force began an investigation. Investigators identified multiple post office boxes that Zhang was using to import parcels of cigarettes. To open some of these post office boxes, Zhang had obtained identification from three different people who had rented rooms from him.

The investigation revealed a large-scale, sophisticated importation scheme, designed to evade revenue and detection. The scheme involved more than 600 parcels from overseas countries, and the use of dozens of post office boxes, together with parcel locker locations and parcel collection points. Some parcels were in Zhang's partner's name, while others were in false names. Police also found a machine to roll cigarettes, cigarettes in Chinese packaging without Australian health warnings, spreadsheets referring to post office boxes and parcels, and Google searches on laws against smuggling.

The quantity of tobacco products located, and the revenue evaded by Zhang, amounted to 615 parcels—more than 695,500 cigarettes and more than 50 kilograms of

loose tobacco with total unpaid revenue of \$463,365.

One of the parcels linked to Zhang contained a counterfeit Chinese passport. Police also located cash in Australian currency amounting to \$47,200. Zhang's bank statements revealed regular cash deposits of between \$1,000 and \$10,000, large money transfers to and from different accounts, multiple transfers of varying amounts by unknown persons, and large offshore money transfers to and from the account.

In telephone conversations between Zhang and his partner, recorded while Zhang was in custody, he talked about the offending and the money he made. Zhang said his original plan was to earn a lot of money over two to three years and then go back to China to invest and become very rich.

Zhang appealed to the Court of Criminal Appeal in South Australia against his sentence, claiming among other matters that it was manifestly excessive. On 16 February 2017, the Court of Criminal Appeal rejected Zhang's appeal, noting that he derived substantial profits from his crimes, which were motivated by greed, and that apart from his youth, early plea and contrition there was little to mitigate the seriousness of the offending.



ILLEGAL TOBACCO IMPORTATION LEADS TO IMPRISONMENT

*The matter was investigated and referred by
the Australian Border Force.*

CASE STUDY

All-expenses paid trips lead to drug convictions

The matter of Afford and Smith proved to be a landmark case, as it confirmed inferential reasoning could be used to prove an offender's intention to import drugs where there was no direct evidence of intention.

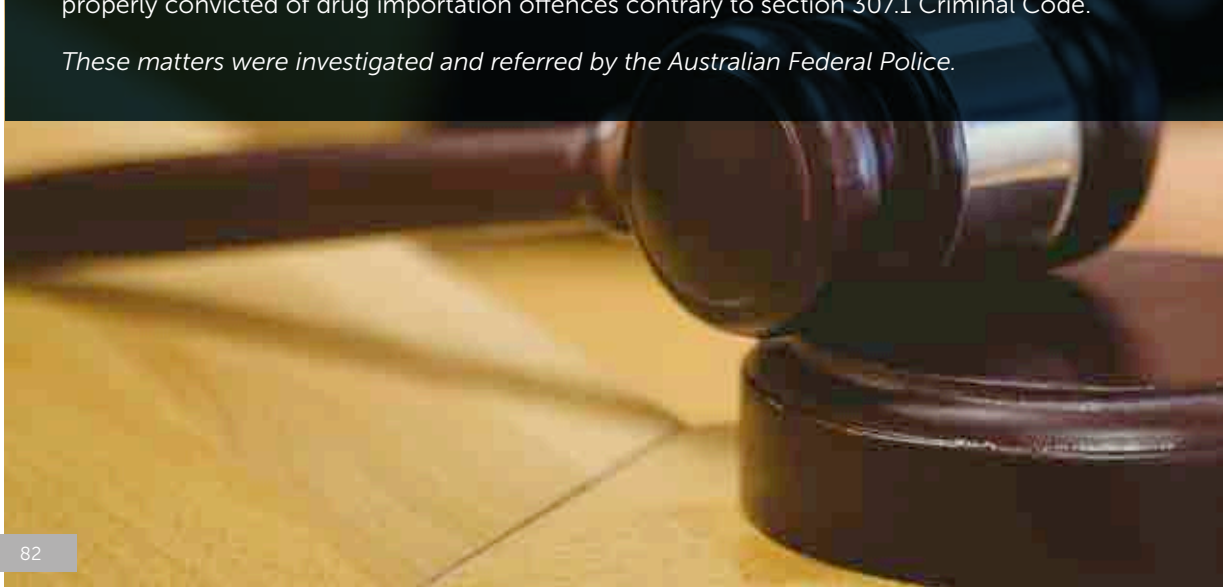
On 29 October 2013, Maltimore Smith, a United States citizen, arrived in Sydney from India. Department of Immigration and Border Protection officers discovered 1,945.5 grams of methamphetamine in packages concealed in his luggage. Smith said he had come from India on an all-expenses-paid trip organised by a Reverend he knew from email and telephone contact. A third person, also organised by the Reverend, had put the methamphetamine in Smith's luggage.

In a similar scenario, in March 2014, Steven Afford returned to Melbourne from Manila. On arrival, he declared that he had packed all his bags himself. He said he had been to Manila because he and his partner (who was located in the United Arab Emirates and had paid for the trip) planned to build a five-star hotel in Perth. On arrival, 2,415.4 grams of pure heroin was found stitched inside the lining of his luggage. In an interview, Afford admitted he had hoped the bag he was carrying did not contain drugs. Despite his concerns, he agreed to take the fully paid flight to Australia.

Both Smith and Afford were found guilty following trials and both appealed against their conviction. Afford's appeal was allowed by the Victorian Court of Appeal and Smith's Appeal was dismissed by the New South Wales Court of Criminal Appeal. Smith and the CDPP both appealed to the High Court and these appeals were heard together.

On appeal, the High Court upheld Smith's conviction and reinstated Afford's conviction. In a joint judgment the court held that the existence of the requisite intention may be a matter of inference from what the accused has actually done. The intention may be inferred from the doing of a prescribed act and the circumstances in which it was done. This meant that the offenders' intention could be inferred from their actions in this case. Both offenders were properly convicted of drug importation offences contrary to section 307.1 Criminal Code.

These matters were investigated and referred by the Australian Federal Police.



This year we successfully prosecuted a case for the Department of Agriculture and Water Resources involving importation of food that did not meet Australian standards.

On 17 February 2017, the Western Australian District Court sentenced Jens Uwe Henschel to three years' imprisonment to be released forthwith on a recognisance, together with a fine of \$15,000, while his company, Henschel Investments Pty Ltd, was fined \$30,000.

On multiple occasions between 2009 and 2014, Henschel, and Henschel Investments Pty Ltd, knowingly imported food in contravention of either the *Imported Food Control Act 1992* (Cth) or the *Quarantine Act 1908* (Cth). The imported food offences related to cereals and spice mixes, and the quarantine offence related to a beef extract. To conceal these importations, Henschel arranged for the creation of dual sets of invoices by his South African supplier, and lodged the second set that omitted the illegal goods in the Australian Government's Integrated Cargo System. This occurred on 16 occasions.

The Magistrates Court in Perth gave weight to a continuous course of illegal conduct over an extended period. The court considered that deterrence was important, in light of the protective purposes of the quarantine and imported food legislation.

This matter was investigated and referred by the Department of Agriculture and Water Resources.

ORGANISED CRIME AND COUNTER-TERRORISM PRACTICE GROUP

Deputy Director: Scott Bruckard PSM

MATTERS MANAGED

- » Terrorism
- » Large-scale and cross-border organised crime related offences such as drug importation, firearms trafficking and money laundering
- » War crimes
- » Security of the Commonwealth

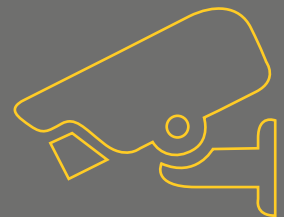
REFERRALS

Referrals during
2016–17

176

Matters on hand
as at 30 June 2017

395



TOP REFERRING AGENCIES

In 2016–17 the top referring agencies to this practice group were:



THE ROLE OF THE **ORGANISED CRIME AND COUNTER-TERRORISM PRACTICE GROUP**

The Organised Crime and Counter-Terrorism Practice Group is responsible for the prosecution of all counter-terrorism and large-scale organised crime matters. Counter-terrorism cases include the prosecution of offences relating to domestic terrorist plots and participation in foreign conflicts. Organised crime cases include large-scale drug importations by criminal syndicates, firearms trafficking and related money laundering prosecutions.

Prosecutors in the practice group are skilled in managing large and complex cases. They are also routinely required to provide legal advice to partner agencies during the course of active police investigations. This advice, often provided within tight timeframes, helps inform police operational decision-making, focus investigative resources and deliver better law enforcement outcomes.

Trend—an increase in complex cases

Rising number of counter-terrorism prosecutions

There has been a significant increase in the number of counter-terrorism matters referred to the practice group for prosecution. A number of these matters relate to completed or planned acts of domestic terrorism, with prosecutions currently underway in Adelaide, Brisbane, Sydney and Melbourne. These cases include prosecutions arising from the unlawful killing of New South Wales police accountant, Mr Curtis Cheng, in 2015 and an alleged plot to carry out an act of terrorism at Melbourne's Flinders Street Station, Federation Square and St Paul's Cathedral in late 2016.

While the practice group has only received a relatively small number of referrals relating to Australians who have returned from the armed conflict in Syria and Iraq, we continue to prosecute a number of Australian residents who have supported or were undertaking preparations to join those conflicts.

Specialist legal resources are required to manage counter-terrorism referrals. We continue to invest in strengthening and developing this capability. While a number of matters are still before the courts, the conviction rate for counter-terrorism prosecutions commenced since 2001 is currently running at 84 per cent. A significant number of matters have also resolved by way of a guilty plea. These pleas of guilty deliver a valuable public admission of responsibility for the crime and avoid the need for a costly trial.

Large-scale drug importations by boat

In 2016–17, the Organised Crime and Counter-Terrorism Practice Group received a number of referrals relating to the alleged importation of drugs to Australia by boat. These matters, which resulted from the interception of four vessels, are being

prosecuted in New South Wales, Victoria and Western Australia. Collectively, these matters allegedly involve the importation or attempted importation of more than 3.5 tonnes of cocaine and 180 kilograms of methamphetamine. We are prosecuting a total of 38 individuals. Our prosecutors, who supported police during the investigation of these matters, are now also collaborating across jurisdictions to identify common issues and share expertise.

Stakeholder engagement leads to cross-agency collaboration

The Organised Crime and Counter-Terrorism Practice Group works closely with partners and stakeholders to improve outcomes and deliver more efficient and effective prosecution services.

We have developed a strong working relationship with staff from the Attorney-General's Department and the office of the Counter-Terrorism Coordinator in the Department of the Prime Minister and Cabinet, and engage with these agencies on various legal, policy and legislative issues.

We provide regular reports on counter-terrorism prosecutions to partners and stakeholders to ensure they have access to accurate and up-to-date information concerning the conduct of counter-terrorism prosecutions. The practice group also holds an annual conference, to which key partners and stakeholders are invited, with the aim of building stronger relationships and promoting cross-agency collaboration.

Our prosecutors also engage with staff from the courts and Legal Aid Commissions in various jurisdictions. This provides an opportunity for closer collaboration on common issues across the criminal justice system, especially as they relate to the more effective management of large and complex cases.

Liaison—providing time-critical advice required for active investigations

The Organised Crime and Counter-Terrorism Practice Group liaises closely with partner agencies including the Australian Federal Police, Australian Security Intelligence Organisation, Australian Border Force, Australian Criminal Intelligence Commission, and state and territory police.

To better support the work of these partner agencies, we provide specialist pre-brief advice and support in counter-terrorism and more significant organised crime matters. Significantly, this includes providing qualified legal advice to partner agencies during the course of active investigations. This advice can help our partners make more informed and effective decisions regarding the conduct of these complex investigations.

The practice group also provides targeted training to the Joint Counter-Terrorism Teams across Australia, to help build capability and ensure police have the legal support they need working in this challenging operational environment. Our staff have also been working with the Australian Federal Police to develop protocols and metadata standards for the referral of electronic briefs of evidence. Quality electronic briefs enable prosecutors to more efficiently analyse, manage and present evidence in large, matters involving multiple defendants.

Legislative reform

The Organised Crime and Counter-Terrorism Practice Group actively looks for opportunities to support the important legislative and policy work of the Attorney-General's Department. We aim to provide valuable insights and observations regarding the practical application of the laws we rely on to prosecute.

While the nature and scope of these laws is a matter for government, we aim to help inform legislative and policy development through regular liaison and circulation of reports and issues papers. In 2016–17, we circulated issues papers on money laundering and counter-terrorism.

The practice group also assisted the Independent National Security Legislation Monitor with his statutory deadline review and as part of this review, appeared at a private hearing to answer questions concerning the operation of the declared areas offence contained in Division 119 of the Criminal Code (Cth).

International engagements

Prosecutors from the Organised Crime and Counter-Terrorism Practice Group participated in a number of international engagements in 2016–17 including the:

- Beyond Investigation: Relying on Electronic Evidence in Court Workshop, Indonesia—in May 2017, prosecutors from Organised Crime and Counter-Terrorism Practice Group located in Melbourne presented at the Jakarta Centre for Law Enforcement Cooperation Workshop on Using Electronic Evidence in Terrorism Cases. The workshop covered various topics including criminal justice responses to terrorism, issues in international cooperation, intelligence collection, interpretation and analysis of electronic evidence data and relying on electronic evidence in court. A presentation by our prosecutors provided participants with insight into the use of electronic evidence in counter-terrorism prosecutions in Australia.
- 12th Regional Workshop for Judges, Prosecutors and Police in South Asia on ‘Effectively countering Terrorism’, Sri Lanka—a prosecutor from the Organised Crime and Counter-Terrorism Practice Group in Sydney attended a three-day workshop in Colombo, Sri Lanka, concerning the use of electronic evidence in counter-terrorism cases. This workshop was jointly hosted by the Sri Lankan Government and the United Nations Counter-Terrorism Committee Executive Directorate, and organised by the Global Centre for Cooperative Security. During the workshop, our prosecutor facilitated group discussions about key issues including regional and transnational terrorist threats, criminal justice frameworks across South Asia, and domestic and international cooperation in obtaining electronic evidence from foreign countries.
- Beyond Foreign Terrorist Fighters Program, Malta—in June 2017 a prosecutor from the Organised Crime and Counter-Terrorism Practice Group in Sydney attended the Senior Practitioners Meeting for Beyond Foreign Terrorist Fighters: Disrupting and Prosecuting Plots Directed and Inspired by ISIS and Other Terrorist Organisations, held in Valletta, Malta. The program included presentations from the United States Federal Bureau of Investigation and Interpol on current terrorist threats, training on encryption from a former United Kingdom Special Branch officer, and a case study on the San Bernadino shooting in the United States. The meeting also heard from speakers including Mr Gilles de Kerchove, European Union Counter-Terrorism Coordinator and the Hon Jeff Sessions, Attorney General of the United States. The focus of the program was to facilitate peer-to-peer collaboration, and there was useful sharing of information and experiences through case study presentations, and discussions about issues, challenges and suggestions for improvement. Our prosecutor presented a case study and moderated a panel session of prosecutors from French Canada and Mauritania.

CASE STUDY

On 10 February 2015, Omar Al-Kutobi, an Iraqi refugee, and Mohammed Kiad, a Kuwaiti student, were arrested by counter-terrorism police at the granny flat they shared in Western Sydney. At the time of their arrest, both men were preparing to carry out an Islamic State-inspired terrorist attack.

Evidence in the matter confirmed that during 2014 both adopted an extreme Islamic ideology and were in contact with a Syrian party named 'Rahman', who was a supporter and advocate of Islamic State.

On 29 and 30 January 2015, the co-offenders made an Islamic State flag using paint and fabric that Kiad had purchased.

Then on 4 February 2015, Kiad received communication from Rahman referring to selecting targets. Over the next few days, Al-Kutobi and Kiad made further preparations including identifying a Shi'ite prayer hall as a possible target, starting to prepare an improvised explosive device and researching military knives. On the evening of 9 February 2015, the two men attended a Shi'ite prayer hall where they planned to throw a jar of petrol at the building. However, this planned attack was aborted.

The next morning, Kiad and Al-Kutobi regrouped, with Kiad telling Rahman they would show him a video of their plan, and receiving a reply with instructions from Rahman, including telling the pair to wear gloves and that the 'first hit is the lethal one'. That afternoon both offenders went to a camping store in Smithfield and purchased a medium-sized hunting style knife. They returned to their residence where Kiad filmed a 'martyr video' showing Al-Kutobi holding

the hunting knife and making statements including the following:

God willing, God willing we will avenge our brothers and sisters and mothers and fathers in the land of Caliphate. I swear to God will avenge Burma, Afghanistan, Caucasus and Chechnya and for all Muslim lands...I swear to God Almighty, yellow people, there is no reproach between us, you will only get from us the stabbing of your kidneys...

Soon after, police attended the offenders' premises and found home-made Napalm, petrol, a hunting knife, a machete and a home-made Islamic State flag. Police arrested and charged the men with conspiring to do acts in preparation, or planning a terrorist act, contrary to the Criminal Code (Cth).

Both offenders pleaded guilty five days before their jury trial was scheduled to commence. Following a disputed facts hearing, Justice Garling rejected evidence given by Al-Kutobi and accepted the case on sentence as put by the Crown. His Honour stated:

In total, the acts undertaken in preparation and planning were substantial. They were intended to, and did, put the offenders in a position to fulfil their conspiracy, namely to cause damage to property and to cause serious physical injury or death to an individual pursuant to, and in furtherance of, the cause of Islamic State.

20 YEARS' IMPRISONMENT FOR TERROR DUO

His Honour found that that conduct in this matter fell above the mid-range of seriousness for offences of this kind, and the fact that no actual terrorist act was carried out was, in large part, due to the intervention of police.

Both offenders were sentenced to 20 years' imprisonment, with a non-parole period of 15 years.

This matter was investigated by the state police and referred by the Australian Federal Police.

CASE STUDY

Increased sentences for terrorist plotters

On 23 June 2017, the Victorian Court of Appeal delivered judgment in the matters of DPP (Cth) v MHK and DPP (Cth) v Sevdet Besim. These matters both concerned appeals we made against sentences regarding terrorism offending. The respondents were relatively young people who had pleaded guilty to doing acts in preparation for a terrorist act, contrary to the Criminal Code (Cth). Sevdet Besim had planned to kill a police officer during Anzac Day commemorations in Melbourne and then use the officer's weapon to commit further acts of violence. MHK planned to build a bomb and detonate it in a populated area, as a means of supporting Islamic State. At the time of his arrest, MHK was in the process of constructing as many as seven pipe bombs and at least one pressure cooker bomb. He was following precise and detailed bomb-making instructions, secretly obtained from a contact in Islamic State. The construction phase was well advanced and he was within days of completing the construction of the bombs.

In each case, the Director's appeal was upheld and the sentences imposed were increased significantly. Besim's initial sentence of 10 years' imprisonment, with a non-parole period of seven years, six months was increased to 14 years' imprisonment with a non-parole period of 10 years, six months. MHK's initial sentence of seven years' imprisonment, with a non-parole period of five years, three months was increased to 11 years' imprisonment with non-parole period of eight years, three months.

More importantly, the Victorian Court of Appeal emphasised that in sentencing those convicted of terrorism offences, the need for general deterrence and denunciation should be prioritised over the personal circumstances of the offender. These cases represent an important clarification of the sentencing principles that apply to terrorism offences.

This matter was investigated and referred by the Australian Federal Police.



CASE STUDY

Re-sentencing of drug importer sends message of deterrence

On 23 June 2017, the Victorian Court of Appeal delivered judgment in the matter of DPP (Cth) v Jared Brown. This matter concerned an appeal we made against sentence for drug-related offending.

Brown was convicted at trial of offences related to two separate importations of methamphetamine into Australia, totalling 48 kilograms. The drugs were concealed in car engines imported from the United States in March and July 2013. Brown was initially sentenced to a total effective sentence of 12 years' imprisonment with a non-parole period of seven years. On appeal, this sentence was increased to 20 years' imprisonment with a non-parole period of 15 years. The Court of Appeal stated:

We accept the Director's submission that Brown's sentence does not reflect the gravity of his offending or the need to deter others from pursuing the substantial profits which drug importation can realise.

The court said that a clear signal needed to be sent to would-be offenders, motivated by the potential financial rewards of drug importation, that detection will inevitably lead to very lengthy terms of imprisonment. This case confirms that the large-scale importation of drugs is an offence of the utmost seriousness and importers can expect to receive significant sentences of imprisonment.

This matter was investigated and referred by the Australian Federal Police.



CASE STUDY

Gun smuggler sentenced to 17 years' imprisonment

In early 2012, Khoder El Ali used multiple false identities and false documents to smuggle 129 Glock pistols and 80 magazines into Australia, via 22 parcel post consignments sent from Germany, Switzerland and the United States. One of the pistols imported was subsequently used in a shooting in Wiley Park in early 2012. In total, 23 of the pistols imported by El Ali were linked to serious crimes committed by others.

El Ali and two co-offenders were arrested in March 2012. Following a lengthy trial prosecuted by the CDPP in the District Court of New South Wales, 32-year-old El Ali was convicted and sentenced to 17 years and three months' imprisonment, with a minimum term of 13 years for state and federal firearms offences. He will not become eligible for parole until March 2025.

In passing sentence on El Ali, the court said:

All of that criminality bespeaks at best a reckless indifference to, if not a positive desire to promote, the social harms, including the threat to public safety, inevitably associated with the unregulated introduction of these weapons into the community.

The sentence imposed in this matter provides an important deterrent to those who may seek to import dangerous weapons into Australia.

This matter was investigated and referred by the state police.



REVENUE AND BENEFITS FRAUD PRACTICE GROUP

Deputy Director: James Carter



MATTERS MANAGED

- » General tax fraud and tax compliance, including income tax and GST fraud
- » Social security fraud
- » Medifraud
- » All other frauds against the Commonwealth
- » Fraud-related money laundering
- » Identity fraud
- » Child support offences
- » Postal offences

REFERRALS

Referrals during
2016–17

1,030

Matters on hand
as at 30 June 2017

1,342



TOP REFERRING AGENCIES

In 2016–17 the top referring agencies to this practice group were:



DEPARTMENT
OF HUMAN
SERVICES



AUSTRALIAN
TAXATION
OFFICE



STATE AND
TERRITORY
POLICE



DEPARTMENT
OF HEALTH

THE ROLE OF THE REVENUE AND BENEFITS FRAUD PRACTICE GROUP

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

Commonwealth revenue and benefit systems rely heavily on the integrity and honesty of all Australians. These prosecutions are fundamental in protecting the resources of the Commonwealth for the benefit of all Australians.

Prosecuting fraud offences is a major part of our overall practice. Given the volume of matters referred, this year the practice group focused on collaboration, innovation, training and supporting and developing our lawyers to work effectively within and across teams. Flowing from this, we have established new ways to collaborate with our partner agencies and this has improved both the timeliness of investigations and prosecutions.

Revenue fraud

Prosecuting tax frauds remains a significant part of our practice. The majority of matters related to income tax and the goods and services tax (GST). These matters are typically referred by the Serious Non-Compliance area of the Australian Taxation Office, as well as the Australian Federal Police.

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

As part of our focus on innovation, this year the Revenue and Benefits Fraud Practice Group and the Australian Taxation Office worked together to establish a Framework for Effective Engagement throughout the investigation and prosecution process. This collaboration has generated new ways of working together and particularly supports our focus on early engagement.

Benefits fraud

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

CASE STUDY

On 16 September 2016, in the District Court at Maroochydore, former Australian Taxation Office employee Andrew Hurst was sentenced to seven years and six months' imprisonment with a non-parole period of three years, after he pleaded guilty to falsely claiming more than \$1.58 million in GST refunds.

Hurst had registered as a sole trader, as well as the sole director and beneficiary of another business that was operating as a Trust. Both businesses purportedly provided podiatry services, however, Australian Taxation Office investigations revealed both were fake.

Between April 2008 and June 2014, Hurst lodged 67 false Business Activity Statements with the Australian Taxation Office, where he recorded fictitious sales and purchases for his purported businesses. As a former Australian Taxation Office employee, Hurst knew that sales of a medical practitioner were GST-free and any purchases were GST claimable.

Hurst used the money he received from the false claims for gambling and overseas holidays, cruises, a time share, vehicles and home renovations.

On sentencing, Hurst was further ordered to pay reparation to the Commonwealth of Australia of \$1,585,413.

In sentencing, Judge Long SC said Hurst's offending was premeditated, calculated, and systematically persistent and involved substantial and cynical abuse of the self-assessment system relating to GST for businesses.

The Judge stated that:

There was abuse therefore, of the trust reposed in the operators of businesses in that regard and the system for the making of genuine returns and claims. Apart from the financial loss to the Commonwealth, your conduct strikes at the level of confidence placed in the efficiency and integrity of the Australian taxation system.

It was apparent to Judge Long SC that a degree of sophistication was involved, as Hurst had applied the knowledge he had gained from his previous employment at the Australian Taxation Office. As a result, his Honour noted it was both necessary and appropriate to achieve general and personal deterrence through imposing punishment appropriate to the crime.

This matter was investigated and referred by the Australian Taxation Office.

FAKE BUSINESS CLAIMS LAND OFFENDER IN PRISON



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

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

This year, we have seen an increase in more complex Centrelink prosecutions such as those involving redirected payments. These prosecutions usually involve people using other identities and directing payments made to those identities into bank accounts under their control. These frauds require evidence of Centrelink systems, financial analysis and marshalling of evidence from various sources to establish the identity of the alleged offender and the complex transactions involved.

Given the volume of matters referred, we have collaborated with partner agencies to streamline briefs of evidence and build investigative capability and capacity. For example, we have established a Joint Capability Review Committee with the Department of Human Services to advance a range of initiatives to increase efficiency.

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

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

Appeals

Case update—Court of Appeal Judgment, dual identity Centrelink fraud, Ezzat Zaky

On 23 September 2015, in the District Court of New South Wales, Ezzat Zaky was sentenced to five years' imprisonment with a 2.5 year non-parole period for defrauding the Commonwealth and obtaining a financial advantage by deception. The total value of the fraud was \$56,599. The charges related to Zaky's use of dual identities while claiming social security payments.

Zaky appealed his sentence on the grounds that the sentencing Judge had erred by misstating the maximum penalty at the beginning of her judgment. On 23 June 2017, the New South Wales Criminal Court of Appeal rejected this and further stated that the sentence in all the circumstances was appropriate.

Liaison activities focused on strengthening partner agency enforcement strategies

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

Over the past year, the practice group has helped to advance partner agencies' enforcement strategies and consider longer-term strategic issues. We have strengthened liaison and coordination arrangements with partner agencies and increased informal liaison.

In addition, the practice group's liaison activities also encompassed:

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

Contributing to wider government initiatives through legislative reform

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

This year we provided advice about potential reform to section 192 of the *Social Security (Administration) Act 1999* to assist in the investigation and gathering of admissible evidence for the purposes of prosecution. We liaised with the Department of Human Services and contributed to this legislative proposal relating to the use of section 192 contained in the Family Assistance and Other Legislation Amendment (Child Care and Other Measure) Bill 2009.

We continue to contribute to wider government initiatives in relation to fraud, including providing input on legislative reform via a close working relationship with the Attorney-General's Department.

CASE STUDY

Guilty plea in Centrelink fraud using false identities

On 3 August 2016, David Alan Knipe was sentenced to four years and nine months' imprisonment after pleading guilty in the Adelaide District Court—to defrauding Centrelink of \$125,586 as a result of his false claims for social security payments.

We prosecuted the case after the offending was detected through investigations conducted by the Department of Foreign Affairs and Trade and Centrelink.

Between 2006 and 2016, Knipe devised a complex scheme to defraud Centrelink by submitting false declarations and statements to obtain social security payments he was not entitled to, including Newstart Allowance, Disability Support Pension and Age Pension.

Knipe's scheme was in part facilitated by using false identities, including identities of two deceased infants who were born around the same time as him. He obtained primary identification documents in the infants' names, including birth certificates and drivers licences. He used these documents to support his false claims for payment from Centrelink and also to submit Australian Passport Applications in both of the infant's names. He successfully obtained one passport, which he used for travel on eight occasions.

This matter was investigated by the Department of Foreign Affairs and Trade and Centrelink, and referred by the Department of Foreign Affairs and Trade.

Read the details of this case at www.cdpp.gov.au.



CASE STUDY

Repeat offender imprisoned for failure to lodge tax returns

On 21 December 2016, Tanne Joyce was sentenced to six months' imprisonment after he pleaded guilty in the Perth Magistrates Court of failing to lodge five income tax returns between 2010 and 2014.

This was the third time Joyce had been prosecuted for failing to lodge these tax returns.

The first time he was prosecuted, he was fined and a court order was issued for him to lodge his outstanding income tax returns. He was then prosecuted a second time for not complying with the original court order and fined again. However, he still failed to lodge his returns, which led to this third prosecution.

After this latest case commenced, Joyce filed two of the five outstanding income tax returns. However, the Magistrate concluded that given the circumstances, a prison term was appropriate.

The Magistrate sentenced Joyce to six months' imprisonment to be released immediately after entering into a \$1,000 recognisance, on condition that he be of good behaviour for 12 months and lodge his three outstanding income tax returns within six months of the date of sentence.

In sentencing, the Magistrate noted the whole of society suffered when individuals did not lodge tax returns on time and pay their taxes.

This matter was investigated and referred by the Australian Taxation Office.

PROSECUTION APPEALS

Description of appeal	2015–16 outcome	2016–17 outcome
Prosecution sentence appeals in summary prosecutions upheld	Four appeals, of which one was upheld	Four appeals, of which all were upheld
Prosecution sentence appeals in a prosecution on indictment upheld	13 appeals, of which 10 were upheld	22 appeals, of which 10 were upheld

Prosecution appeals against sentence

The *Prosecution Policy of the Commonwealth* provides that the prosecution right to appeal against sentence should be exercised with appropriate restraint. In deciding whether to appeal, we consider whether there is a reasonable prospect that the appeal will be successful. Factors we may consider when deciding to appeal include whether:

- the sentence is manifestly inadequate
- the sentence reveals an inconsistency in sentencing standards
- the sentence proceeded on the basis of a material error of law or fact requiring appellate correction
- the sentence is substantially and unnecessarily inconsistent with other relevant sentences
- an appeal to a Court of Appeal would enable the court to lay down some general principles for the governance and guidance of sentencing courts
- an appeal will enable the court to establish and maintain adequate standards of punishment for crime

- an appeal will ensure, so far as the subject matter permits, uniformity in sentencing
- an appeal will enable an appellate court to correct an error of legal principle.

In 2016–17, a total of 22 prosecution appeals against sentence in indictable matters were decided. Of those, 10 were upheld while 12 were dismissed. Four prosecution appeals against sentence in summary matters were also decided, all of which were upheld.

A number of these appeals are summarised below.

DPP (Cth) v Pratten (No.2) [2017] NSWCCA 42

Timothy Charles Pratten was convicted by jury, on re-trial, of seven counts of obtaining a financial advantage by deception. The offending occurred between 2003 and 2009 and involved Pratten implementing an offshore tax evasion scheme and understating \$4.5 million of his taxable income, which resulted in over \$2 million of unpaid tax. Pratten was sentenced to a head sentence of five years' imprisonment with a two year non-parole period. In a separate jury trial, Pratten was convicted of attempting to remove a boat from Australia that was subject to a Proceeds of Crime restraining order. He was fined \$10,000.

The Director appealed against both sentences on the ground of manifest inadequacy. The New South Wales Court of Criminal Appeal held that the sentences imposed by the lower courts were affected by specific error as well as being manifestly inadequate and/or inadequately accumulated. Pratten was re-sentenced for the tax fraud offences to a fixed single non-parole period of three years and nine months, and re-sentenced for the Proceeds of Crime offence to a term of imprisonment for six months. Overall, Pratten was re-sentenced to a head sentence of six years and four months, with a non-parole period of three years and nine months.

DPP (Cth) v Brown [2017] VSCA 162

Jared Samuel Brown was convicted by a Victorian County Court jury of two charges of importing a commercial quantity of a border controlled drug. The charges related to the importation of 48 kilograms of pure methamphetamine into Australia. The methamphetamine was concealed in motor vehicle engines, which were imported into Melbourne from California. Brown was sentenced to a total effective sentence of 12 years' imprisonment with a non-parole period of seven years.

The Director appealed against the sentence imposed on Brown. The Victorian Court of Appeal allowed the Director's appeal and re-sentenced Brown to a total effective sentence of 20 years' imprisonment with a non-parole period of 15 years. The court said that the original sentence imposed on Brown did not adequately reflect the gravity of his offending and the need to deter others. More details are in the case study on page 91.

DPP (Cth) v Rowan Boyles (a pseudonym) [2016] VSCA 267

Rowan Boyles pleaded guilty to soliciting child pornography and procuring a 15-year-old girl who was undertaking a work experience program where he was employed. The sentencing Judge found that Boyles suffered from bipolar disorder, which reduced his moral culpability, despite the fact that he had voluntarily ceased taking the medication prescribed to treat his bipolar condition. Boyles was sentenced at the Victorian County Court to a Community Corrections Order for 2.5 years on the condition that he perform 250 hours of unpaid community work. In her written reasons, the sentencing Judge later acknowledged that her conclusion regarding the reduction in moral culpability in circumstances where Boyles had voluntarily stopped taking his medication was, in fact, incorrect.

The Director appealed against the sentence imposed. The Victorian Court of Appeal, dismissed the appeal, but nevertheless found that there had been an error by the sentencing Judge and that a custodial sentence, albeit of relatively short duration, should have been imposed. The court did not interfere with the sentence because of the particular circumstances of the case.

R v White; R v Sao Pedro Fishing Pty Ltd; Ex Parte DPP (Cth) [2017] QCA 140

Christopher White (the master of the Australian Fishing Vessel Sao Pedro and the sole director of Sao Pedro Fishing) and Sao Pedro Fishing Pty Ltd (the owner of the vessel and holder of the fishing concession that the vessel operates under) were each charged with and pleaded guilty to four counts of fishing for a commercial purpose in a Commonwealth Reserve. They were each convicted and fined \$5,000 in the Townsville District Court.

The offending took place in the larger Coral Sea Marine Reserve, where all types of recreation and commercial fishing have been prohibited since 1982. The commercial fishing trip involved the vessel conducting long-line fishing activities targeting tuna, using a long-line approximately 59 kilometres long with 1,800 baited hooks attached. On four days during this fishing trip, the Sao Pedro was tracked by its on-board Vessel Monitoring System (which sends GPS data back to the Australian Fisheries Management Authority) and found to be fishing within the area of the Coral Sea Marine Reserve where fishing is prohibited. The vessel travelled up to 10.5 kilometres inside the Reserve. The total catch across these four days was approximately 5,648 kilograms, but it wasn't possible to calculate the exact quantity of fish caught within the Reserve. The trip's total catch sold for \$42,947.58.

The Director appealed against the sentence imposed on both Sao Pedro Fishing Pty Ltd and White on the grounds that the sentence imposed was manifestly inadequate, and further that the sentencing Judge erred in finding White to have been negligent, not reckless, with regard to his location within the Reserve. The Queensland Court of Appeal dismissed the appeals and found that while the sentence imposed was lenient, it was not

manifestly inadequate. The court found that the second ground of appeal, the specific error, had not been made out. The court found no error in the sentencing judge's conclusion that White had been negligent, not reckless, stating that: 'The offending was occasioned by a negligent failure to ensure that he had up to date charts...This evidence, and Mr White's conduct, did support the conclusion that he had not exercised the care and skill of a reasonably competent commercial fisherman in his position'.

R v Crumpton [2016] NSWCCA 261/ R v Crumpton (No. 2) [2017] NSWCCA 3

John Crumpton, a pilot, was flying a light aircraft below the minimum level prescribed, when it hit power cables and crashed into a river, killing a child passenger and causing serious injury to the child's father. Crumpton was sentenced, after trial, in the District Court of New South Wales for offences relating to operating an aircraft in manner reckless as to endanger life, for which he was sentenced to 15 months' imprisonment, and to operating an aircraft in a manner reckless as to endanger a person, for which he was sentenced to nine months' imprisonment. The sentences were ordered to be served concurrently. He was ordered to be released forthwith pursuant to section 20(1)(b) of the *Crimes Act 1914* upon entering a recognisance in the sum of \$1,000 and to be of good behaviour for three years.

A Crown appeal against sentence was allowed. The New South Wales Court of Criminal Appeal discussed the objective seriousness of the offence, the need for general deterrence in relation to this type of offending, suspended sentences, concurrency and manifest inadequacy. The court increased the sentence to a term of 21 months' imprisonment for the offence of operating an aircraft in manner

to endanger life, and 12 months for the offence of operating an aircraft in manner to endanger a person. The court imposed a sentence of imprisonment of two years, with the sentence to be served by way of an Intensive Corrections Order. (Note: the New South Wales Director of Public Prosecutions conducted the trial and appeal on behalf of the Commonwealth Director).

R v Succarieh; R v Succarieh; Ex parte CDPP [2017] QCA 85

Omar Succarieh pleaded guilty to two offences of preparations for incursions into a foreign state and two offences of giving money for incursions into a foreign state. His offending related to acts done to assist another Australian man to travel from Australia to Syria to engage in hostile activities with Succarieh's brother, Abraham, and sending approximately US\$43,000 to Abraham, who was associating with members of the prescribed terrorist organisation Jabhat al-Nusra, with the intention of supporting Abraham and three other Australians to engage in, or continue to engage in, armed hostilities in Syria. Succarieh was convicted and sentenced in the Supreme Court in Brisbane to a total sentence of 4.5 years' imprisonment, with a non-parole period of three years.

Both Succarieh and the Director appealed the sentence imposed. In dismissing both Succarieh and the Director's appeals, the Queensland Court of Appeal examined past sentencing decisions for offences under the *Crime (Foreign Incursions and Recruitment) Act 1978* and concluded that it had not been demonstrated that the sentence imposed was manifestly excessive, nor that the sentence demonstrated specific identifiable error or was so unreasonable or plainly inadequate such that there had been a failure to properly exercise the sentencing discretion.

DPP (Cth) v MHK (a pseudonym) [2017] VSCA 157

MHK, a juvenile at the time of the offence, appeared before the Victorian Supreme Court where he pleaded guilty to a charge of doing an act in preparation for, or planning, a terrorist act. At the time of his arrest, MHK was constructing as many as seven pipe bombs and at least one pressure cooker bomb. MHK intended to use the bombs to commit a terrorist act in Melbourne. MHK was convicted and sentenced to seven years' imprisonment, with a non-parole period of five years and three months.

The Director appealed against the adequacy of the sentence imposed on MHK. The Victorian Court of Appeal allowed the Director's appeal and re-sentenced MHK to 11 years' imprisonment with non-parole period of eight years and three months.

In its judgment, the court said:

The seriousness of the offence, to which the respondent pleaded guilty, is reflected in the maximum sentence of life imprisonment prescribed by the Criminal Code (Cth). Terrorist acts, of the kind planned and prepared by the respondent, are calculated to, and do, cause widespread carnage and suffering amongst civilian populations. Their objective is to strike at the heart of our liberal, democratic and tolerant society. Such actions, and the conduct indulged in by the respondent, are driven by a depraved and evil ideology and mentality, which are anathema to the fundamental values of our nation.

The court went on to say:

The protection of our society, and the upholding of its most fundamental values, necessitate that in cases such as this the sentencing considerations of general deterrence and denunciation must be given primacy above the ameliorating effect of youth.

More details are in the case study on page 90.

DPP (Cth) v Sevdet Besim [2017] VSCA 158

Sevdet Ramadan Besim appeared before the Victorian Supreme Court where he pleaded guilty to doing acts in preparation for, or planning, a terrorist act. It was alleged that Besim planned to kill a police officer during Anzac Day commemorations in Melbourne 2015 and then use the officer's weapon to commit further acts of violence. Besim was convicted and sentenced to 10 years' imprisonment, with a non-parole period of seven years and six months.

The Director appealed against the inadequacy of the sentence imposed. The Victorian Court of Appeal upheld the appeal and re-sentenced Besim to 14 years' imprisonment with a non-parole period of 10 years and six months. In allowing the appeal, the court said the starting point when considering the appeal ground of manifest inadequacy was the maximum penalty for the offence, which in this case was life imprisonment. Further, the court said that, in sentencing those convicted of terrorism offences, courts will accord primacy to considerations of general deterrence and denunciation above the personal circumstances of the offender.

More details are in the case study on page 90.

DPP (Cth) v El Sabsabi [2017] VSCA 160

Hassan El Sabsabi appeared before the Victorian Supreme Court where he pleaded guilty to two rolled-up charges of doing acts preparatory to incursions into a foreign State, namely Syria, for the purpose of engaging in hostile activities. It was alleged that on 11 separate occasions El Sabsabi transferred funds, totalling \$15,999, to a United States citizen, for the purpose of facilitating that person's travel from the United States to Syria and, once there, to enable that person to engage in hostile activities in that country. El Sabsabi was sentenced to imprisonment for 44 days, after which he was ordered to be released on a two-year Community Corrections Order.

The Director appealed against the inadequacy of the sentence imposed on El Sabsabi. The Victorian Court of Appeal dismissed the Director's appeal against sentence as the court was not persuaded that the sentences imposed were wholly outside the range reasonably open to the court in all of the circumstances of the case. The court also held that it should be remembered that sometimes the interests of justice are not necessarily best served by incarceration where a relatively youthful offender may be 'taught the ways of the criminal'.



In sentencing those convicted of terrorism offences, courts will accord primacy to considerations of general deterrence and denunciation above the personal circumstances of the offender.

VICTORIAN COURT OF APPEAL



R v Jafari [2017] NSWCCA 152

Mehrdad Jafari was a senior lawyer with the Australian Government Solicitor. He and a colleague were jointly responsible for managing a trust fund established by the Commonwealth for the benefit of a former member of the Australian Defence Force who had been permanently incapacitated. On 20 August 2008, Jafari prepared an authority for a payment of \$220,000 to be drawn from the trust and paid to a friend, to whom he owned a large debt as a result of borrowing money to spend on gambling. He signed the document himself and forged the signature of his colleague.

Jafari pleaded guilty in the New South Wales District Court to one count of theft, contrary to section 131.1(1) of the Criminal Code (Cth). He was sentenced to two years' imprisonment to be served by way of an Intensive Corrections Order.

The Director appealed against sentence on the ground of manifest inadequacy. The New South Wales Court of Criminal Appeal upheld the appeal and imposed a sentence of three years' imprisonment with Jafari to be released on a recognisance release order after serving 18 months.

The court held that in this case, a period of full-time custody was mandated in order to reflect the seriousness of the offending. While the offending was a single instance committed over a relatively short period of time, the court held that the following factors informed the objective seriousness of the offence:

- This was a breach of trust by a solicitor in the course of his employment.

- The breach of trust was ongoing as the respondent did not own up to the offending for a number of years and then only after criminal proceedings had commenced.
- The amount of money (\$220,000) was sizeable.

The court considered the fact that the respondent had repaid the money in compliance with Proceeds of Crime Act orders. It affirmed the reasoning in *R v Host* [2015] WASCA 23, holding that mere payment of an involuntary, court ordered and enforceable obligation is not evidence of contrition or a mitigating factor. However, where voluntary steps are taken or where an order is made by consent, this may provide evidence of contrition.

The court also considered the decision in *Johnston v R* [2017] NSWCCA 53, holding that a gambling addiction may serve to reduce the offender's moral culpability in circumstances that fall short of demonstrating a lack of capacity to exercise judgement or that the act was not voluntary. Importantly, it held that a better understanding about the susceptibility of an individual to addictive behaviour and the physical symptoms that can accompany addictive behaviour may satisfy a court that the offence does not provide an appropriate vehicle for general deterrence or retribution—however, that was not shown in this case.

Exercise of statutory powers

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

'No Bill' applications

After a defendant has been committed for trial, the question sometimes arises whether the prosecution should continue. This can arise either as a result of an application by the defendant or on our own initiative. A submission made to the Director to discontinue such a matter is known as a 'no Bill' application.

The Director's power to discontinue is delegated to the CDDP Practice Group Deputy Directors and branch heads who make these decisions in certain circumstances.

In the past year there were six 'no Bill' applications received from defendants or their representatives decided by the Practice Group Deputy Director. Of these, five were granted and one was refused. A further 17 prosecutions were discontinued on the basis of a recommendation from a prosecutor without prior representations from the defendant. A total of 22 prosecutions were discontinued, following decisions by Practice Group Deputy Directors.

In all of the 22 prosecutions that were discontinued, the primary reason for discontinuing was because there was insufficient evidence.

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

Indemnities

The *Director of Public Prosecutions Act 1983* (the DPP Act) empowers the Director to give an undertaking—referred to as an indemnity—to a potential witness in three circumstances:

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

In the past year, we provided 10 indemnities under sections 9(6) and one indemnity under section 9(6B), mostly in relation to drugs and related offences.

Taking matters over—private prosecutions

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

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

The Director was not required to exercise this power during 2016–17.

Ex officio indictments

The Director has powers under section 6(2A)–(2D) of the DPP Act to institute prosecutions on indictment referred to as *ex officio* indictments. These powers are used in circumstances where a defendant consents to a prosecution on indictment without being examined or committed for trial or where a defendant stands trial on different charges from those on which they were committed, whether under Commonwealth, state or territory law. Section 6(2D) of the DPP Act provides that in any other case where the Director considers it appropriate to do so, the Director may institute a prosecution of a person on indictment for an indictable offence against the laws of the Commonwealth in respect of which the person has not been examined or committed for trial.

In certain circumstances the decision to present an *ex officio* indictment is delegated to Practice Group Deputy Directors and branch heads. In 2016–17 the Director or a Practice Group Deputy Director exercised *ex officio* powers on six occasions.

Consent to conspiracy proceedings

The Director's consent is required before proceedings for Commonwealth conspiracy offences can commence.

In 2016–17 the Director consented to the commencement of conspiracy proceedings against 29 defendants in relation to nine alleged conspiracies.

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

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

In 2016–17 the Director was not required to give consent for such proceedings.

NATIONAL BUSINESS IMPROVEMENT



Transforming our business systems for the digital era



Establishing standards and processes to drive business improvements



Building our people capability through legal learning and professional development



NATIONAL BUSINESS IMPROVEMENT PRACTICE GROUP

Deputy Director: David Adsett

The National Business Improvement Practice Group was established in May 2016. The purpose of the practice group is to foster innovation and drive business improvements across the legal practice.

Until May 2017, the National Business Improvement Practice Group was accountable for the Legal Business Improvement branch, which is responsible for legal policy and procedure. This branch now reports to the Commonwealth Solicitor for Public Prosecutions (see page 118 for more details about this branch).

This move allowed the National Business Improvement Practice Group to focus on the strategic projects that will revolutionise the way we work, in addition to managing the Legal Learning and Professional Development function, which is responsible for ensuring our prosecutors have the essential skills necessary to undertake their prosecution work.

Strategic projects

The effective management of our prosecution lifecycle connects all the projects managed by the National Business Improvement Practice Group.

Enabling the submission of electronic briefs of evidence

Our e-brief Standards project and our Referrals Gateway project will enable the submission of electronic briefs of evidence from partner agencies. Partner agencies are embracing electronic document management practices to deal with the extensive amount of material that typically makes up a single brief of evidence. Establishing electronic brief referral guidelines and an online secure gateway for brief submission will improve efficiencies in both the investigation and prosecution process.

e-brief Standards project

A quality digital brief helps prosecutors and defence lawyers quickly identify key evidence. This helps to narrow issues in dispute and generate earlier guilty pleas, saving valuable time and resources.

We have been collaborating with the Australian Federal Police to develop a set of e-brief standards, in relation to mandatory information, file size, format, metadata, software and evidence types. These standards will ensure briefs are completed and can be assessed efficiently.

Draft e-brief referral guidelines were completed in June 2017, and will be released to partner agencies for consultation in July 2017. We expect to implement the guidelines in 2017–18.

Referrals Gateway project

Receiving briefs of evidence digitally will improve the efficiency and effectiveness of federal prosecutions.

Our Referrals Gateway project will establish a secure, online referrals gateway for partner agencies to submit their e-briefs. The referrals gateway will feature in our Partner Agency Portal—our dedicated site for partner agencies.

During 2016–17 detailed business requirements and specifications were developed and the referrals gateway was built and tested, paving the way for it to be trialled with selected agencies in 2017–18, before being introduced to each partner agency.

After we launch the referrals gateway, we will continue to enhance its features and functionality.

Delivering an integrated case management system

This year we initiated a Business Management Solution project, encompassing our Document Automation project, to revolutionise case management now and into the future.

Together, these projects will deliver a secure, flexible and contemporary system that supports the CDDP's business processes and offers end-to-end case management with embedded document and workflow management functions. The system will provide us with an efficient and effective business tool for managing information related to criminal prosecution matters.

Document Automation project	Business Management Solution project
<p>Our legal work relies heavily on the production of documents, including court forms, correspondence with stakeholders and internal minutes, known as precedents.</p> <p>This project will establish a national suite of precedents for a full range of legal scenarios. To date, the project has reviewed thousands of precedents, and relevant documents have been updated, those no longer required have been archived, and new precedents have been developed, with more to come.</p> <p>Having these precedents at hand will help us achieve significant efficiency gains, while enabling and supporting our prosecutors at a very practical level, to progress their matters.</p> <p>Precedents will be integrated into the Business Management Solution, when developed.</p>	<p>We have received \$4.5 million through the Government's Modernisation Fund, to develop a new Legal Business Management Solution. The two-year project will result in a system that includes the following functionality:</p> <ul style="list-style-type: none">• case management• document templates (precedents)• document storage and access• advanced search• workflows• contact management• system administration• reporting. <p>The Business Management Solution project commenced in 2016 and reached an important milestone in April 2017, when we sought Expressions of Interest from potential suppliers, before inviting short-listed suppliers to respond to a Request for Tender in May 2017.</p>

Digital tools and technology to improve efficiencies

Providing relevant digital tools and software to prosecutors to improve their prosecution practices has been a key theme for the CDDP during 2016–17. In particular, two projects—dtSearch and CaseLink—led to the introduction of software solutions to enable lawyers to look at multiple sources of information at once, and analyse evidence more efficiently.

dtSearch project	CaseLink project
<p>dtSearch is a powerful search tool to enable lawyers to search across documents held within a number of locations. Results are returned in a user-friendly way to enable prosecutors to quickly identify critical information for their cases.</p>	<p>CaseLink is an internally developed litigation support database, allowing summaries and chronologies to be analysed and relationships between data to be mapped. This system has allowed prosecutors to extract subsets of evidence in one click.</p>

These tools have been supported by a dedicated project leader and internal training for prosecutors—an extension of the thorough training program offered through our Legal Learning and Development team.

Legal Learning and Professional Development

The National Business Improvement Practice Group also encompasses the Legal Learning and Professional Development team.

LEGAL LEARNING AND PROFESSIONAL DEVELOPMENT—KNOWLEDGE TO EMPOWER OUR PEOPLE AND IMPROVE OUR PROSECUTIONS			
			
FEDERAL PROSECUTOR INDUCTIONS	CONTINUING LEGAL EDUCATION— FOCUSED ON BUILDING CORE LEGAL SKILLS	SPECIALIST LEGAL ADVOCACY SKILLS TRAINING	BUSINESS SKILLS— PRESENTATION AND SOFTWARE SKILLS

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

In July 2016, following a comprehensive needs analysis, the team developed and launched the Legal Learning and Professional Development Strategy. The strategy provides a framework for embedding a culture of continuous learning through targeted activities and programs such as induction training, legal professional development, specialist skills for Commonwealth prosecutions, and core business skills.

During the year, the team also developed a tailored training program to assist lawyers to acquire the necessary skills to navigate, search and identify relevant information within specialist legal research databases, which they often access to review historical legal cases and sentences to inform their prosecution work.

The coming year will also see the introduction of new technology solutions to enable learning modules to be delivered online, enabling lawyers to participate in coordinated and self-paced learning programs to build the core legal skills of our prosecutors nationally.



CASE STUDY

We are committed to the professional development of our Federal Prosecutors. Our high calibre recruits are our future Senior Federal Prosecutors, managers and leaders, and we want to ensure they reach their full potential and see a career path for themselves in Commonwealth prosecutions.

As part of our induction program, prosecutors have to carry out a work-based project designed to give them first-hand experience of government, agency issues and competing priorities. Importantly, the program also provides an opportunity to develop good working relationships with our agency partners.

When prosecutors attend their initial induction conference, they are assigned their work-based project. They then have time to prepare their projects, before presenting them to their peers and the Executive Leadership Group.

In June 2017, prosecutors who started between May 2016 and October 2016 presented their projects in Brisbane. The event celebrated the hard work prosecutors had put into their projects.

Held alongside the Executive Leadership Group Conference in Brisbane, participants presented their project findings using two-minute video clips, and also spent time reflecting on their experiences and giving feedback on the program.

The projects

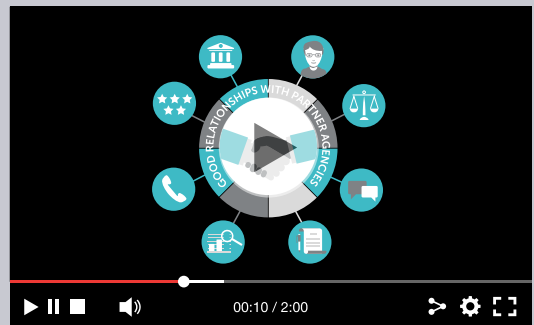
In project teams of seven, 40 prosecutors had to address a topic related to a current agency issue, an area of improvement or a current whole-of-government priority. The seven topics included:

- **Career progression at the CDPP.** This team had to research the motivation and expectations of people who apply for a role at the CDPP. They had to consider how we could improve recruitment processes and the on-boarding experience. The team developed a new brochure specifically targeted to candidates selected for an interview for a Federal Prosecutor Level 1 role.
- **Timely responsive prosecution services for partners.** This team had to develop resources to assist new Federal Prosecutors understand and improve key performance measures with partner agencies—timeliness and responsiveness. The resource is a timeline that details key events and steps during the life of a prosecution, as well as opportunities for effective engagement.
- **Educating defendants.** This team had to develop an artefact or service the CDPP could provide to defendants at the start of the prosecution process. The intention is to develop a nationally consistent information sheet to give to defendants at the same time as serving charges.

PROJECT WORK PUTS NEW PROSECUTORS THROUGH THEIR PACES

- **Internal communications.** This team had to analyse communication channels/mechanisms between different levels of Federal Prosecutors, and develop a plan to enable better information/communication sharing for the Federal Prosecutor group. The team focused on developing a mentoring program to improve communications between Assistant Directors, Work Group Coordinators and the Federal Prosecutor cohort.
- **Tools of your trade** (two teams). Team A and B both had to consider three tools that would best help Federal Prosecutors improve productivity. They had to select one of the three tools to further develop and implement.
 - Team A explored our mobile devices and their use in court lists. Their proposed solution was to include instant access to resources and material that would facilitate efficient conduct of a court list and a single source of data entry.
 - Team B developed an induction resource for the International Assistance and Specialist Agencies Practice Group by consolidating existing induction resources and materials, and adding a suite of new materials they created.
- **Engaging with partner agencies.** This team had to develop a methodology for gaining useful information about an agency that prosecutors have limited knowledge about, when completing a brief of evidence.

To develop their solutions or products, each team had to prepare a project outline with milestones, costings and key performance indicators, and identify and collaborate with relevant agency representatives and stakeholders. In addition to the digital media clip detailing their findings, each team also had to draft a final report for endorsement to proceed, which they presented to the Executive Leadership Group.



Participants commented on how valuable the project work had been in facilitating greater connections among staff, practice groups, partner agencies and other key stakeholders. All participants said it had been very rewarding—both personally and professionally—to work in teams with people drawn from different areas and offices, and they were grateful for the support they received from other areas, such as Legal Learning and Development and the Communications team.

The importance of personal relationships came to the fore repeatedly in feedback from participants. In particular they mentioned the importance of the project advisors, who acted as central points of contact and support, and oversaw progress.

Legal Business Improvement

Oversight for the Legal Business Improvement branch moved from the National Business Improvement Practice Group to the Commonwealth Solicitor for Public Prosecutions in May 2017.

The branch focuses on the many operational aspects of enabling and supporting a busy legal practice. Responsibilities include:

- developing and managing internal policies and guidelines
- establishing and maintaining a list of experienced Barristers appointed to the CDPP's External Counsel Panel List
- managing resources integral to the work of partner agencies including various warrant manuals
- continually developing, updating and maintaining guidelines to assist partner agencies with their investigative work
- managing content and proactively communicating time-critical information to partner agencies through our secure Partner Agency Portal.

More information about the Partner Agency Portal is in the case study on page 36.

The Legal Business Improvement branch also provides coordination functions and supports the Director, as well as playing a key role in relation to law reform, including liaison with the Attorney-General's Department.

Functions that support the Director include coordinating parliamentary liaison, liaison with Heads of Commonwealth Law Enforcement Agencies as well as providing statistical reporting and specialist advice and support across the CDPP.

Federal Counsel Group (in-house)

The Federal Counsel Group was established as part of the national practice group model to provide national and specialist in-house advocacy.

The group brings together specialist in-house advocates capable of regularly conducting federal criminal jury trials, Superior Court appeals and other more challenging and complex appearance work that would otherwise be briefed to the private bar.

This year, the Director initiated a more flexible model to encourage lawyers across the CDPP to extend the level of advocacy undertaken in-house. This has been supported by specialist criminal advocacy training.

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

External Counsel Panel

In addition to in-house advocacy, we engage private counsel to support some of the litigation work we conduct and have established an External Counsel Panel for this purpose.

In late 2016, through the various Bar Associations around Australia, we invited barristers to apply to join the CDPP External Counsel Panel list. Following consideration of those applications, 364 panel members were selected to establish a formal panel of advocates from the junior bar.

This panel approach allows us to increase the number of junior counsel briefed, improve gender equity in our briefing practices, and create a quick and easy application process for members seeking to work with the CDPP. Further, by having a panel that is reviewed every four years, we can ensure that the advocates we brief have up-to-date and relevant experience to undertake prosecution work for the CDPP.

National Model Gender Equitable Briefing Policy

We recently adopted the *National Model Gender Equitable Briefing Policy*, set out by the Law Council of Australia. The policy aims to set measures that ensure a level playing field for all Australians in the legal profession, including the ultimate aim of briefing women in at least 30 per cent of all matters and paying 30 per cent of the value of all brief fees by 2020. Establishing the CDPP External Counsel Panel is further evidence of our organisation's commitment to ensuring our counsel arrangements and briefing practices are more transparent and equitable.

There is more information about the *National Model Gender Equitable Briefing Policy* at www.lawcouncil.asn.au.



CORPORATE SERVICES GROUP—SUPPORTING THE LEGAL PRACTICE



Deliver timely, quality services to support the day-to-day operation of the CDPP



Provide modern business systems underpinned by digital information that supports a highly connected, technology-enabled workplace



Work collaboratively with business areas to build a high performing, informed and engaged workforce

CORPORATE SERVICES GROUP

Chief Corporate Officer: Gaby Medley-Brown

The Corporate Services Group provides a customer-focused and collaborative approach to tailoring and strengthening the support services for the legal practice. This approach has led to the delivery of many transformational projects across the CDP—designed and delivered in close partnership with prosecutors and partner agencies.

The work of the Corporate Services Group is ongoing and prioritised to balance both our organisation's immediate and long-term needs.

In 2016–17 the Corporate Services Group committed to:

- delivering timely, quality services to support the day-to-day work of the legal practice
- providing modern business systems to equip prosecutors with the necessary tools they need to do their work.

The Corporate Services Group comprises a number of Service Centres. These dedicated teams of specialist corporate staff work both behind the scenes and directly with legal staff to deliver support services and ensure these services are always maintained, improved and advanced in line with the needs of the business.

Strategy, communications and planning

Communications

The Communications team strengthens our engagement, collaboration and communications with stakeholders, including staff, partner agencies, media, state and territory counterparts and the broader Australian community. This involves providing specialist communication services and advice to assist practice groups and business areas to deliver their internal programs, and external communication. During 2016–17 the team delivered an extensive program of work.

Internal communications initiatives included:

- delivering an adaptable and scalable intranet (e-hub) to disseminate news and information, and connect staff to the resources and tools they need to complete their work
- introducing an account management approach to proactively identify initiatives that require communications support
- developing and delivering internal campaigns and events to engage staff in initiatives and programs or to celebrate achievements or acknowledge successes.

Projects related to communication with partner agencies included:

- working with practice groups and industry partners to promote prosecution outcomes and emerging crime types
- launching the new Partner Agency Portal with improved functionality, capability and user experience
- supporting practice groups in designing, developing and delivering professional partner agency liaison events and conferences
- managing the Stakeholder Business Satisfaction Survey and presenting results to practice groups.

Media work this year included:

- responding to media enquiries in a timely manner (100 per cent of enquiries addressed within 24 hours)
- working with media to secure coverage of high-end case outcomes
- launching internal media guidelines and providing media training for senior executives in the Organised Crime and Counter-Terrorism, Illegal Imports and Exports, and Human Exploitation and Border Protection Practice Groups
- participating in joint initiatives with partner agencies on child exploitation, serious financial crime, and counter-terrorism matters.

Work to educate the community included:

- promoting prosecution outcomes across a range of crime types on the CDDP website
- providing prosecutors with resources, presentations and promotional resources to attend conferences, forums and career events.

Information management

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

In 2017, the Information Management team redeveloped the Library Management System to coincide with the launch of our new intranet, e-hub. The new library system allows for improved searching and filtering of results, and integrates with the intranet to provide prosecutors with quick and easy access to internal and external legal research databases.

National administration support

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

This year, the team developed and launched a service offer confirming the full range of support activities and functions provided to the legal practice on a nationally consistent basis.

A new dynamic e-form was also developed and launched on our new e-hub intranet. The e-form complements the service offer and enables easy access to the full range of services available. The service offer and e-form will enable the team to identify priority services, allowing resources to be allocated effectively on a national basis.

The changing needs of the legal practice and introduction of a new Business Management Solution (see page 113) will see the service offer and skill set of the team continue to evolve.

Governance and internal audit

The Governance team is responsible for both organisational governance and internal audit. The team provides strategic, operational advice and support to the Executive Leadership Group and senior management on all aspects of public sector governance, in accordance with the relevant legislation and government policy.

In 2016–17 the team continued to refine and tailor our practices to suit our agency while strengthening relationships with our stakeholders in the Department of Finance and the Attorney-General’s Department.

The internal audit team is responsible for providing an independent assurance on compliance with procedures and systems of internal control, and assisting management to improve business performance.

People

The People team supports the CDPP’s effective and efficient operation by implementing strategic workforce measures, presenting workforce reports, and providing support across all areas of human resources. Services provided include:

- dedicated human resources business partners
- Workplace Wellbeing Program
- payroll and recruitment services
- work, health and safety support
- case management and rehabilitation services
- learning and development programs.

Integral to our work and the operations of the CDPP is the wellbeing of our people. During the reporting period we launched a tailored Workplace Wellbeing Program to monitor and support the wellbeing of all staff. The program includes a dedicated Employee Assistance Program, health initiatives including a Health and Wellbeing Portal, and Wellbeing Checks.

Due to the diversity and nature of our prosecution work, it is essential that we support staff who may be exposed to confronting imagery and information contained within briefs of evidence that could cause trauma or stress.

Wellbeing Checks offer staff strategies and resources to support workplace participation while coping with challenging work situations. Checks are held regularly with prosecutors considered at risk of psychological injury or accumulative stress.

This is just one example of the many initiatives designed to support our people. More information about our people is in Chapter 5, from page 150.



Finance

The Finance Services teams provide policy, reporting, and advisory support to the CDPP across all areas of finance. Services provided include:

- procurement, contracts, financial delegations and approving expenditure of public money for goods and services
- payment of accounts payable and receivable, credit cards, petty cash and staff reimbursements
- travel management including booking tool administration, processing movement requisitions, allowances and payments
- policy and guidance including the Director's Finance Instructions and financial delegations
- administration of the Financial Management Systems
- financial reporting, budgets and asset management.

More information about financial management reporting and key initiatives in 2016–17 is in Chapter 5, from page 166.

Technology

Our computing environment comprises a national network covering all of our offices across Australia.

The focus for 2016–17 was delivering fit-for-purpose information technology products and contemporary tools and services that represent value for money. This included:

- introducing mobile computing and secure remote access to the CDPP network for all prosecutors
- introducing secure access to our network from iPhones

- migrating our server infrastructure to a secure and highly available commercial data centre
- modernising the work of our legal practice by introducing commercial off-the-shelf digital solutions.

During the year, the technology team collaborated with the legal practice and provided specialist information technology advice to inform a range of critical projects, and worked to implement them. This work included:

- managing development of the online referrals gateway to enable the online and secure submission of electronic briefs
- developing a procurement strategy and plan to engage a software vendor to develop a Business Management Solution for legal case management and document automation
- upgrading the Human Resource Management System, establishing the system as the 'single source of truth' for role based security for business systems
- migrating to a new cloud-based Financial Management Information System
- expanding our video conferencing capability
- introducing a national digital solution for case files and administrative records storage
- providing the appropriate server solution to enable the launch of our new intranet, e-hub
- enhancing our digital records management capability, in line with the *Whole of Government Digital Continuity 2020 Policy*.

CASE STUDY

Our new intranet, e-hub was designed to be intuitive and provide access to the information, tools and resources staff need to effectively and efficiently carry out their work.

Since launching in February 2017, e-hub has received positive feedback. Staff have commented on how it is 'easy to navigate and extremely helpful', 'very professional' and a 'fantastic site', with one person referring to it as 'revolutionary'.

e-hub delivers a completely new, custom-designed experience for staff. The homepage includes an easy-to-use drop-down mega-menu revealing useful content at every level of the site—accessible in just one click. Our information, resources and tools are now categorised into five key areas—National Practice Areas, Legal Centre, Corporate Centre, Forms and Templates and About Us—while a range of quick links and toolboxes provide multiple ways to find information, resources or services quickly. Key features include:

- a dedicated news feed on the homepage to share knowledge and profile staff and their work
- an online forum, e-talk, to enable online collaboration for staff to explore aspects of the law or their practice
- a court diary, showing what is in court today, this week and more
- a national calendar highlighting key commitments and events across the organisation
- new e-forms that allow staff to log requests for various services and register for upcoming Continuing Legal Education training events

- an area where staff can create their own 'favourites' and provide feedback or request an update on every page, ensuring content remains current and relevant
- online manuals that are being digitised to make guidance easy to navigate and searchable.

Through extensive consultation and embracing ideas from staff, the e-hub project also integrated and modernised our e-library, delivering a seamless user experience for staff operating between the two platforms.

As we continue to develop e-hub, we will focus on creating meaningful content that keeps everyone informed, updating information when it becomes out-of-date, publishing guidance or policies as they become available, establishing a publishing community to maintain and improve e-hub in line with the changing nature of our work, and implementing new features to drive efficiencies in our legal practice and corporate operations.

e-hub has connected staff at every level of the organisation and established a modern, agile and flexible communication channel designed to meet staff needs.

e-hub was a collaborative effort between the Communications team, Library and Research Services, and Technology team.

CONNECTING STAFF TO RESOURCES, TOOLS, SYSTEMS AND EACH OTHER THROUGH E-HUB

The screenshot shows the eHub homepage with a dark blue header containing navigation icons for e-TALK, NOTICE BOARD, CONTACTS, and SEARCH. Below the header is a secondary navigation bar with categories: National Practice Areas, Legal Centres, Corporate Centre, Forms and Templates, and About us. The main content area is divided into several sections:

- My news:** A vertical sidebar on the left with a list of news categories including CDPP News, MISC/DIR, DPE, ISP, DCC, IS, RBCP, LISA, NSI, LIBRARY, CDPP/OKAIR, and ALL NEWS.
- Information Alert - 17 July 2017:** A news item with a 'READ MORE' link.
- New e-talk sessions now active:** A news item with a 'READ MORE' link.
- Program of our DA:** A news item with a 'READ MORE' link.
- Release of draft e-Guid Internal Guidelines:** A news item with a 'READ MORE' link.
- CDPP News:** A large central banner with the text 'See active e-talks' and 'NEW E-TALK SESSIONS NOW ACTIVE'.
- Quick links:** A grid of icons for RECORDS DATABASES, LIBRARY SEARCH, POLICE/NSI REQUEST, BUREAU, WIG, PGG, RSGC, ISM, CRMC, CIT, DELEGATIONS, and JGMI REQUEST.
- Court Diary:** A section with icons for TODAY, THIS WEEK, and COURT REPORTS.

This screenshot displays the 'Happening now' section of the eHub website. It features a sidebar on the left with 'My favourites' and 'My admin jobs' sections. The main content area is titled 'Happening now' and contains three news cards:

- COURT DIARY:** A card dated 26 JUN 2017 with the headline 'New Court Diary available on e-hub'. The text below states: 'Since the Office can staff are attending Court every day a new Court Diary feature has been launched in e-Hub to help you keep track of matters before the Courts. There are three different views available. Today - where in Court today. This...' with a 'READ MORE' link.
- e-TALK:** A card dated 26 JUN 2017 with the headline 'New online forum e-talk launched'. The text below states: 'e-talk is our online collaboration space - a talk is an online forum - a space to brainstorm, debate, discuss and explore different angles or legal matters. How does e-talk work? We have developed guidelines that outline key functionality and how it...' with a 'READ MORE' link.
- ALL NEWS:** A card dated 26 JUN 2017 with the headline 'New feature - view all news anytime!'. The text below states: 'If you've been out of the office, or busy, or busy in Court, you can now publicly catch-up with all the news that has been published across e-hub - in every practice group and business area, by clicking on ALL NEWS. You can access this area from...' with a 'READ MORE' link.

Below these cards is a 'Professional Practice' section with three more news cards:

- 20 JUN 2017:** 'Enhancement of Prosecution Policy Declarations' with a 'READ MORE' link.
- 19 JUN 2017:** 'Mobile Computing - Remote Access' with a 'READ MORE' link.
- 4 JUN 2017:** 'National Offence Guides: Enhancements of Criminal Responsibility' with a 'READ MORE' link.

On the right side of the page is a 'CORPORATE TOOLBOX' sidebar with a list of links including: Address, RCI Hotels, Concur, Daily Media Clips, Employee Assistance Program, i3D System, ELC Decision Register, FRCS, Job Alerts - External, Job Alerts - Internal, IR Business Partner, IR Service Desk (S0502), National Document Register, Organisation Charts, OGI Travel, QuickCheque, Travel Hub, Reporting Services, Report WHS Incident, Request Form - Business Cards, Request Form - eHub updates, Request Form - Case Report, Request Form - Website update, Website - CDPP, and Website - Partner Portal.



Our purpose is to provide an independent prosecution service that contributes to the respect and maintenance of Commonwealth criminal law and public respect in the justice system through the prosecution of crimes.

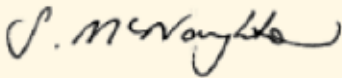
CHAPTER 3



PERFORMANCE

ANNUAL PERFORMANCE STATEMENT

I, Sarah McNaughton SC, as the accountable authority of the Commonwealth Director of Public Prosecutions, present the 2016–17 annual performance statements of the Commonwealth Director of Public Prosecutions, as required under paragraph 39(1)(a) of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act). In my opinion, the annual performance statements are based on properly maintained records, accurately reflect the performance of the entity, and comply with subsection 39(2) of the PGPA Act.



Sarah McNaughton SC
Commonwealth Director of Public Prosecutions

Entity purpose

Our purpose is to provide an independent prosecution service that contributes to the respect and maintenance of Commonwealth criminal law and public respect in the justice system through the prosecution of crimes.

Performance criterion— Number 1	Performance criterion— Number 2	Performance criterion— Number 3
<p>Compliance in addressing the terms of the test for prosecution in the <i>Prosecution Policy of the Commonwealth</i>, namely existence of a <i>prima facie</i> case, reasonable prospects of conviction and that prosecution is required in the public interest, when deciding to commence or continue a prosecution.</p>	<p>Quantitative and qualitative evidence is gathered about partner agency satisfaction with DPP timeliness, relevance to partner agency business, responsiveness and level of communication. The results deliver a comprehensive evidence base to inform continuous improvement.</p>	<p>Prosecutions resulting in a conviction.</p> <p>The conviction/finding of guilt rate is calculated by taking the number of defendants convicted as a percentage of defendants convicted or acquitted. The calculation does not include defendants where the DPP discontinued the prosecution against them in its entirety or where a prosecution has commenced and the defendant failed to appear before a court. It does include findings of guilt that do not result in a conviction.</p>
<p>Criterion source</p> <p>Portfolio Budget Statements 2016–17 Program 1.1: page 277; CDPP Corporate Plan 2016–20 page 13</p>	<p>Criterion source</p> <p>Portfolio Budget Statements 2016–17 Program 1.1: page 277; CDPP Corporate Plan 2016–20 page 14</p>	<p>Criterion source</p> <p>Portfolio Budget Statements 2016–17 Program 1.1: page 277; CDPP Corporate Plan 2016–20 page 15</p>
<p>Result against performance criterion</p> <p>2016–17 Target: 100% Result: 100%</p> <p>2015–16 Target: 100% Result: 100% (data period 1/11/15 – 30/6/16)</p>	<p>Result against performance criterion</p> <p>2016–17 Target: Not applicable—biennial survey introduced in 2015–16</p> <p>2015–16 Target: 90% Result: 83%</p>	<p>Result against performance criterion</p> <p>2016–17 Target: 90% Result: 99%</p> <p>2015–16 Target: 90% Result: 2015–16 97%</p>
<p>This performance measure has been in place since 1 November 2015. Compliance is measured at selected stages of the prosecution process based on sampling of cases and certification by the CDPP case officer or supervisor that the test for prosecution in the <i>Prosecution Policy of the Commonwealth</i> has been complied with. We have developed further mechanisms to assess compliance with this measure. A certification is now required at all stages of a prosecution and is recorded electronically, which will enhance sampling and assessment of compliance.</p>	<p>The independent biennial survey is sent out in April every two years collecting information on the previous 12 months, and reported in the Annual Report relating to the 12-month collection period. The next survey will be activated in April 2018 and results reported in the 2017–18 Annual Report.</p>	

Analysis of performance against our purpose

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

This new performance measure has been in place since November 2015. The test for this performance measure requires the prosecutor to determine whether there is a *prima facie* case and reasonable prospects of a conviction and whether a prosecution is required in the public interest, when deciding to commence or continue the prosecution. The evidence that the prosecutor has addressed the test initially included a completed *Prosecution Policy Declaration* for matters at the brief assessment and indictment signing stages.

Since the introduction of this declaration, the CDPP has achieved 100 per cent compliance at these two stages, and from 1 July 2017 we have extended this process to all arrest and breach matters, with certification required at the following stages: pre-committal; post-committal; summary arrest and breach.

The certification process is now recorded electronically and we have developed further mechanisms to assess compliance with this measure, which will be kept under review. Progress reports are provided quarterly to the Audit Committee and published annually in the Annual Report.

Performance criterion 2: Partner agency satisfaction with CDPP service delivery

A Partner agency satisfaction survey was conducted in 2015–16. This survey has established a methodology and baseline to track satisfaction on an ongoing basis. Understanding partner agency perceptions of the CDPP across a range of service areas provides valuable insights that help shape and improve processes, procedures and performance. To align with the introduction of the biennial satisfaction survey in 2015–16, we set a partner agency satisfaction target of 90 per cent and achieved an initial satisfaction rating of 83 per cent, based on a 60 per cent response rate. While this result fell slightly short of the target, it captured valuable feedback to assist the CDPP to meet the target in the future.

In response, we have strengthened relationships with partner agencies through tailored and better aligned national and regional liaison activity, and continued to identify opportunities to collaborate through the promotion of case outcomes through the media. In September 2016 we issued a National Legal Direction 'Prosecution Services for Partner Agencies', which addresses strategies to enhance both the relationships and the quality of services provided to partner agencies. Internal guidelines and products to support the Direction have also been developed. We have launched a new Partner Agency Portal featuring news and specialist resources for investigators, and we continue to work collaboratively with partner agencies as we transform our systems and processes in line with our national Practice Group Model. We are well advanced in the development and delivery of an electronic lodgement system for briefs of evidence

referred by partner agencies to increase efficiencies in agency referrals, and are reviewing our internal performance measures to improve timeliness. The effectiveness of these measures will be assessed through the 2018 partner agency satisfaction survey.

Performance criterion 3: Prosecutions resulting in a conviction

The CDPP has consistently exceeded the target of 90 per cent set for this measure. This year's result of 99 per cent was achieved through the commitment and hard work of our staff in response to the enforcement activities of partner agencies.

We will continue to collaborate with other partner agencies to develop effective means of measuring our collective performance in providing an independent prosecution service that contributes to the respect and maintenance of Commonwealth criminal law and public respect in the justice system through the prosecution of crimes.

Progress reports are provided monthly to the Executive Leadership Group, quarterly to the Audit Committee and published annually in the Annual Report.



PROSECUTION STATISTICS

During the year, we dealt with 3,004 people in court in addition to ongoing matters. These cases were referred by 33 Commonwealth investigative agencies, as well as 12 state and territory agencies.¹

The following tables set out details of prosecutions we conducted in 2016–17.

Table 2: Outcomes of successful prosecutions in 2016–17

Description	No.
Defendants convicted of offences prosecuted summarily	1,773
Defendants convicted of offences prosecuted on indictment	676
Defendants committed for trial or sentence	728

Table 3: Summary prosecutions in 2016–17

Description	No.
Defendants convicted after a plea of guilty	1,721
Defendants convicted after a plea of not guilty	52
Total defendants convicted	1,773
Defendants acquitted after a plea of not guilty	19
Total	1,792

Table 4: Committals in 2016–17

Description	No.
Defendants committed after a plea of guilty	379
Defendants committed after a plea of not guilty	349
Total defendants committed	728
Defendants discharged after a plea of not guilty	3
Total	731

¹ A total of 58 agencies referred cases to the CDPP in the 2016–17 financial year. This includes 39 Commonwealth investigative agencies and 19 state and territory agencies.

Table 5: Prosecutions on indictment in 2016–17

Description	No.
Defendants convicted after a plea of guilty	607
Defendants convicted after a plea of not guilty	69
Total defendants convicted	676
Defendants acquitted after a plea of not guilty	12
Total	688

Table 6: Prosecution appeals against sentence in 2016–17*

Appeal type	Outcome	Summary	Indictable
Appeals against sentence	Upheld	4	10
	Dismissed	0	12
Total		4	22

* Table 6 in the 2015–16 Annual Report incorrectly double-counted a defendant in the category of prosecution appeals against sentence for indictable matters; the correct figure is a total of 13 matters with three dismissed.

Table 7: Defence appeals in 2016–17

Appeal type	Outcome	Summary	Indictable
Against conviction only	Upheld	3	3
	Dismissed	6	11
Against sentence only	Upheld	53	14
	Dismissed	17	29
Conviction and sentence	Upheld	0	3
	Dismissed	3	10
Total		82	70

Prosecution performance indicators 2016–17

In 2016–17, we met all the following prosecution performance indicators:

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

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

- prosecution sentence appeals in a prosecution on indictment upheld.

Table 8: Prosecution performance indicators for 2016–17, national totals

Description	Target	Outcome	Details successful (Total)
Prosecutions resulting in a conviction*	90%	99%	2,449 (2,480)
Defendants in defended summary hearings resulting in conviction	60%	73%	52 (71)
Defendants in defended committals resulting in a committal order	80%	99%	349 (352)
Defendants tried on indictment and convicted	60%	85%	69 (81)
Prosecution sentence appeals in summary prosecutions upheld	60%	100%	4 (4)
Prosecution sentence appeals in a prosecution on indictment upheld	60%	45%	10 (22)

Table 9: Prosecution performance indicators for 2015–16 and 2016–17

Description	Target	2015–16**	2016–17
Prosecutions resulting in a conviction*	90%	97%	99%
Defendants in defended summary hearings resulting in conviction	60%	64%	73%
Defendants in defended committals resulting in a committal order	80%	99%	99%
Defendants tried on indictment and convicted	60%	69%	85%
Prosecution sentence appeals in summary prosecutions upheld	60%	25%	100%
Prosecution sentence appeals in a upheld or otherwise successful prosecution on indictment	60%	77%	45%

Notes:

*For tables 8 and 9 the conviction rate is calculated by taking the number of defendants convicted as a percentage of defendants convicted or acquitted. The calculation does not include defendants where the CDPP discontinued the prosecution against them in its entirety or where a prosecution was commenced and the defendant failed to appear before a court.

**The number of cases on which the percentages were calculated is published in our 2015–16 Annual Report, which is available on our website at www.cdpp.gov.au.

Statistics about relevant legislation and partner agencies

In 2016–17 we received cases from 39 Commonwealth investigative agencies.

We received the most referrals from the Australian Federal Police, Australian Department of Human Services, Australian Taxation Office, Australian Border Force, and Australian Fisheries Management Authority.

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

In 2016–17:

- The Australian Taxation Office conducted more than 2,000 prosecutions of over 1,600 individuals and 400 companies. Fines, costs and reparation orders totalling more than \$15.3 million were imposed.
- The Australian Securities and Investments Commission prosecuted 438 defendants for 870 offences. Fines and costs totalling more than \$1.3 million were imposed.
- The Australian Electoral Commission issued 1,189 summonses in relation to non-voter matters in the 2016 Federal Election. Of the 556 cases finalised, 20 were discontinued, 24 of the summonses were unable to be served, 17 were referred to us, 483 were proven and resulted in a conviction, 17 were proven but did not result in a conviction and 12 were not proven and dismissed.

The following tables provide statistics covering relevant legislation and referring agencies in relation to matters dealt with in 2016–17.

Table 10: Legislation under which charges were dealt with in 2016–17

Legislation	Summary (Charges)	Indictable (Charges)
Airports (Control of On-Airport Activities) Regulations 1997	4	0
Anti-Money Laundering and Counter Terrorism Financing Act 2006	20	16
Australian Citizenship Act 1948	1	0
Australian Citizenship Act 2007	8	0
Australian Crime Commission Act 2002	2	0
Australian Passports Act 2005	30	27
Aviation Transport Security Act 2004	5	0
Aviation Transport Security Regulations 2005	9	0
Bankruptcy Act 1966	169	1
Child Support (Registration and Collection) Act 1988	11	0
Civil Aviation Act 1988	32	0
Civil Aviation Regulations 1988	29	0
Civil Aviation Safety Regulations 1998	2	0
Classification (Publications, Films and Computer Games) Act 1995	3	0
Commonwealth Electoral Act 1918	21	0
Companies Act 1981	0	1
Copyright Act 1968	23	4
Corporations (Aboriginal and Torres Strait Islander) Act 2006	15	0
Corporations Act 2001	69	97
Crimes (Aviation) Act 1991	18	0
Crimes (Currency) Act 1981	126	34
Crimes (Foreign Incursions and Recruitment) Act 1978	0	17
Crimes Act 1914	24	19
Criminal Code (Cth)	3,940	2,102
Customs Act 1901	107	190
Defence (Special Undertakings) Act 1952	7	0
Environment Protection and Biodiversity Conservation Act 1999	130	8
Excise Act 1901	3	0
Export Control Act 1982	1	0
Financial Transaction Reports Act 1988	1	0
Fisheries Management Act 1991	186	2

Legislation	Summary (Charges)	Indictable (Charges)
<i>Foreign Passports (Law Enforcement and Security) Act 2005</i>	3	6
<i>Great Barrier Reef Marine Park Act 1975</i>	26	2
<i>Great Barrier Reef Marine Park Regulations 1983</i>	10	0
<i>Health Insurance Act 1973</i>	80	0
<i>Imported Food Control Act 1992</i>	0	26
<i>Interactive Gambling Act 2001</i>	6	0
<i>Marine Safety (Domestic Commercial Vessel) National Law Act 2012</i>	13	0
<i>Marriage Act 1961</i>	3	0
<i>Migration Act 1958</i>	32	71
<i>National Consumer Credit Protection (Transitional and Consequential Provisions) Act 2009</i>	2	0
<i>National Consumer Credit Protection Act 2009</i>	32	0
<i>National Measurement Act 1960</i>	21	0
<i>National Trade Measurement Regulations 2009</i>	1	0
<i>National Vocational Education and Training Regulator Act 2011</i>	1	0
<i>Navigation Act 2012</i>	0	2
<i>Passports Act 1938</i>	9	0
<i>Primary Industries Levies and Charges Collection Act 1991</i>	5	0
<i>Proceeds of Crime Act 2002</i>	0	1
<i>Protection of the Sea (Prevention of Pollution from Ships) Act 1983</i>	2	0
<i>Public Order (Protection of Persons and Property) Act 1971</i>	8	0
<i>Quarantine Act 1908</i>	12	92
<i>Quarantine Regulations 2000</i>	1	0
<i>Radiocommunications Act 1992</i>	5	0
<i>Royal Commissions Act 1902</i>	1	0
<i>Social Security (Administration) Act 1999</i>	144	0
<i>Statutory Declarations Act 1959</i>	1	0
<i>Taxation Administration Act 1953</i>	600	0
<i>Therapeutic Goods Act 1989</i>	16	0
<i>Torres Strait Fisheries Act 1984</i>	1	0
<i>Trade Marks Act 1995</i>	0	1
<i>Work Health and Safety Act 2011</i>	3	1
Non-Commonwealth legislation	285	485
Total	6,319	3,205

Table 11: Referring agencies: defendants dealt with in 2016–17

Agency	Summary	Indictable
Australian Federal Police/Australian Commission for Law Enforcement Integrity Joint Task Force	0	1
Australian Border Force	34	58
Australian Building and Construction Commission	1	0
Australian Commission for Law Enforcement Integrity	1	0
Australian Communications and Media Authority	1	0
Australian Electoral Commission	21	0
Australian Federal Police	255	398
Australian Financial Security Authority	104	1
Australian Fisheries Management Authority	166	1
Australian Maritime Safety Authority	6	0
Australian Postal Corporation	3	0
Australian Securities and Investments Commission	27	17
Australian Skills Quality Authority	2	0
Australian Taxation Office	73	28
Civil Aviation Safety Authority	7	0
Comcare	2	1
Department of Agriculture and Water Resources	13	4
Department of Defence	5	0
Department of Education and Training	6	3
Department of Employment	2	0
Department of the Environment and Energy	2	2
Department of Foreign Affairs and Trade	20	1
Department of Health	43	2
Department of Human Services—Centrelink	1,251	27
Department of Human Services—Child Support Agency	7	0
Department of Human Services—Medicare	12	3
Department of Immigration and Border Protection	11	6
Department of Social Services	2	0
Great Barrier Reef Marine Park Authority	33	2
National Measurement Institute	5	0
Office of the Registrar of Indigenous Corporations	13	0
Therapeutic Goods Administration	2	0
Non-Commonwealth agencies	119	200
Total	2,249	755

Table 11 contains names of only current Commonwealth agencies at 30 June 2017. Where an agency's name has changed over time, all the cases emanating from that agency, whatever its name, are included under the most current agency that has assumed the function.

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



Prosecution service

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



Governance framework

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



Practice group model

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



Performance management

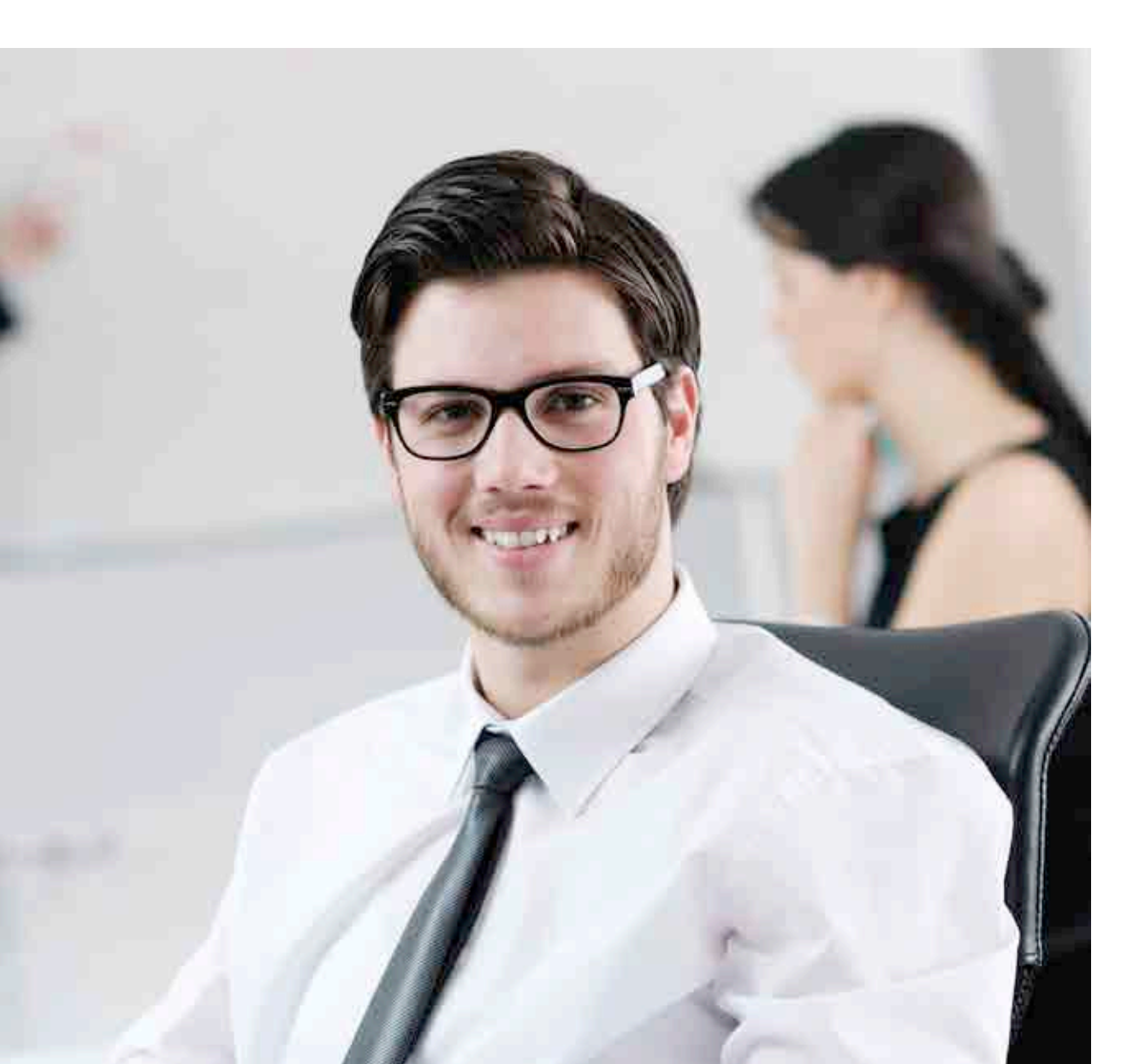
We manage our performance through a combination of careful planning, effective measurement and monitoring of performance, and appropriate, transparent reporting.



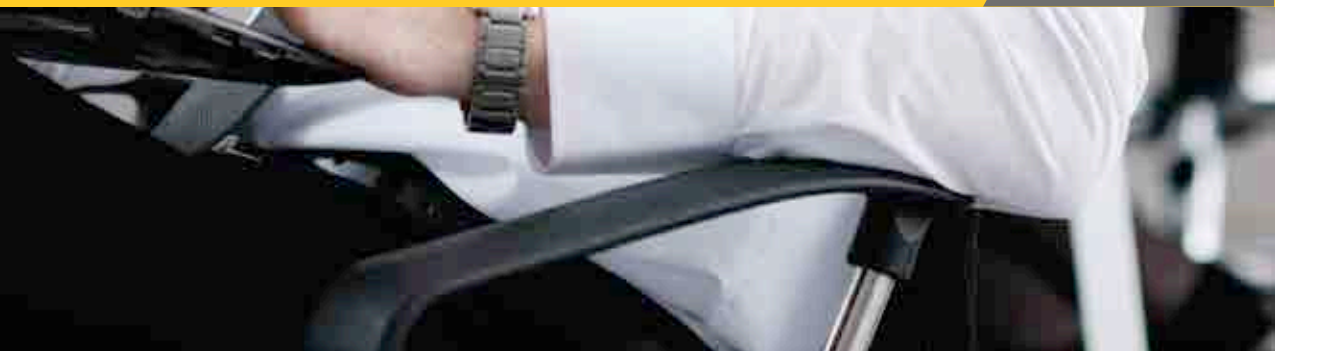
Legislative framework

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

CHAPTER 4



GOVERNANCE AND ACCOUNTABILITY



GOVERNANCE AND ACCOUNTABILITY

Internal governance

Guiding policies

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

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

Corporate governance

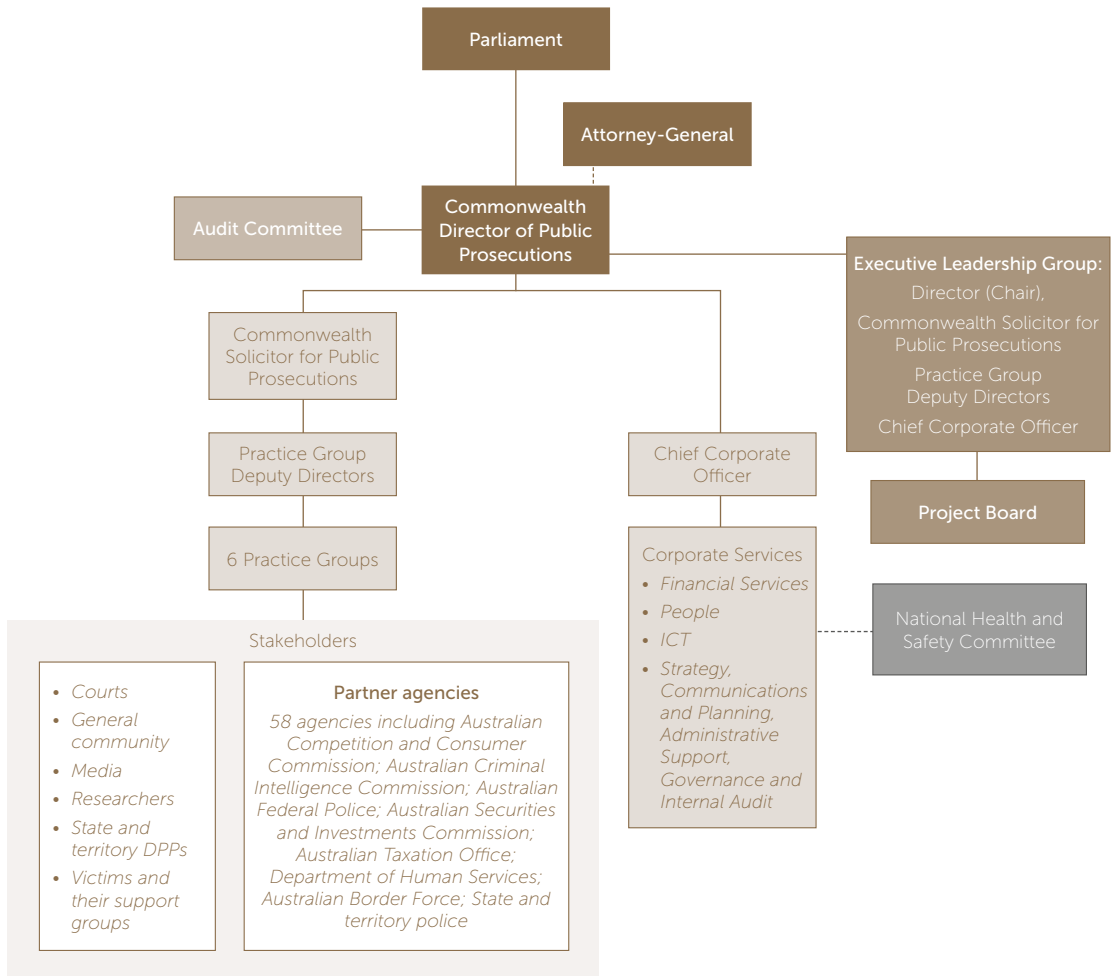
Governance in the CDPD provides a framework to ensure that we meet the standards of fairness, openness, consistency, accountability and efficiency in prosecuting offences against the laws of the Commonwealth and, in meeting these standards, maintain the confidence of the public we serve.

In 2016–17, we strengthened our focus on our corporate governance structure, frameworks and delivery by continuing to embed the following principles of public sector governance:

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

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

Figure 2: CDPP governance structure at 30 June 2017



Executive Leadership Group

Our Executive Leadership Group is the key advisory group to the Director and comprises the Director as Chair, Commonwealth Solicitor for Public Prosecutions, Deputy Directors and Chief Corporate Officer. The Executive Leadership Group meets monthly in person to:

- identify and consider emerging strategic issues
- monitor and consider legal practice performance and outcomes
- consider, endorse and oversee CDPP strategies and policies on matters such as human resource management, communications, planning, information and communications technology, information management, security and governance
- oversee budget reporting and financial strategy
- ensure national consistency in legal practice and corporate policies and processes
- oversee projects to drive innovation and the digital transformation of our work practices
- oversee strategic planning, including risk identification and management
- oversee implementation, evaluation and improvement of our governance structures and processes
- monitor and provide oversight on significant issues of national interest to the CDPP
- consider and approve work plans and outcomes of its sub-committees
- contribute to a culture of innovation, collaboration and diversity.

Audit Committee

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

The Committee comprises three independent members:

- Ken Moore, Chair
- Robyn Gray, Deputy Chair
- Liz Atkins, Member.

Management representatives who attend regular meetings are the Commonwealth Solicitor for Public Prosecutions, the Chief Corporate Officer, the Chief Financial Officer and the Chief Audit Executive. Other staff members may attend as observers and presenters as determined by the Chair. Representatives from the Australian National Audit Office and others attend the meeting to address particular agenda items or as agreed with the Chair, from time to time.

Table 12: Audit Committee Attendance 2016–17

Independent members	22 Sep 2016	30 Nov 2016	22 Mar 2017	28 Jun 2017
Ken Moore	✓	✓	✓	✓
Robyn Gray	✓	✓	✓	✓
Simon Kidman*	✓	Apology	Not applicable	Not applicable
Liz Atkins#	Not applicable	Not applicable	✓	✓
Karel Havlat	✓	✓	✓	✓
Gaby Medley-Brown	✓	✓	✓	✓
Mark Pedley*	Apology	✓	Not applicable	Not applicable
Andrea Pavleka#	Not applicable	Not applicable	Apology	✓
Celine Roach	✓	✓	✓	✓

* Members from September to November 2016

Members from March 2017

National Health and Safety Committee

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

The independent National Health and Safety Committee assists and advises on matters affecting the health, safety and wellbeing of staff and other workers at CDPP workplaces. As the central point of cooperation and consultation between management, staff and other workers, the committee is responsible for disseminating work health and safety information, particularly in the regional offices, in a regular and timely manner. In the past 12 months the committee has assisted in the consultation process regarding the new work health and safety management system (WHSMS) and its associated policies and procedures. The committee has also been a key forum to promote the identification and management of work health and safety risk.

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

Project Board

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

Funding Model Steering Committee

This committee, chaired by the Commonwealth Solicitor for Public Prosecutions, oversaw the development of a CDPP costing model in conjunction with the Department of Finance and the Attorney-General's Department. The committee developed a flexible model that is adaptable to changing circumstances and government priorities. It was developed to ensure the CDPP is adequately funded for changes in our workload, including changes arising through future new policy proposals. The costing model was completed in November 2016, and it will continue to be assessed and updated as appropriate, with the most recent version held by the Department of Finance and the CDPP.

Planning performance and reporting

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

Our *2016–20 Corporate Plan* focused on 2016–17 and provides this year's performance measures, building on the baseline set in 2015–16. It aligns with our Portfolio Budget Statement 2016–17 and was developed in accordance with the requirements of the PGPA Act.

As with all other elements required by the Act, we are working to ensure we meet these requirements with incremental improvements. Our resulting integrated performance, planning and reporting framework will ensure our operational performance aligns to, and supports achievement of, our strategic outcome.

Risk management

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

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

- inability to deliver a timely, highest quality prosecution service
- partner agency goals and priorities not enhanced and supported
- high quality staff not attracted, retained and developed.

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

Fraud prevention and control

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

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

Fraud reporting

During the period 1 July 2016 to 30 June 2017 there were no reported incidents of fraud.

Public interest disclosure

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

We recognise that it is important to have an effective system for reporting and investigating disclosable conduct. We hold awareness sessions for all staff and provide training for our Authorised Officer network. We have a dedicated email address for disclosures to be made to Authorised Officers, who report to the Director. Our *Public Interest Disclosure Policy* and supporting documents are provided on our intranet for our staff, and on our external website at www.cdpp.gov.au.

Ethical standards

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

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

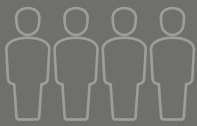
We rigorously pursue disclosure and management of conflicts of interest.

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

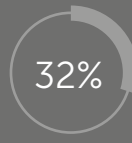
Internal audit

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

In January 2017, we commenced a performance audit on the application of the *Victims of Crime Policy*. This is the first performance audit on the legal side of the business.



Employees
452



Working in 10
offices across
the nation



308
practicing lawyers working
across all jurisdictions and
levels of court



74 new recruits joined our ranks as
Federal Prosecutors in 2016-17

CHAPTER 5



PEOPLE



PEOPLE

At 30 June 2017 the CDPP comprised 452 people (headcount) with the average full-time equivalent employee level (operative employees only) for the year being 412.1.

Of the headcount number, 65 per cent were lawyers assigned to legal roles across practice groups. Our prosecution function is supported by a range of corporate services, including legal administrative support, accountancy, information technology, communications, governance, people services and finance (see page 120).

During 2016–17, we reduced the number of Principal Federal Prosecutors by 19 per cent, increased the number of Senior Federal Prosecutors by 14 per cent and increased the number of Federal Prosecutors Level 1 by 57 per cent. At the same time, non-legal roles decreased slightly, by three per cent across the CDPP. The ratio of Senior Executive Service employees to total employee numbers decreased slightly to four per cent of total employees. Our non-ongoing engagements increased by 25.6 per cent.

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

Workforce planning

Our workplace is collaborative, innovative and diverse. Empowered by strong leadership, we attract, manage and retain high performing and engaged staff in all our locations. Workforce planning is integral to this, as demonstrated by key initiatives delivered in 2016–17, including:

- conducting national recruitment processes for our legal practice, ensuring a consistent practice in securing the required skills and level of experience
- establishing a workforce strategy team
- conducting operational workforce planning
- implementing the Performance Excellence Program and training managers in best practice performance management
- refining workforce reporting metrics to contribute to evidence-based decision-making.

Workforce statistics and pay

A breakdown of employee numbers appears in the following tables.

Table 13: Employee headcount by classification level and region at 30 June 2017

Classification	ACT	NSW	NT	QLD	SA	TAS	VIC	WA	Total
Director	-	1	-	-	-	-	-	-	1
SES Band 3	-	-	-	-	-	-	-	-	-
SES Band 2	2	-	-	1	-	-	2	-	5
SES Band 1	3	6	-	1	1	-	2	1	14
Principal Federal Prosecutor	5	12	1	8	2	-	9	1	38
Senior Federal Prosecutor	7	49	2	17	7	2	28	9	121
Federal Prosecutor Level 2	4	21	2	13	4	1	13	2	60
Federal Prosecutor Level 1	4	25	1	14	6	2	16	6	74
Executive Level 2	8	1	-	-	-	1	-	-	10
Executive Level 1	13	1	-	1	1	-	1	-	17
APS Level 6	10	4	-	1	-	-	2	-	17
APS Level 5	6	4	-	2	1	-	4	3	20
APS Level 4	5	5	-	8	1	-	6	3	28
APS Level 3	6	19	1	3	1	2	5	2	39
APS Level 2	-	4	-	-	-	-	2	-	6
APS Level 1	-	1	-	1	-	-	-	-	2
Total	73	153	7	70	24	8	90	27	452

Notes:

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

Table 14: Workforce profile by classification at 30 June

Classification	2014–15	2015–16	2016–17
Director	1	1	1
SES Band 3	-	1	-
SES Band 2	6	5	5
SES Band 1	17	16	14
Principal Federal Prosecutor	67	47	38
Senior Federal Prosecutor	86	106	121
Federal Prosecutor Level 2	49	50	60
Federal Prosecutor Level 1	56	47	74
Executive Level 2	8	7	10
Executive Level 1	15	15	17
APS Level 6	18	17	17
APS Level 5	18	22	20
APS Level 4	33	26	28
APS Level 3	44	47	39
APS Level 2	5	7	6
APS Level 1	2	3	2
Total	425	417	452

Notes:

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

Table 15: Workforce profile by location at 30 June

Location	2014–15	2015–16	2016–17
ACT	55	66	73
NSW	148	142	153
NT	7	7	7
QLD	70	60	70
SA	21	22	24
TAS	9	9	8
VIC	85	84	90
WA	30	27	27
Total	425	417	452

Notes:

1. This table includes inoperative employees.

Table 16: Average staffing levels (ASL) by location at 30 June

Location	2015–16	2016–17
ACT	53.25	62.09
NSW	123.94	141.95
NT	5.8	5.86
QLD	56.19	60.60
SA	17.55	21.16
TAS	8.46	8.08
VIC	77.19	86.74
WA	23.06	24.62
Total	365.44	411.10

Notes:

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

Table 17: Full-time equivalent (FTE) employees by location at 30 June

Location	2015–16	2016–17
ACT	59.03	64.91
NSW	124.9	136.7
NT	7	6.4
QLD	52.41	65.14
SA	19.76	20.8
TAS	7.56	7.41
VIC	77.24	84.21
WA	23.8	22.6
Total	371.7	408.17

Notes:

1. This table excludes inoperative employees.

Table 18: Staffing by employment instrument at 30 June

Category	2016	2017
Total staff employed under the <i>Public Service Act 1999</i>	406	449
Total staff employed under the <i>Director of Public Prosecutions Act 1983</i>	10	2
Statutory Office holders	1	1
Total	417	452

Notes:

1. This table includes inoperative staff.
2. The total number of non-ongoing staff reflected in this table for the reporting period is 26.

Table 19: Workforce profile by category at 30 June

Category	2016				2017			
	Full-time	Part-time	Casual	Total	Full-time	Part-time	Casual	Total
Director	1	-	-	1	1	-	-	1
SES Band 3	1	-	-	1	-	-	-	-
SES Band 2	5	-	-	5	5	-	-	5
SES Band 1	16	-	-	16	14	-	-	14
Federal Prosecutors	201	49	-	250	244	49	-	293
Executive Level Officers	18	4	-	22	24	3	-	27
APS Level 1-6	107	15	-	122	94	18	-	112
Total	349	68	-	417	382	70	-	452

Notes:

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

Table 20: Staff by employment type and gender at 30 June 2017

Category	Ongoing		Non-ongoing		Total	
	Female	Male	Female	Male	Female	Male
Director	-	-	1	-	1	-
SES Band 3	-	-	-	-	-	-
SES Band 2	1	4	-	-	1	4
SES Band 1	6	7	-	1	6	8
Legal Officers	197	94	1	1	198	95
Executive Level Officers	17	8	1	1	18	9
APS Level 1–6	64	27	19	2	83	29
Total	285	140	22	5	307	145

Notes:

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

Enterprise agreement

Consultation with staff and bargaining representatives continued to develop a new agreement to replace the *CDPP Enterprise Agreement 2011–14*, which nominally expired on 30 June 2014.

A series of bargaining meetings were followed by a second ballot in December 2016.

We concluded our third round of bargaining in June 2017 and the third ballot, held in July 2017, was successful.

As at 30 June 2017, there were 432 staff covered by the Enterprise Agreement.

Table 21: Salary scales at 30 June 2017

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

Notes:

1. Non-SES rates of pay at 30 June 2017 remain under the *CDPP Enterprise Agreement 2011–14*.

Common law contracts

The terms and conditions of employment for substantive Senior Executive Service (SES) staff are provided under individual common law contracts. As at 30 June 2017, there were 24 of these contracts in place.

Performance pay

The CDPP does not pay performance pay.

Section 24(1) determination

In 2016–17 there were no determinations pursuant to section 24(1) of the *Public Service Act 1999*.

Australian Public Service Employee Census

The 2017 Australian Public Service Employee Census (Census) was conducted between 8 May and 9 June 2017. The survey is coordinated by the Australian Public Service Commission and conducted by ORC International.

Of our 433 staff who received the Census, 351 (81.1 per cent) participated—our highest participation rate to date. The Census is an important tool for staff to provide their insights and perspectives on the workplace. Results from the Census are used to inform the strategic direction of our agency and provide a representational employee view of the CDPP and each practice group.

Work health and safety

We are committed to providing and maintaining a safe and healthy workplace for all staff, in accordance with the requirements of the *Work Health and Safety Act 2011* and the *Safety, Rehabilitation and Compensation Act 1988*.

Information about our work health and safety arrangements (in accordance with Schedule 2, Part 4 of the *Work Health and Safety Act 2011*) is reported in Appendix 3 from page 218.

Workplace Wellbeing Program

We implemented our Workplace Wellbeing Program in September 2016 as part of our commitment to investing in our people. The program is an integral part of our work health and safety arrangements and establishes a framework to strengthen and synchronise wellbeing policy and practice across the CDPP. The program is centred on two pillars:

- Healthy People—encouraging workers to adopt healthy lifestyles through education, awareness and activities
- Healthy Places—creating a healthy, supportive workplace environment through culture, policies and facilities.

The program comprises eight key initiatives that represent a holistic approach designed to support the health and wellbeing of all staff through a range of tailored initiatives, promotions, education and wellness strategies.

The first activities to launch under the new Workplace Wellbeing Program included:

- Wellbeing checks—wellbeing checks were introduced for staff who have a higher risk of exposure to potentially stressful or traumatic incidents, imagery or information in the course of their work. These checks are specifically designed to support our staff by carefully monitoring wellbeing and providing assistance where there is a risk of psychological injury or cumulative stress. Since the implementation of the Workplace Wellbeing Program in September 2017, we have completed a total of 435 wellbeing checks across the CDPP. As a result early intervention occurred for staff who were assessed at risk from a mental health perspective.
- The Employee Assistance Program—our improved Employee Assistance Program provides CDPP staff and their immediate family members 24/7 access to free professional and confidential counselling services by experienced psychologists and social workers.
- Work health and safety awareness sessions—this year we conducted a series of work health and safety awareness sessions across all our offices for managers and staff. The sessions focused on general awareness of work health and safety, staff and manager responsibilities and duty of care.
- Flu vaccination—we rolled out the annual Flu Vaccination Program in March 2017, which offered all staff free influenza vaccinations. A total of 167 staff registered to have influenza vaccinations through the program.
- Workspace assessments—to ensure workstations are suitably adjusted to support good working posture and to reduce the risk of injury, we offer a number of workspace assessments options. Health professionals have carried out 20 workstation assessments since September 2016.
- Wellbeing reimbursements—we recognise that staff who are fit and healthy will be more productive in the workplace. Staff are therefore encouraged to participate, in their own time, in activities that promote good health. A total of 343 staff were reimbursed for expenditure on approved health and wellbeing activities and equipment as part of the Employee Health Initiative.
- Health and wellbeing portal—the portal was rolled out as part of the introduction of the Workplace Wellbeing Program in September 2016. It is an online resource that offers our staff health and wellbeing resources and interactive lifestyle programs to proactively assist them with their own holistic health and wellbeing journey. Since it was launched, the portal has been accessed 3,035 times.
- The Workplace Wellbeing Program Stakeholder Committee—we established this committee during the year as a collaborative working group, which brings together representatives from practice groups and corporate areas, with a senior executive as its sponsor. The committee's purpose is to review the operation and effectiveness of the Workplace Wellbeing Program, make recommendations for improvement and provide input to the program's future direction.

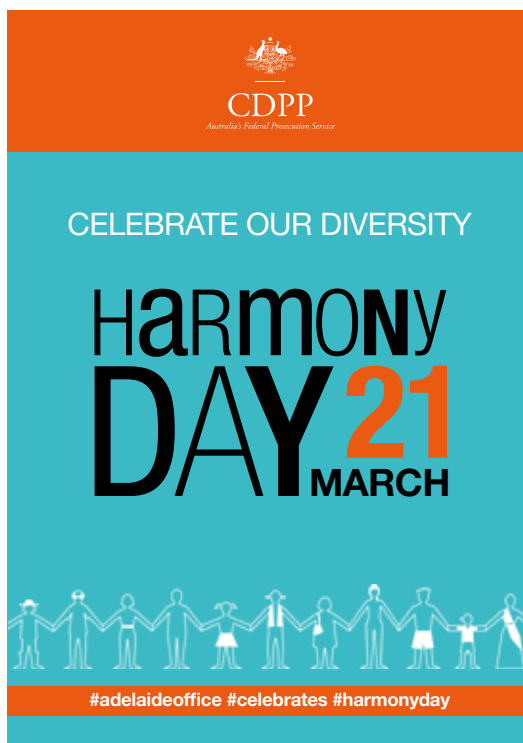
Workplace diversity

Diversity of thought, background, experience and contribution is valued in our workplace, and this is reflected in our three key cultural elements—collaboration, innovation and diversity.

This year, we promoted our diversity capability and understanding by:

- promoting and celebrating nationally recognised cultural events such as National Reconciliation Week and Harmony Day
- endorsing a Welcome to Country policy to be incorporated, where appropriate, at official CDPP functions
- highlighting the role of International Women’s Day through the ‘Be Bold for Change’ campaign
- acknowledging the diverse work of CDPP staff through the Law Week Outstanding Contribution Awards.

Along with a new Workforce Strategy, a diversity strategy and action plan is being developed to embed a culturally safe and supportive workplace, provide considerations towards our diverse partner agencies, and ensure we are compliant with legislation and government directives.



Our workplace diversity profile is shown in the table below.

Table 22: Employees by diversity group at 30 June 2017

Classification	Female	Aboriginal and Torres Strait Islander	Person with disability	First language English plus another	First language other than English
Director	1	-	-	-	-
SES Band 3	-	-	-	-	-
SES Band 2	1	-	-	-	-
SES Band 1	6	-	-	1	1
Legal Officers	198	1	7	36	20
Executive Level Officers	18	-	1	1	3
APS Level 1–6	83	-	3	10	17
Total	307	1	11	48	41

Notes:

1. This table includes inoperative employees.
2. Employees are reported at their substantive classification.
3. Diversity information is provided by employees on a voluntary basis.

Reconciliation Action Plan

We are currently developing the next iteration of our Reconciliation Action Plan. The focus will be to recognise, provide opportunities and support Aboriginal and Torres Strait Islander peoples in the workplace, as well as in the delivery of our core business.

Agency Multicultural Plan

In line with the principles of an Agency Multicultural Plan, our staff are dedicated to ensuring they provide high quality prosecution and support services. This is supported by resources, tools and workplace behaviours that ensure we:

- deliver a considered and thoughtful service to partners, witnesses, victims and clients
- remove barriers
- provide opportunity for involvement from victims and witnesses across all aspects of the prosecution process.

Status of women

At 30 June 2017, a total of 68 per cent of our staff (ongoing and non-ongoing) were female. Within the legal practice, female participation was 67 per cent. Female participation at the SES level was 37 per cent.

Work has commenced and will continue over the coming year to assess our gender balance and consider implementation of initiatives addressed in the *Balancing the Future: The Australian Public Service Gender Equality Strategy 2016–19*.

National Disability Strategy

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

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



CASE STUDY

Law Week is an annual national event, held in May, to improve understanding of the role law and justice plays in our society.

As Australia's independent prosecution service, we contribute to a fair, safe and just society by successfully prosecuting crimes against Commonwealth law.

To acknowledge the essential role we play in the Australian justice system, we launched the inaugural Law Week Outstanding Contribution Awards. Our awards program celebrates the outstanding achievements of teams and individuals who have excelled in legal, administration and corporate work.

The award categories aligned with our strategic themes:

- Service—providing efficient and effective prosecution services.
- Partners—engaging partner agencies and stakeholders.
- People—investing in our people.

Service

Awards in this category highlighted our efforts in supporting victims and witnesses, providing exceptional legal administrative support to the legal practice, and equipping lawyers with mobile computing devices to enable them to access the CDPP network from court or remotely.

Partners

Awards in this category celebrated building strong relationships with key partner agencies, including the Australian Federal Police, working collaboratively with partner agencies through secondments, and developing and launching the secure Partner Agency Portal.

People

Awards in this category acknowledged the commitment of experienced prosecutors to provide mentoring and training to new lawyers, and the outstanding work ethic and commitment in the delivery of internal office services.

LAW WEEK

Acknowledging outstanding contribution

LAW WEEK 2017

Nominate a team or individual

Law Week is an annual national event which aims to foster a better understanding of the role law and justice plays in our society.

As Australia's independent prosecution service we contribute to a fair, safe and just society by successfully prosecuting crimes against Commonwealth law.

To acknowledge the vital role the CDPP plays in the Australian justice system, the Law Week Outstanding Contribution Awards have been established by the Office.

The awards elevate the profession and celebrate the outstanding contribution of teams and individuals who have excelled at every level of the organisation in legal, administration and corporate work over the past 12 months.

We all know of a team or staff member who has gone above and beyond – nominate them for an inaugural Outstanding Contribution Award. Nominations open on Monday 15 May and close 5pm on Thursday 18 May with recipients to be announced at a national afternoon tea on Friday 19 May at 5pm.

VISIT E-HUB >> LAW WEEK, OUTSTANDING ACHIEVEMENT AWARDS

 **CDPP**
Australia's Federal Prosecution Service

NATIONAL LAW WEEK | 15–21 MAY 2017
AWARD PRESENTATION | 3PM, 19 MAY 2017

More than 50 nominations were received nationally, with eight recipients selected by the Director and Commonwealth Solicitor for Public Prosecutions.

The awards provided an opportunity to uncover and highlight the efforts of individuals and teams at every level of the CDPP, who are working diligently every day to contribute in various ways to the successful delivery of Australia's federal prosecution service.



CHAPTER 6



FINANCIALS



FINANCIALS

Financial management

During 2016–17, we invested in a new Financial Management Information System. A key requirement of the system was to streamline processes and financial operations, while enhancing our reporting and analytical capability. The system will be launched in July 2017 to align with the new financial year.

Costing model

The need to be able to respond effectively to changes in government policy led us to develop a sustainable costing model for the CDPP.

In conjunction with the Department of Finance and the Attorney-General's Department, we finalised the development of a costing model used to advise the Government on resourcing implications of new policy proposals expected to increase our workload.

Financial statements

The audited financial statements included in this report were prepared in accordance with the Public Governance, Performance and Accountability (Financial Reporting) Rule 2015. Detailed information on the accounting policies used to prepare the audited financial statements is at Note 1 to the financial statements.

Under current Budget arrangements, the CDPP has one government outcome with one program of activities to achieve this outcome. Further information about our agency's budget can be found in the Attorney-General's Portfolio Budget Statements.

There were no significant instances of non-compliance with the finance law.

Financial performance

Our operations are primarily funded through parliamentary appropriations but we also receive a small component (9.9 per cent) of revenue independently. The Australian Taxation Office transfers part of its appropriation to us to cover the cost of prosecutions for offences under goods and services tax (GST) legislation. The amount received in 2016–17 under this arrangement was \$3.5 million. This is accounted for under an arrangement pursuant to section 74 of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act) as agency revenue, and retained for our use.

Operating results

Our operating revenue for 2016–17 was \$86.616 million, which is a decrease of \$0.327 million from 2015–16.

Operating expenses for 2016–17 were \$82.426 million (excluding depreciation and amortisation expenses). This is an increase of \$0.401 million compared with 2015–16. The increase was mainly due to our external legal counsel expenses across the 2016–17 financial year.

The operating result for 2016–17 was a surplus of \$4.190 million, excluding depreciation and amortisation expenses (in line with the Australian Government's net cash appropriation arrangements).

Asset management

Our major assets are office fit-out, office furniture, computer equipment, purchased software and library holdings. We conduct an annual stocktake to ensure the accuracy of our asset records.

New leases for our Canberra, Darwin, Townsville and Hobart offices were finalised during 2016–17. Major fit-out projects were undertaken in Canberra and Darwin due to the relocation of both offices to smaller premises. The Darwin project was completed in June 2017 and the Canberra project will be finalised in August 2017. The relocation of these offices will result in significant savings to our operating costs.

There were no additional major asset acquisitions or replacement projects during the year.

Purchasing

Our procurement and purchasing in 2016–17 was undertaken in accordance with the principles set out in the Commonwealth Procurement Rules, which are underpinned by value for money.

We adhere to the core purchasing policies and principles in the Commonwealth Procurement Rules including encouraging competition among actual and potential suppliers, promoting the use of resources in an efficient, effective, economical and ethical manner, and being accountable and transparent during the procurement process.

We apply these principles to our procurement activities through the Director's Governance and Finance Instructions (these instructions were reviewed and renamed as Director's Finance Instructions) and supporting guidelines, which have been developed to ensure we undertake competitive, non-discriminatory procurement processes, use resources efficiently, effectively, economically and ethically, and make decisions in an accountable and transparent manner.

Consultancy services

We engage consultants where we lack specialist expertise or when independent research, review or assessment is required. Typically, we engage consultants to investigate or diagnose a defined issue or problem, carry out defined reviews or evaluations, or provide independent advice, information or creative solutions to assist in our decision-making.

Before we engage consultants, we take into account the skills and resources required for the task, the skills available internally, and the cost-effectiveness of engaging external expertise. We make decisions to engage a consultant in line with the PGPA Act and related regulations (including the Commonwealth Procurement Rules and relevant internal policies).

Annual reports contain information about actual expenditure on contracts for consultancies. Information on the value of contracts and consultancies is available on the AusTender website: www.tenders.gov.au.

During 2016–17, we entered into 18 new consultancy contracts with a total actual expenditure of \$1,137,167 (including GST). In addition, six ongoing consultancy contracts were active during 2016–17, involving a total actual expenditure of \$562,618 (including GST).

Australian National Audit Office access clauses

During the reporting period, we did not let any contracts for \$100,000 or more (including GST) that do not provide for the Auditor-General to have access to the contractor's premises.

Exempt contracts

We have exempted the publication of details of prosecution legal counsel on the basis that to do so would disclose exempt matters under the *Freedom of Information Act 1982*.

Procurement initiatives to support small business

We support small business participation in the Commonwealth Government procurement market. Small and Medium Enterprises (SME) and Small Enterprise participation statistics are available on the Department of Finance's website: www.finance.gov.au/procurement/statistics-on-commonwealth-purchasing-contracts/.

We recognise the importance of ensuring that small businesses are paid on time. The results of the Survey of Australian Government Payments to Small Business are available on the Treasury's website: www.treasury.gov.au/.

Some of the ways that our procurement practices support SMEs include:

- using the Commonwealth Contracting Suite for low-risk procurements valued under \$200,000
- communicating in clear, simple language and presenting information in an accessible format
- adhering to the *Pay on Time Policy* relating to paying small business suppliers.

External scrutiny

The Auditor-General issued an unqualified audit report for the CDP's 2016–17 financial statements.

No other reports that included information on our operations were issued by the Auditor-General, a Parliamentary committee, or the Commonwealth Ombudsman. There was no agency capability review of our operations during 2016–17.

During the reporting period, there were no decisions of administrative tribunals or the Australian Information Commissioner that have had or may have a significant impact on our operations.

Legal services expenditure

The *Legal Services Directions 2017* require agencies to report expenditure on legal services.

These directions are not intended to cover the handling of criminal prosecutions and related proceedings (see General Note 4 to the Directions). Therefore, our report relates to our administrative activities only.

Our total expenditure on legal services (excluding the handling of criminal prosecutions and related proceedings) during 2016–17 was \$151,620 (excluding GST). Further details are in the following table.

Table 23: Legal services expenditure in 2016–17

This is a statement of legal services expenditure published in compliance with paragraph 11.1(ba) of the *Legal Services Directions 2017*.

Expenditure	Amount
Total (external and internal) expenditure	\$ 151,620
Total internal legal services expenditure	\$0
Total external legal services expenditure	\$151,620
Summary of external legal services expenditure	
Total value of briefs to counsel (A)	\$0
Total value of disbursements (excluding counsel) (B)	\$1,035
Total value of professional fees paid (C)	\$150,585
Total external legal services expenditure (A + B + C)	\$151,620

Notes:

1. Excludes the handling of criminal prosecutions and related proceedings.



CHAPTER 7



FINANCIAL STATEMENTS

OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS **FINANCIAL STATEMENTS**

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INDEPENDENT AUDITOR'S REPORT

To the Attorney-General

Opinion

In my opinion, the financial statements of the Office of the Commonwealth Director of Public Prosecutions for the year ended 30 June 2017:

- (a) comply with Australian Accounting Standards – Reduced Disclosure Requirements and the *Public Governance, Performance and Accountability (Financial Reporting) Rule 2015*; and
- (b) present fairly the financial position of the Office of the Commonwealth Director of Public Prosecutions as at 30 June 2017 and its financial performance and cash flows for the year then ended.

The financial statements of the Office of the Commonwealth Director of Public Prosecutions, which I have audited, comprise the following statements as at 30 June 2017 and for the year then ended:

- Statement by the Accountable Authority and Chief Financial Officer;
- Statement of Comprehensive Income;
- Statement of Financial Position;
- Statement of Changes in Equity;
- Cash Flow Statement; and
- Notes to and Forming Part of the Financial Statements, comprising significant accounting policies and other explanatory information.

Basis for Opinion

I conducted my audit in accordance with the Australian National Audit Office Auditing Standards, which incorporate the Australian Auditing Standards. My responsibilities under those standards are further described in the *Auditor's Responsibilities for the Audit of the Financial Statements* section of my report. I am independent of the Office of the Commonwealth Director of Public Prosecutions in accordance with the relevant ethical requirements for financial statement audits conducted by the Auditor-General and his delegates. These include the relevant independence requirements of the Accounting Professional and Ethical Standards Board's APES 110 *Code of Ethics for Professional Accountants* to the extent that they are not in conflict with the *Auditor-General Act 1997* (the Code). I have also fulfilled my other responsibilities in accordance with the Code. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

Accountable Authority's Responsibility for the Financial Statements

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

In preparing the financial statements, the Director is responsible for assessing the Office of the Commonwealth Director of Public Prosecutions' ability to continue as a going concern, taking into account whether the entity's operations will cease as a result of an administrative restructure or for any other reason. The Director is also responsible for disclosing matters related to going concern as applicable and using the going concern basis of accounting unless the assessment indicates that it is not appropriate.

Auditor's Responsibilities for the Audit of the Financial Statements

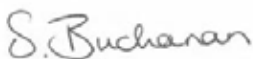
My objective is to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with the Australian National Audit Office Auditing Standards will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of the financial statements.

As part of an audit in accordance with the Australian National Audit Office Auditing Standards, I exercise professional judgement and maintain professional scepticism throughout the audit. I also:

- identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control;
- obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control;
- evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Accountable Authority;
- conclude on the appropriateness of the Accountable Authority's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the entity's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my auditor's report. However, future events or conditions may cause the entity to cease to continue as a going concern; and
- evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

I communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that I identify during my audit.

Australian National Audit Office



Serena Buchanan
Senior Executive Director

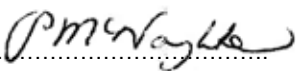
Delegate of the Auditor-General

Canberra
22 September 2017

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

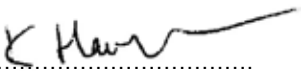
In our opinion, the attached financial statements for the year ended 30 June 2017 comply with *subsection 42(2) of the Public Governance, Performance and Accountability Act 2013 (PGPA Act)*, and are based on properly maintained financial records as per *subsection 41(2) of the PGPA Act*.

In our opinion, at the date of this statement, there are reasonable grounds to believe that the Office of the Commonwealth Director of Public Prosecutions will be able to pay its debts as and when they fall due.

Signed.....

Sarah McNaughton SC
Director
(Chief Executive)

22 September 2017

Signed.....

Karel Havlat
Chief Financial Officer

22 September 2017

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

For the period ended 30 June 2017

		Actual 2017 \$'000	Actual 2016 \$'000
NET COST OF SERVICES EXPENSES	Notes		
Employee benefits	4A	47,063	48,209
Suppliers	4B	34,975	31,985
Depreciation and amortisation	8A	3,134	3,455
Finance costs	4C	24	24
Write-Down and Impairment of Assets	4D	133	1,477
Other	4E	231	330
Total expenses		<u>85,560</u>	<u>85,480</u>
OWN-SOURCE INCOME			
Own-source revenue			
Rendering of services	5A	8,510	8,284
Other	5B	226	321
Total own-source revenue		<u>8,736</u>	<u>8,605</u>
Gains			
Other	5C	597	39
Total gains		<u>597</u>	<u>39</u>
Total own-source income		<u>9,333</u>	<u>8,644</u>
Net cost of services		<u>76,227</u>	<u>76,836</u>
Revenue from Government	5D	<u>77,283</u>	<u>78,299</u>
Surplus attributable to the Australian Government		<u>1,056</u>	<u>1,463</u>
Total comprehensive income attributable to the Australian Government		<u>1,056</u>	<u>1,463</u>

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

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

As at 30 June 2017

	Notes	Actual 2017 \$'000	Actual 2016 \$'000
ASSETS			
Financial Assets			
Cash and cash equivalents	7A	650	74
Trade and other receivables	7B	12,228	16,312
Total financial assets		12,878	16,386
Non-Financial Assets			
Land and buildings	8A	8,950	9,584
Property, plant and equipment	8A	4,092	4,144
Intangibles	8A	718	655
Prepayments		1,900	714
Total non-financial assets		15,660	15,097
Total Assets		28,538	31,483
LIABILITIES			
Payables			
Suppliers	9A	3,253	4,043
Operating Leases	9B	6,592	7,787
Other	9C	2,054	3,965
Total payables		11,899	15,795
Provisions			
Employee provisions	10A	14,814	15,787
Other	10B	1,398	2,425
Total provisions		16,212	18,212
Total Liabilities		28,111	34,007
Net Assets		427	(2,524)
EQUITY			
Contributed equity		9,757	7,862
Reserves		18,479	18,479
Accumulated deficit		(27,809)	(28,865)
Total Equity		427	(2,524)

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

OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS
STATEMENT OF CHANGES IN EQUITY

For the period ended 30 June 2017

	Retained earnings		Asset revaluation surplus		Contributed equity/capital		Total equity	
	2017 \$'000	2016 \$'000	2017 \$'000	2016 \$'000	2017 \$'000	2016 \$'000	2017 \$'000	2016 \$'000
Opening balance								
Balance carried forward from previous period	(28,865)	(30,328)	18,479	18,479	7,862	5,959	(2,524)	(5,890)
Adjusted opening balance	(28,865)	(30,328)	18,479	18,479	7,862	5,959	(2,524)	(5,890)
Comprehensive income								
Surplus (Deficit) for the period	1,056	1,463	-	-	-	-	1,056	1,463
Total comprehensive income	1,056	1,463	-	-	-	-	1,056	1,463
Contributions by owners								
Departmental capital budget funding	-	-	-	-	1,895	1,903	1,895	1,903
Total transactions with owners	-	-	-	-	1,895	1,903	1,895	1,903
Transfers between equity components	-	-	-	-	-	-	-	-
Closing balance as at 30 June	(27,809)	(28,865)	18,479	18,479	9,757	7,862	427	(2,524)

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

Accounting Policy

Equity Injections

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

OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS
CASH FLOW STATEMENT

For the period ended 30 June 2017

	Notes	Actual 2017 \$'000	Actual 2016 \$'000
OPERATING ACTIVITIES			
Cash received			
Appropriations ¹		92,528	85,744
Rendering of services		7,741	8,746
Net GST received		3,110	2,621
Other		454	39
Total cash received		103,833	97,150
Cash used			
Employees		50,106	47,895
Suppliers		41,845	36,259
Other		231	330
Appropriation cash returned to the OPA ¹		11,342	12,813
Total cash used		103,524	97,297
Net cash from (used by) operating activities		309	(147)
INVESTING ACTIVITIES			
Cash used			
Purchase of property, plant and equipment		2,644	1,532
Total cash used		2,644	1,532
Net cash from (used by) investing activities		(2,644)	(1,532)
FINANCING ACTIVITIES			
Cash received			
Contributed equity		2,911	1,397
Total cash received		2,911	1,397
Net cash from (used by) financing activities		2,911	1,397
Net increase (decrease) in cash held		576	(282)
Cash and cash equivalents at the beginning of the reporting period		74	356
Cash and cash equivalents at the end of the reporting period	7A	650	74

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

¹Appropriation cash returned to the OPA is disclosed on a GST inclusive basis in the cash flow statement. The comparatives for appropriation cash returned to the OPA and appropriation (cash received) have been restated to appropriately reflect the GST inclusive basis of appropriation cash returned to the OPA in the cash flow statement. See table below.

	Actual 2017 \$'000	Revised Actual 2016 \$'000	Original Actual 2016 \$'000
OPERATING ACTIVITIES			
Cash received			
Appropriations	92,528	85,744	83,123
Cash used			
Appropriation cash returned to the OPA	11,342	12,813	10,192

**OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS**

For the period ended 30 June 2017

Note Description

- 1 Overview
- 2 Events After the Reporting Period
- 3 Net Cash Appropriation Arrangements
- 4 Expenses
- 5 Own-Source Income
- 6 Fair Value Measurements
- 7 Financial Assets
- 8 Non-Financial Assets
- 9 Payables
- 10 Provisions
- 11 Contingent Assets and Liabilities
- 12 Related Party Disclosures
- 13 Key Management Personnel Remuneraton
- 14 Financial Instruments
- 15 Appropriations
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Note 1: Overview

1.1 The Basis of Preparation

The financial statements are general purpose financial statements and are required by Section 42 of the *Public Governance, Performance and Accountability Act 2013*.

The Financial Statements have been prepared in accordance with:

- Financial Reporting Rule (FRR) for reporting periods ending on or after 1 July 2016; and
- Australian Accounting Standards – Reduced Disclosure Requirements and Interpretations issued by the Australian Accounting Standards Board (AASB) that apply for the reporting period.

The financial statements have been prepared on an accrual basis and in accordance with the historical cost convention, except for certain assets and liabilities at fair value. Except where stated, no allowance is made for the effect of changing prices on the results or the financial position.

The financial statements are presented in Australian dollars and values are rounded to the nearest thousand dollars unless otherwise specified.

1.2 Significant Accounting Judgements and Estimates

In the process of applying the accounting policies listed in the notes, the CDPP has made judgements in relation to:

- the fair value of property, plant and equipment and the related makegood; and
- employee provisions;

that have significant impact on the amounts recorded in the financial statements.

No accounting assumptions and estimates have been identified that have a significant risk of causing a material adjustment to carrying amounts of assets and liabilities within the next reporting period.

1.3 New Australian Accounting Standards

All new/revised/amending standards and/or interpretations that were issued prior to the sign-off date and are applicable to the current reporting period did not have a material effect on the ANAO's financial statements.

1.4 Taxation

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

1.5 Commonwealth Expenditure

The Australian Government continues to have regard to developments in case law, including the High Court's most recent decision on Commonwealth expenditure in *Williams v Commonwealth [2014] HCA 23*, as they contribute to the larger body of law relevant to the development of Commonwealth programmes. In accordance with its general practice, the

**OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS**

For the period ended 30 June 2017

Note 1: Overview

Government will continue to monitor and assess risk and decide on any appropriate actions to respond to risks of expenditure not being consistent with constitutional or other legal requirements.

As at 30 June 2017, CDPP has assessed that it has no spending activities with a high or medium constitutional risk.

Note 2: Events After the Reporting Period

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

**OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS**

For the period ended 30 June 2017

Note 3: Net Cash Appropriation Arrangements

	2017	2016
	\$'000	\$'000
Total comprehensive income (loss) less depreciation/amortisation expenses previously funded through revenue appropriations¹	4,190	4,918
<i>Plus</i> : depreciation/amortisation expenses previously funded through revenue appropriation	<u>(3,134)</u>	<u>(3,455)</u>
Total comprehensive income (loss) - as per the Statement of Comprehensive Income	<u>1,056</u>	<u>1,463</u>

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

**OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS**

For the period ended 30 June 2017

Note 4: Expenses

	2017 \$'000	2016 \$'000
<u>Note 4A: Employee Benefits</u>		
Wages and salaries	36,391	33,600
Superannuation:		
Defined contribution plans	3,558	2,962
Defined benefit plans	3,388	4,067
Leave and other entitlements	3,238	4,918
Separation and redundancies	284	2,485
Other employee benefits	204	177
Total employee benefits	47,063	48,209

Accounting Policy

Superannuation

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

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

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

Note 4B: Suppliers

Goods and services supplied or rendered

Prosecution legal costs	12,047	11,625
ICT	3,237	3,046
Property	1,948	1,450
Library	1,301	1,251
Services Advice and Training	5,851	4,804
Other	2,672	1,846
Total goods and services supplied or rendered	27,056	24,022
Goods Supplied	1,475	2,625
Services Rendered	25,581	21,397
Total goods and services supplied or rendered	27,056	24,022

**OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS**

For the period ended 30 June 2017

Note 4: Expenses

	2017 \$'000	2016 \$'000
Other suppliers		
Operating lease rentals in connection with		
External parties		
Minimum lease payments	6,813	7,030
Rental expense for sub-leases	411	307
Workers compensation expenses	695	626
Total other suppliers	<u>7,919</u>	<u>7,963</u>
Total suppliers	<u>34,975</u>	<u>31,985</u>

Accounting Policy

Expenses

Operating lease payments are expensed on a straight-line basis which is representative of the pattern of benefits derived from the leased assets.

Commitments for minimum lease payments in relation to non-cancellable operating leases are payable as follows GST Inclusive:

Within 1 Year	9,403	9,920
Between 1 to 5 years	26,268	25,310
More than 5 years	13,386	11,485
Total operating lease commitments	<u>49,057</u>	<u>46,715</u>

Office Space

Leasing Commitments

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

There are no purchase options with any CDPP lease or Contingent rental payable. The leases listed above are only the CDPP leases with annual costs of above \$1m. CDPP has five other leased properties.

Note 4C: Finance Costs

Unwinding of discount	<u>24</u>	<u>24</u>
Total finance costs	<u>24</u>	<u>24</u>

Note 4D: Write-Down and Impairment of Assets

Property, plant and equipment write-down	133	1,471
Impairment of intangible assets	-	3
Other	-	3
Total write-down and impairment of assets	<u>133</u>	<u>1,477</u>

Note 4E: Other Expenses

Costs awarded against the Commonwealth	<u>231</u>	<u>330</u>
Total other expenses	<u>231</u>	<u>330</u>

**OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS**

For the period ended 30 June 2017

Note 5: Own-Source Income

	2017 \$'000	2016 \$'000
OWN-SOURCE REVENUE		

Note 5A: Rendering of Goods and Services

Rendering of services	8,510	8,284
Total rendering of services	8,510	8,284

Commitments for sublease rental income receivables are as follows:

Within 1 year	602	385
Between 1 to 5 years	1,354	377
More than 5 years	392	-
Total sublease rental income commitments	2,348	762

Accounting Policy

Revenue from rendering of services

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

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

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

Note 5B: Other Revenue

Resources received free of charge - services from external parties	145	241
Resources received free of charge - auditor's remuneration	81	80
Total other revenue	226	321

Accounting Policy

Resources Received Free of Charge

Resources received free of charge are recognised as revenue when, and only when, a fair value can be reliably determined and the services would have been purchased if they had not been donated. Use of those resources is recognised as an expense. Resources received free of charge are recorded as either revenue or gains depending on their nature.

OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

For the period ended 30 June 2017

Note 5: Own-Source Income

	2017	2016
	\$'000	\$'000

GAINS

Note 5C: Other Gains

Other	597	39
Total other gains	597	39

REVENUE FROM GOVERNMENT

Note 5D: Revenue from Government

Appropriations:

Departmental appropriations	77,283	78,299
Total revenue from Government	77,283	78,299

Accounting Policy

Revenue from Government

Amounts appropriated for departmental appropriations for the year (adjusted for any formal additions and reductions) are recognised as Revenue from Government when the CDPP gains control of the appropriation. Appropriations receivable are recognised at their nominal amounts.

Note 6: Fair Value Measurement

Note 6: Fair Value Measurements, Valuations Techniques and Inputs Used

The following tables provide an analysis of assets and liabilities that are measured at fair value. The remaining assets and liabilities disclosed in the statement of financial position do not apply the fair value hierarchy.

The different levels of the fair value hierarchy are defined below.

Level 1: Quoted prices (unadjusted) in active markets for identical assets or liabilities that the entity can access at measurement date.

Level 2: Inputs other than quoted prices included within Level 1 that are observable for the asset or liability, either directly or indirectly.

Level 3: Unobservable inputs for the asset or liability.

Accounting Policy

All revaluations of non-financial assets were conducted by an independent valuer as at 30 June 2013. The CDPP engaged Australian Valuation Solutions (AVS) to test the procedures of the valuation model and confirm the model complies with AASB 13. Assets are revalued in accordance with AASB 116 Property, Plant and Equipment approximately every five years, unless the annual fair value assessment suggests there is a material difference between carrying value of assets and their fair value. Where there is a material difference, all assets in that category are revalued. AVS has provided written assurance to the CDPP that the models developed are in compliance with AASB 13.

The methods utilised to determine and substantiate the unobservable inputs are derived and evaluated as follows:

Physical Depreciation and Obsolescence - Assets that do not transact with enough frequency or transparency to develop objective opinions of value from observable market evidence have been measured utilising the Depreciated Replacement Cost approach.

For Leasehold Improvement assets, the consumed economic benefit / asset obsolescence deduction is determined based on the term of the associated lease.

Impairment: Assets are assessed for impairment on an annual basis.

The CDPP's policy is to recognise transfers into and transfers out of fair value hierarchy levels as at the end of the reporting period.

OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS
 NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

For the period ended 30 June 2017

Note 6: Fair Value Measurement

Fair value measurements - valuation technique and the inputs used

	Fair Value		Level ³
	2017 \$'000	2016 \$'000	
Non-financial assets:²			
Property, plant and equipment ¹	2,676	2,599	2
	1,416	1,545	3
Leasehold improvements ¹	8,950	9,584	3
Total non-financial assets	13,042	13,728	

¹ No non-financial assets were measured at fair value on a non-recurring basis as at 30 June 2017 (2016: Nil).

² The CDDP's assets are held for operational purposes and not held for the purposes of deriving a profit. The current use of all non-financial assets is considered their highest and best use.

³ There were no transfers between levels 1 and 2 for recurring fair value measurements during the year.

OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

For the period ended 30 June 2017

Note 7: Financial Assets

	2017 \$'000	2016 \$'000
Note 7A: Cash and Cash Equivalents		
Cash on hand or on deposit	650	74
Total cash and cash equivalents	650	74

Accounting Policy

Cash and Cash Equivalents

Cash is recognised at its nominal amount. Cash and cash equivalents includes:

- a) cash on hand; and
- b) on demand deposits in bank accounts with an original maturity of 3 months or less that are readily convertible to cash.

Note 7B: Trade and Other Receivables

Good and Services:

Goods and services	386	57
Total goods and services receivables	386	57

Appropriations receivable:

For existing programs	10,672	15,591
Total appropriations receivable	10,672	15,591

Other receivables:

GST receivable from the Australian Taxation Office	491	453
Other	679	211
Total other receivables	1,170	664
Total trade and other receivables (gross)	12,228	16,312

All receivables are classified as not overdue. This is in line with CDPP Credit terms for goods and services of 30 days (2016: 30 days).

Accounting Policy

Trade receivables are classified as 'loans and receivables' and recorded at face value less any impairment. Trade receivables are recognised when CDPP becomes party to a contract and has a legal right to receive cash. Loans and receivables are assessed for impairment at the end of each reporting period. Trade receivables are derecognised on payment.

The fair value of CDPP's financial assets and liabilities approximate their carrying amounts. The CDPP derived no interest income from financial assets in either the current or prior year.

The CDPP has policies and procedures that guide employee debt recovery. The CDPP does not require collateral in respect of trade and other receivables. No impairment has been recognised (2016: nil).

The CDPP has sufficient available financial assets to meet all financial liabilities at 30 June 2017.

OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS
 NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

For the period ended 30 June 2017

Note 8: Non-Financial Assets

Note 8A: Reconciliation of the Opening and Closing Balances of Buildings, Property, Plant and Equipment and Intangibles for 2017

	Buildings \$'000	Plant & equipment \$'000	Computer Software \$'000	Total \$'000
As at 1 July 2016				
Gross book value	15,013	6,651	3,246	24,910
Accumulated depreciation, amortisation and impairment	(5,429)	(2,507)	(2,591)	(10,527)
Total as at 1 July 2016	9,584	4,144	655	14,383
Additions:				
By Purchase	1,661	738	244	2,643
Depreciation and amortisation	(2,295)	(657)	(181)	(3,133)
Other movements:				
By reclassification to other asset classes	-	-	-	-
Prior year WIP reclassified to expense	-	-	-	-
Disposals	-	(133)	-	(133)
Total as at 30 June 2017	8,950	4,092	718	13,760
Total as at 30 June 2017 represented by:				
Gross book value	16,674	7,112	3,490	27,276
Accumulated depreciation	(7,724)	(3,020)	(2,772)	(13,516)
Total as at 30 June 2017	8,950	4,092	718	13,760

2017
\$'000

Commitments relating to Capital purchases are payable as follows GST Inclusive:

Within 1 Year	3,112
Total capital commitments	3,112

Total capital commitments expected to be settled within 1 year relate to:

- * Canberra Office Works: commitment of \$1.699m for fitout of new premises
- * New Offsite Data Centre Facility: \$0.454m
- * Mandatory T4 Type 1A Security System upgrade: \$0.3m
- * Darwin Fitout for premises occupied in June-17: \$0.233m
- * BMS Modernisation Project: \$0.377m
- * Other: Minor fitout and document management system enhancements \$0.049m

OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

For the period ended 30 June 2017

Note 8: Non-Financial Assets

Accounting Policy

Recognition and Depreciation

Assets are recognised initially at cost in accordance with the table below.

Depreciable property plant and equipment assets are written-off to their estimated residual values over their estimated useful lives to the CDPP using, in all cases, the straight-line method of depreciation. Software assets are amortised on a straight-line basis.

	Useful Life (years)	Threshold (\$)
Leasehold Improvements	lease term	20,000 or 5% of total value
PP&E	2-30 years	2,000
Software	3-6 years	5,000

Revaluations

Fair values for each class of asset are determined as shown below:

Asset class	Fair value measured at
Leasehold improvements	Depreciated replacement cost
Infrastructure, plant and equipment	Market selling price and depreciated replacement cost

Following initial recognition at cost, property plant and equipment are carried at fair value less subsequent accumulated depreciation and accumulated impairment losses. Valuations are conducted with sufficient frequency to ensure that the carrying amounts of assets do not differ materially from the assets' fair values as at the reporting date. The regularity of independent valuations depends upon the volatility of movements in market values for the relevant assets. The most recent independent valuation was conducted on 30 June 2013. Impairment assessment is carried out on an annual basis.

Assets are revalued in accordance with AASB 116 Property, Plant and Equipment approximately every five years unless the annual fair value assessment suggests that there is a material difference between carrying value of assets and their fair value. Where there is a material difference, all assets in that category are revalued.

Impairment

All assets are assessed annually for impairment. Where indications of impairment exist, the asset's recoverable amount is estimated and an impairment adjustment made if the asset's recoverable amount is less than its carrying amount.

Derecognition

An item of property, plant and equipment is derecognised upon disposal or when no further future economic benefits are expected from its use or disposal.

OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
For the period ended 30 June 2017

Note 9: Payables

	2017	2016
	\$'000	\$'000
Note 9A: Suppliers		
Trade creditors and accruals	3,253	4,043
Total supplier payables	<u>3,253</u>	<u>4,043</u>

Accounting Policy

Supplier and other payables are recognised at cost. Liabilities are recognised to the extent that the goods or services have been received. Supplier and other payables are derecognised on payment. Supplier payables are settled within 30 days.

Note 9B: Operating Lease Payables

Lease Incentives	6,592	7,787
Total Operating Lease Payables	<u>6,592</u>	<u>7,787</u>

Accounting Policy

Lease Incentives consist of rent free periods, leasehold improvements and cash incentives. Lease payments are allocated on a straight-line basis between a reduction of the lease incentive liabilities and rental expenses to spread the rental expense in accordance with the pattern of benefits derived from the incentives.

Note 9C: Other Payables

Wages and salaries	290	135
Superannuation	54	27
Employee separations	-	2,256
Lease straight lining	1,522	1,344
Other	188	203
Total other payables	<u>2,054</u>	<u>3,965</u>

OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
For the period ended 30 June 2017

Note 10: Provisions

	2017 \$'000	2016 \$'000
Note 10A: Employee Provisions		
Leave	<u>14,814</u>	<u>15,787</u>
Total employee provisions	<u>14,814</u>	<u>15,787</u>

Accounting Policy

Employee provisions have been calculated based on the CDP's specific probability factors as determined by the Australian Government Actuary and have been discounted using the 10 year government bond rate as at 30 June 2017.

Employee Benefits

Liabilities for 'short-term employee benefits' (as defined in AASB 119 Employee Benefits) and termination benefits expected within twelve months of the end of the reporting period are measured at their nominal amounts.

The nominal amount is calculated with regard to the rates expected to be paid on settlement of the liability.

Other long-term employee benefits are measured as net total of the present value of the defined benefit obligation at the end of the reporting period minus the fair value at the end of the reporting period of plan assets (if any) out of which the obligations are to be settled directly.

Leave

The liability for employee benefits includes provision for annual leave and long service leave. No provision has been made for sick leave as all sick leave is non-vesting and the average sick leave taken in future years by employees of the CDP is estimated to be less than the annual entitlement for sick leave.

The leave liabilities are calculated on the basis of employees' remuneration at the estimated salary rates that will be applied at the time the leave is taken, including the CDP's employer superannuation contribution rates to the extent that the leave is likely to be taken during service rather than paid out on termination.

The liability for long service leave has been determined by reference to the work of an actuary as at 30 June 2014. The actuary report is still relevant as the mix of CDP employees is similar to that of 30 June 2014. The estimate of the present value of the liability takes into account attrition rates and pay increases through promotion and inflation.

**OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS**

For the period ended 30 June 2017

Note 10: Provisions

Superannuation

The liability for defined benefits is recognised in the financial statements of the Australian Government and is settled by the Australian Government in due course. This liability is reported in the Department of Finance's Administered schedules and notes.

The liability for superannuation recognised as at 30 June represents outstanding contributions for the final fortnight of the year.

	2017 \$'000	2016 \$'000
Note 10B: Other Provisions		
Provision for restoration ¹	879	1,111
Provision for superannuation ²	195	179
Provision for surplus lease space ³	341	1,150
Provision for sub lease receivable	(17)	(15)
Total other provisions	1,398	2,425
Other provisions expected to be settled		
No more than 12 months	228	230
More than 12 months	1,170	2,195
Total other provisions	1,398	2,425

	Provision for restoration \$'000	Other provisions \$'000	Total \$'000
Carrying amount 1 July 2016	1,111	1,314	2,425
Additional provisions made	-	522	522
Amounts used	(256)	(1,072)	(1,328)
Amounts reversed	-	(14)	(14)
Unwinding of discount or change in discount rate	24	(231)	(207)
Closing balance 30 June 2017	879	519	1,398

¹ CDPP currently has 11 agreements (2016: 11 agreements) for leased premises. Four of these have provisions requiring CDPP to restore the premises to their original condition at the end of the lease. CDPP has made provisions to reflect the present value of these obligations.

² Additional lump sum superannuation contributions are payable where a shortfall is found in the statutory payment for an employee in the Commonwealth Superannuation Scheme. These contributions are historically paid every 3-4 years. CDPP continues to provide for additional lump sum superannuation contributions.

³ Provision for Surplus Lease Space relates to office lease space under an onerous lease in 2016-17.

**OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS**

For the period ended 30 June 2017

Note 11: Contingent Assets and Liabilities

Claims for damages or costs	2017	2016
	\$'000	\$'000
Contingent liabilities		
Balance from previous period	-	120
New contingent liabilities recognised	-	-
Liabilities realised	-	(120)
Total contingent liabilities	-	-

Accounting Policy

Contingent Liabilities and Contingent Assets are not recognised in the Statement of Financial Position but are reported in the notes. They may arise from uncertainty as to the existence of a liability or asset or represent an asset or liability in respect of which the amount cannot be reliably measured. Contingent assets are disclosed when settlement is probable but not virtually certain and contingent liabilities are disclosed when settlement is greater than remote.

Quantifiable Contingencies

The above table contains \$0 of contingent liabilities disclosed in respect to claims for costs (2016: \$0). The amount from the prior year was extinguished.

Unquantifiable Contingencies

If a matter prosecuted by the CDPP is defended successfully, the court may order that the CDPP meet certain costs incurred by the defence.

If a matter is being prosecuted by the CDPP and assets are frozen under the Proceeds of Crime Act 1987 or the Proceeds of Crime Act 2002, the CDPP gives an undertaking against potential losses in respect of assets administered by the Commonwealth. If the related prosecution is unsuccessful, damages can be awarded against the CDPP. Costs and damages so awarded are met from the CDPP or client organisation's annual appropriations.

Costs and damages have been awarded against the CDPP by the Courts on some occasions in past financial years. On this basis, it is anticipated that this will occur on some occasions during the next financial year. However, since awards of costs and damages are made by the Courts and the CDPP is unable to control or predict the quantum or number of such awards, the CDPP is unable to quantify its potential future liabilities in this regard. For that reason, the quantum of the anticipated future awards of costs and damages against the CDPP, has not been included in the Schedule of Contingencies.

**OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS**

For the period ended 30 June 2017

Note 12: Related Party Disclosures

Related party relationships: The Office of the Commonwealth Director of Public Prosecutions is an Australian Government controlled entity. Related parties to this entity are Key Management Personnel including the Portfolio Minister and Chief Executive Officer (Accountable Authority), Executive Leadership Group, Chief Financial Officer and other Australian Government entities.

Transactions with related parties: Given the breadth of Government activities, related parties may transact with the government sector in the same capacity as ordinary citizens. Such transactions include payment or refund of taxes, receipt of Medicare rebate or higher education loans. These transactions have not been separately disclosed in this note.

Giving consideration to relationships with related entities, and transactions entered into during the reporting period by the entity, it has been determined that there are no related party transactions to be separately disclosed.

OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

For the period ended 30 June 2017

Note 13: Key Management Personnel Remuneration

Key management personnel are those persons having authority and responsibility for planning, directing and controlling the activities of the entity, directly or indirectly, including any director (whether executive or otherwise) of that entity. The CDPP has determined key management personnel to be the Director of Public Prosecutions, Commonwealth Solicitor, Deputy Directors and the Chief Financial Officer. Key management personnel remuneration is reported in the table below:

	2017
	\$'000
Short-term employee benefits	2,412
Post-employment benefits	463
Other long-term benefits	292
Termination benefits	-
Total key management personnel remuneration expenses^{1, 2}	<u>3,167</u>

Notes

¹ The total number of key management personnel that are included in the above table are 10 representing the people who individually occupied the KMP position during the year. This includes 2 acting arrangements.

² The above key management personnel remuneration excludes the remuneration and other benefits of the Portfolio Minister. The Portfolio Minister's remuneration and other benefits are set by the Remuneration Tribunal and are not paid by the entity.

OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
For the period ended 30 June 2017

Note 14: Financial Instruments

	2017	2016
	\$'000	\$'000
<u>Note 14A: Categories of Financial Instruments</u>		
Financial Assets		
Loans & Receivables:		
Cash & cash equivalents	650	74
Trade and other receivables	1,065	268
Total	<u>1,715</u>	<u>342</u>
Carrying amount of financial assets	<u>1,715</u>	<u>342</u>
Financial Liabilities		
At amortised cost:		
Suppliers payables	3,253	4,043
Total	<u>3,253</u>	<u>4,043</u>
Carrying amount of financial liabilities	<u>3,253</u>	<u>4,043</u>
<u>Note 14B: Net Gains or Losses from Financial Assets</u>		
Held-to-maturity		
Impairment	-	3
Net gain/(loss) from financial assets	<u>-</u>	<u>3</u>

OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

For the period ended 30 June 2017

Note 15: Appropriations

Table A: Annual Appropriations ('Recoverable GST Exclusive')

	2017	2016
	\$'000	\$'000
Ordinary Annual Services		
Annual Appropriation ¹	77,290	78,299
Annual Departmental Capital Budget ²	1,895	1,903
PGPA Act s74	<u>8,195</u>	<u>10,192</u>
Total appropriation	<u>87,380</u>	<u>90,394</u>
Appropriation applied (current and prior years) ³	<u>94,593</u>	<u>85,950</u>
Variance	<u>(7,213)</u>	<u>4,444</u>

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

¹ In 2016-17 revenue from government reported in the statement of comprehensive income was \$77.283 million, \$0.007 million less than the operating annual appropriation of \$77.290 million. The \$0.007 million difference reflects operating funding withheld through section 51 of the PGPA Act to replace individual Commonwealth entity contracts with a single coordinated procurement contract for GovLink.

² Departmental Capital Budgets are appropriated through Appropriation Acts (No.1,3 & 5). They form part of ordinary annual services, and are not separately identified in the Appropriation Acts.

³ Appropriations applied includes payments for ordinary appropriations and non-financial asset purchases which have been capitalised.

In response to the requirement to report appropriation applied (current and prior years) on a GST recoverable exclusive basis (and accounting for the return of s.74 receipts to the OPA), the comparatives for appropriation applied (current and prior years) have been restated accordingly.

Table B: Unspent Annual Appropriations ('Recoverable GST Exclusive')

	2017	2016
	\$'000	\$'000
Authority		
DEPARTMENTAL		
Cash	650	74
Appropriation Act (No.1) 2015-16	-	14,575
Appropriation Act (No.1) 2015-16 - DCB	-	1,016
Appropriation Act (No.1) 2016-17	10,672	-
Appropriation Act (No.1) 2016-17 - DCB	-	-
Total	<u>11,322</u>	<u>15,665</u>

**OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS**

For the period ended 30 June 2017

Note 16: Budgetary Reports and Explanations of Major Variances

The following tables provide a comparison of the original budget as presented in the 2016-17 Portfolio Budget Statements (PBS) to the 2016-17 final outcome as presented in accordance with Australian Accounting Standards for CDPP. The Budget is not audited.

Variances are considered to be 'major' where they have impacted on the organisation's performance and are based on the following criteria:

- * the variance between budget and actual is greater than +/- 10% of the original budget for a line item; or
- * the variance between budget and actual is greater than +/- 2% of the relevant sub-total (i.e. total expenses, total income, total assets or total liabilities); or
- * an item is below this threshold but is considered important for the reader's understanding or is relevant to an assessment of the discharge of accountability and to an analysis of performance of CDPP.

OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
For the period ended 30 June 2017

Note 16: Budgetary Reports and Explanations of Major Variances

Note 16A: Departmental Budgetary Reports

Statement of Comprehensive Income

For the period ended 30 June 2017

	Actual	Budget Estimate	
	2017	Original ¹	Variance ²
	\$'000	\$'000	\$'000
NET COST OF SERVICES EXPENSES			
Employee benefits	47,063	52,930	(5,867) A
Suppliers	34,975	31,696	3,279
Depreciation and amortisation	3,134	4,325	(1,191)
Finance costs	24	-	24
Disposal and impairment of assets	133	-	133
Other	231	570	(339)
Total expenses	85,560	89,521	(3,961)
LESS:			
OWN-SOURCE INCOME			
Own-source revenue			
Rendering of services	8,510	7,392	1,118 C
Other	226	284	(58)
Total own-source revenue	8,736	7,676	1,060
Gains			
Other	597	230	367
Total gains	597	230	367
Total own-source income	9,333	7,906	1,427
Net cost of services	76,227	81,615	(5,388)
Revenue from Government	77,283	77,290	(7)
Surplus (Deficit) attributable to the Australian Government	1,056	(4,325)	5,381
Total comprehensive income (loss) attributable to the Australian Government	1,056	(4,325)	5,381

¹ CDDP's original budgeted financial statements as first presented to Parliament in respect of the reporting period.

² Between the actual and original budgeted amounts for 2017. Explanations for major variances are provided at Note 16B.

OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

As at 30 June 2017

Note 16: Budgetary Reports and Explanations of Major Variances

Note 16A: Departmental Budgetary Reports (cont'd)

Statement of Financial Position

For the period ended 30 June 2017

	Actual	Budget Estimate	
	2017	Original ¹	Variance ²
	2017	2017	2017
	\$'000	\$'000	\$'000
ASSETS			
Financial Assets			
Cash and cash equivalents	650	360	290
Trade and other receivables	12,228	13,654	(1,426) C
Total financial assets	12,878	14,014	(1,136)
Non-Financial Assets			
Land and buildings	8,950	7,552	1,398 D
Property, plant and equipment	4,092	3,502	590 D
Intangibles	718	695	23
Prepayments	1,900	468	1,432 D
Total non-financial assets	15,660	12,217	3,443
Total Assets	28,538	26,231	2,307
LIABILITIES			
Payables			
Suppliers	3,253	6,213	(2,960) E
Operating Leases	6,592	12,131	(5,539) E
Other	2,054	300	1,754
Total payables	11,899	18,644	(6,745)
Provisions			
Employee provisions	14,814	14,519	295 A
Other	1,398	1,301	97
Other Provisions	16,212	15,820	392
Total Liabilities	28,111	34,464	(6,353)
Net Assets	427	(8,233)	8,660
EQUITY			
Parent Entity Interest			
Contributed equity	9,757	10,267	(510)
Reserves	18,479	18,479	-
Retained surplus / (Accumulated deficit)	(27,809)	(36,979)	9,170
Total parent entity interest	427	(8,233)	8,660
Total Equity	427	(8,233)	8,660

¹ CDDP's original budgeted financial statements as first presented to Parliament in respect of the reporting period.

² Between the actual and original budgeted amounts for 2016. Explanations for major variances are provided at Note 16B.

OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENT

For the period ended 30 June 2017

Note 16: Budgetary Reports and Explanations of Major Variances

Note 16A: Departmental Budgetary Reports (cont'd)

Cash Flow Statement

For the period ended 30 June 2017

	Actual	Budget Estimate	
		Original ¹	Variance ²
	2017	2017	2017
	\$'000	\$'000	\$'000
OPERATING ACTIVITIES			
Cash received			
Appropriations	92,528	77,290	15,238
Rendering of services	7,741	7,392	349
Net GST received	3,110	2,900	210
Other	454	230	224
Total cash received	103,833	87,812	16,021
Cash used			
Employees	50,106	52,430	(2,324) A
Suppliers	41,845	27,420	14,425 B
Other	231	570	(339)
Appropriation cash returned to the OPA	11,342	7,392	3,950
Total cash used	103,524	87,812	15,712
Net cash from (used by) operating activities	309	-	309
INVESTING ACTIVITIES			
Total cash received	-	-	-
Cash used			
Purchase of property, plant and equipment	2,644	1,895	749
Total cash used	2,644	1,895	749
Net cash from (used by) investing activities	(2,644)	(1,895)	(749)
FINANCING ACTIVITIES			
Cash received			
Contributed equity	2,911	1,895	1,016
Total cash received	2,911	1,895	1,016
Net cash from (used by) financing activities	2,911	1,895	1,016
Net increase (decrease) in cash held	576	-	576
Cash and cash equivalents at the beginning of the reporting period	74	360	(286)
Cash and cash equivalents at the end of the reporting period	650	360	290

¹ CDP's original budgeted financial statements as first presented to Parliament in respect of the reporting period.

² Between the actual and original budgeted amounts for 2016. Explanations for major variances are provided at Note 16B.

OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
For the period ended 30 June 2017

Note 16: Budgetary Reports and Explanations of Major Variances

Note 16A: Departmental Budgetary Reports (cont'd)

Statement of Changes in Equity
For the period ended 30 June 2017

	Retained earnings		Asset revaluation surplus		Contributed equity/capital		Total equity	
	Actual	Budget estimate	Actual	Budget estimate	Actual	Budget estimate	Actual	Budget estimate
	2017 \$'000	Original ¹ 2017 \$'000	Original ¹ 2017 \$'000	Variance ² 2017 \$'000	Original ¹ 2017 \$'000	Variance ² 2017 \$'000	Original ¹ 2017 \$'000	Variance ² 2017 \$'000
Opening balance								
Balance carried forward from previous period	(28,865)	(32,654)	3,789					
Adjusted opening balance	(28,865)	(32,654)	3,789					
Comprehensive income								
Surplus (Deficit) for the period	1,056	(4,325)	5,381					
Total comprehensive income	1,056	(4,325)	5,381					
Contributions by owners								
Departmental capital budget funding	-	-	-		1,895	1,895		
Total transactions with owners	-	-	-		1,895	1,895		
Closing balance as at 30 June	(27,809)	(36,979)	9,170		18,479	18,479	(510)	8,660

¹ CDP's original budgeted financial statements as first presented to Parliament in respect of the reporting period.

² Variance between the actual and original budgeted amounts for 2017. Explanations for major variances are provided at Note 16B.

**OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS**

For the period ended 30 June 2017

Note 16: Budgetary Reports and Explanations of Major Variances

Note 16B: Departmental Major Budget Variances for 2017

Explanations for major variances	Affected line items (and statement)
A Employee Benefits	
Actual Employee benefits expense is lower than 2017 Budget due to a movement in the discount rate used to value the employee provision, resulting in a downward adjustment to both expenses and provision balances, anticipated cost of pay rise from new enterprise agreement not occurring and lower than forecast salary expense.	* Employee benefits expense (Statement of Comprehensive Income) (\$5.867m)
	* Operating cash used - employees (Cash Flow Statement) (\$2.324m)
	* Employee Provision (Statement of Financial Position) \$0.295m
B Suppliers	
Suppliers expense is higher than 2017 Budget due to:	
* Costs relating to new major projects (eg. development of a funding model, implementation of new Financial Management Information System & a new Business Management System), and finalised costs relating to property moves;	* Operating cash used - suppliers (Cash Flow Statement) \$14.425m
* Decommissioning of existing Financial Management Information System as part of implementing a new FMIS in July 2017 resulting in the payment of all invoices on hand as at 23 June 2017.	
C Own Source Income	
Rendering of services is above the 2017 Budget due to unbudgeted receipts from:	
* Attorney-General's Department sub-lease contribution to Darwin Office fitout;	* Rendering of services (Statement of Comprehensive Income) \$1.118m
* Australian Taxation Office payment for extra prosecution services; and	
* An increase in Perth Office sub-lease receipts.	
Trade and other receivables is below 2017 Budget mainly due to an increase in drawdown of appropriation to pay invoices on hand as at 23 June, 2017.	* Trade and other receivables (Statement of Financial Position) (\$1.426m)
D Non-Financial Assets	
Total non-financial assets is above the 2017 Budget due to:	
* Land and buildings including greater than forecast cost of new Darwin Office fitout and the cost of upgrades in other Offices;	* Land and Buildings Assets (Statement of financial Position) \$1.398m
* Property, plant and equipment including the cost of new computer rollout to staff;	* Property Plant and Equipment Assets (Statement of Financial Position) \$0.590m
* Prepayments including the payment of annual subscription invoices on hand as at 23 June 2017 as a result of decommissioning the Financial Management Information System.	* Prepayments (Statement of Financial Position) \$1.432m
E Payables (Suppliers and Lease Incentives)	
The value of Payables was below the 2017 Budget due to:	
* The decommissioning the Financial Management Information System and payment of all invoices on hand as at 23 June 2017, to facilitate transition to new FMIS;	* Supplier Payables (Statement of Financial Position) (\$2.960m)
* Operating Leases below the 2017 Budget due to the expected timing of the impact of new lease incentives in 2016-17, now occurring in 2017-18.	* Operating leases (Statement of Financial Position) (\$5.539m)





APPENDICES AND REFERENCES



APPENDIX 1: LIST OF REQUIREMENTS 2016–17

Below is the table set out in Schedule 2 of the PGPA Rule. Section 17AJ(d) requires this table to be included in entities' annual reports as an aid of access.

PGPA Rule Reference	Part of Report	Description	Requirement	Location
17AD(g)	Letter of transmittal			
17AI		A copy of the letter of transmittal signed and dated by accountable authority on date final text approved, with statement that the report has been prepared in accordance with section 46 of the Act and any enabling legislation that specifies additional requirements in relation to the annual report.	Mandatory	Preliminary
17AD(h)	Aids to access			
17AJ(a)		Table of contents.	Mandatory	Preliminary
17AJ(b)		Alphabetical index.	Mandatory	Chapter 8
17AJ(c)		Glossary of abbreviations and acronyms.	Mandatory	Chapter 8
17AJ(d)		List of requirements.	Mandatory	Chapter 8
17AJ(e)		Details of contact officer.	Mandatory	Preliminary
17AJ(f)		Entity's website address.	Mandatory	Preliminary
17AJ(g)		Electronic address of report.	Mandatory	Preliminary
17AD(a)	Review by accountable authority			
17AD(a)		A review by the accountable authority of the entity.	Mandatory	Director's Review—Preliminary
17AD(b)	Overview of the entity			
17AE(1)(a)(i)		A description of the role and functions of the entity.	Mandatory	Chapter 1
17AE(1)(a)(ii)		A description of the organisational structure of the entity.	Mandatory	Chapter 2
17AE(1)(a)(iii)		A description of the outcomes and programs administered by the entity.	Mandatory	Chapter 1
17AE(1)(a)(iv)		A description of the purposes of the entity as included in corporate plan.	Mandatory	Chapter 1
17AE(1)(b)		An outline of the structure of the portfolio of the entity.	Portfolio departments	Not applicable

PGPA Rule Reference	Part of Report	Description	Requirement	Location
17AE(2)		Where the outcomes and programs administered by the entity differ from any Portfolio Budget Statement, Portfolio Additional Estimates Statement or other portfolio estimates statement that was prepared for the entity for the period, include details of variation and reasons for change.	If applicable, Mandatory	Not applicable
17AD(c)	Report on the Performance of the entity			
	Annual Performance Statements			
17AD(c)(i); 16F		Annual performance statement in accordance with paragraph 39(1)(b) of the Act and section 16F of the Rule.	Mandatory	Chapter 3
17AD(c)(ii)	Report on Financial Performance			
17AF(1)(a)		A discussion and analysis of the entity's financial performance.	Mandatory	Chapter 6
17AF(1)(b)		A table summarising the total resources and total payments of the entity.	Mandatory	Chapter 8 (Appendix 6)
17AF(2)		If there may be significant changes in the financial results during or after the previous or current reporting period, information on those changes, including: the cause of any operating loss of the entity; how the entity has responded to the loss and the actions that have been taken in relation to the loss; and any matter or circumstances that it can reasonably be anticipated will have a significant impact on the entity's future operation or financial results.	If applicable, Mandatory.	Chapter 6
17AD(d)	Management and Accountability			
	Corporate Governance			
17AG(2)(a)		Information on compliance with section 10 (fraud systems).	Mandatory	Transmittal letter and Chapter 4
17AG(2)(b)(i)		A certification by accountable authority that fraud risk assessments and fraud control plans have been prepared.	Mandatory	Transmittal letter and Chapter 4
17AG(2)(b)(ii)		A certification by accountable authority that appropriate mechanisms for preventing, detecting incidents of, investigating or otherwise dealing with, and recording or reporting fraud that meet the specific needs of the entity are in place.	Mandatory	Transmittal letter and Chapter 4

PGPA Rule Reference	Part of Report	Description	Requirement	Location
17AG(2)(b)(iii)		A certification by accountable authority that all reasonable measures have been taken to deal appropriately with fraud relating to the entity.	Mandatory	Transmittal letter and Chapter 4
17AG(2)(c)		An outline of structures and processes in place for the entity to implement principles and objectives of corporate governance.	Mandatory	Chapter 4
17AG(2)(d) – (e)		A statement of significant issues reported to Minister under paragraph 19(1)(e) of the Act that relates to non-compliance with Finance law and action taken to remedy non-compliance.	If applicable, Mandatory	Not applicable
External Scrutiny				
17AG(3)		Information on the most significant developments in external scrutiny and the entity's response to the scrutiny.	Mandatory	Chapter 6
17AG(3)(a)		Information on judicial decisions and decisions of administrative tribunals and by the Australian Information Commissioner that may have a significant effect on the operations of the entity.	If applicable, Mandatory	Not applicable
17AG(3)(b)		Information on any reports on operations of the entity by the Auditor-General (other than report under section 43 of the Act), a Parliamentary Committee, or the Commonwealth Ombudsman.	If applicable, Mandatory	Chapter 6
17AG(3)(c)		Information on any capability reviews on the entity that were released during the period.	If applicable, Mandatory	Not applicable
Management of Human Resources				
17AG(4)(a)		An assessment of the entity's effectiveness in managing and developing employees to achieve entity objectives.	Mandatory	Director's Review – Preliminary, Chapters 1, 2, 5
17AG(4)(b)		<p>Statistics on the entity's APS employees on an ongoing and non-ongoing basis; including the following:</p> <ul style="list-style-type: none"> • Statistics on staffing classification level; • Statistics on full-time employees; • Statistics on part-time employees; • Statistics on gender; • Statistics on staff location; • Statistics on employees who identify as indigenous. 	Mandatory	Chapter 5

PGPA Rule Reference	Part of Report	Description	Requirement	Location
17AG(4)(c)		Information on any enterprise agreements, individual flexibility arrangements, Australian workplace agreements, common law contracts and determinations under subsection 24(1) of the <i>Public Service Act 1999</i> .	Mandatory	Chapter 5
17AG(4)(c)(i)		Information on the number of SES and non-SES employees covered by agreements etc identified in paragraph 17AG(4)(c).	Mandatory	Chapter 5
17AG(4)(c)(ii)		The salary ranges available for APS employees by classification level.	Mandatory	Chapter 5
17AG(4)(c)(iii)		A description of non-salary benefits provided to employees.	Mandatory	Chapter 5
17AG(4)(d)(i)		Information on the number of employees at each classification level who received performance pay.	If applicable, Mandatory	Not applicable
17AG(4)(d)(ii)		Information on aggregate amounts of performance pay at each classification level.	If applicable, Mandatory	Not applicable
17AG(4)(d)(iii)		Information on the average amount of performance payment, and range of such payments, at each classification level.	If applicable, Mandatory	Not applicable
17AG(4)(d)(iv)		Information on aggregate amount of performance payments.	If applicable, Mandatory	Not applicable
Assets Management				
17AG(5)		An assessment of effectiveness of assets management where asset management is a significant part of the entity's activities.	If applicable, mandatory	Chapter 6
Purchasing				
17AG(6)		An assessment of entity performance against the <i>Commonwealth Procurement Rules</i> .	Mandatory	Chapter 6
Consultants				
17AG(7)(a)		A summary statement detailing the number of new contracts engaging consultants entered into during the period; the total actual expenditure on all new consultancy contracts entered into during the period (inclusive of GST); the number of ongoing consultancy contracts that were entered into during a previous reporting period; and the total actual expenditure in the reporting year on the ongoing consultancy contracts (inclusive of GST).	Mandatory	Chapter 6

PGPA Rule Reference	Part of Report	Description	Requirement	Location
17AG(7)(b)		A statement that <i>"During [reporting period], [specified number] new consultancy contracts were entered into involving total actual expenditure of \$[specified million]. In addition, [specified number] ongoing consultancy contracts were active during the period, involving total actual expenditure of \$[specified million]."</i>	Mandatory	Chapter 6
17AG(7)(c)		A summary of the policies and procedures for selecting and engaging consultants and the main categories of purposes for which consultants were selected and engaged.	Mandatory	Chapter 6
17AG(7)(d)		A statement that <i>"Annual reports contain information about actual expenditure on contracts for consultancies. Information on the value of contracts and consultancies is available on the AusTender website."</i>	Mandatory	Chapter 6
Australian National Audit Office Access Clauses				
17AG(8)		If an entity entered into a contract with a value of more than \$100 000 (inclusive of GST) and the contract did not provide the Auditor-General with access to the contractor's premises, the report must include the name of the contractor, purpose and value of the contract, and the reason why a clause allowing access was not included in the contract.	If applicable, Mandatory	Chapter 6
Exempt contracts				
17AG(9)		If an entity entered into a contract or there is a standing offer with a value greater than \$10,000 (inclusive of GST) which has been exempted from being published in AusTender because it would disclose exempt matters under the FOI Act, the annual report must include a statement that the contract or standing offer has been exempted, and the value of the contract or standing offer, to the extent that doing so does not disclose the exempt matters.	If applicable, Mandatory	Chapter 6
Small business				
17AG(10)(a)		A statement that <i>"[Name of entity] supports small business participation in the Commonwealth Government procurement market. Small and Medium Enterprises (SME) and Small Enterprise participation statistics are available on the Department of Finance's website."</i>	Mandatory	Chapter 6

PGPA Rule Reference	Part of Report	Description	Requirement	Location
17AG(10)(b)		An outline of the ways in which the procurement practices of the entity support small and medium enterprises.	Mandatory	Chapter 6
17AG(10)(c)		If the entity is considered by the Department administered by the Finance Minister as material in nature—a statement that “[Name of entity] recognises the importance of ensuring that small businesses are paid on time. The results of the Survey of Australian Government Payments to Small Business are available on the Treasury’s website.”	If applicable, Mandatory	Chapter 6
Financial Statements				
17AD(e)		Inclusion of the annual financial statements in accordance with subsection 43(4) of the Act.	Mandatory	Chapter 7
17AD(f)	Other Mandatory Information			
17AH(1)(a)(i)		If the entity conducted advertising campaigns, a statement that “During [reporting period], the [name of entity] conducted the following advertising campaigns: [name of advertising campaigns undertaken]. Further information on those advertising campaigns is available at [address of entity’s website] and in the reports on Australian Government advertising prepared by the Department of Finance. Those reports are available on the Department of Finance’s website.”	If applicable, Mandatory	Not applicable
17AH(1)(a)(ii)		If the entity did not conduct advertising campaigns, a statement to that effect.	If applicable, Mandatory	Chapter 8
17AH(1)(b)		A statement that “Information on grants awarded by [name of entity] during [reporting period] is available at [address of entity’s website].”	If applicable, Mandatory	Not applicable
17AH(1)(c)		Outline of mechanisms of disability reporting, including reference to website for further information.	Mandatory	Chapter 5
17AH(1)(d)		Website reference to where the entity’s Information Publication Scheme statement pursuant to Part II of FOI Act can be found.	Mandatory	Chapter 8 (Appendix 2)
17AH(1)(e)		Correction of material errors in previous annual report	If applicable, mandatory	Not applicable
17AH(2)		Information required by other legislation	Mandatory	Chapter 8

APPENDIX 2:

INFORMATION PUBLICATION SCHEME

The CDPP is subject to the *Freedom of Information Act 1982* (FOI Act) and is required to publish information to the public as part of the Information Publication Scheme (IPS).

This requirement is in Part 11 of the FOI Act and has replaced the former requirement to publish a section 8 statement in an annual report.

The CDPP website displays a plan showing what information is published in accordance with the IPS requirements.

www.cdpp.gov.au

APPENDIX 3:

WORK HEALTH AND SAFETY

During the year, and after extensive consultation, we implemented a new work health and safety management system (WHSMS). The improved and updated WHSMS is designed to ensure and encourage good practices. It is intended to be easily understood and applied at a working level, allowing workers greater responsibility for work health and safety management in their workplace, consistent with the *Work Health and Safety Act 2011* (WHS Act). The new WHSMS will help us achieve a safe workplace by ensuring we are not at risk from our work, our environment, or the actions and omissions of others. This in turn, will contribute to a more positive culture and increased retention rates and productivity levels.

Incident reporting

During the year, we implemented a new online form for reporting hazards, incidents and injuries as part of our continuous improvement approach. The new form automated the reporting process and resulted in improvements to the system used to monitor and report on work health and safety performance, as well as enhancing reporting capability. All hazards, incidents and injuries were reported in accordance with CDPP reporting procedure. This allowed us to carry out appropriate remedial actions to eliminate or control the risk and prevent further occurrences.

During 2016–17, no notifiable incidents arose out of the conduct of our business or undertakings and no enforcement measures or improvement notices were issued to the CDPP.

Rehabilitation management system

The rehabilitation management system (RMS) provides the framework for efficient rehabilitation management in the CDPP. It includes elements of current best practice in injury management, recognises our legislative obligations and identifies the key processes and procedures required to support sustainable return-to-work outcomes. Our proactive RMS approach, including early intervention strategies and targeted case management, has enhanced rehabilitation outcomes and reduced costs to the CDPP. These improvements have resulted in a reduction of future compensation liabilities, workers' compensation insurance premiums and workers' compensation claims accepted by Comcare.

Workers' compensation

In 2016–17, no workers' compensation claims were accepted by Comcare.

National Health and Safety Committee

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

The independent National Health and Safety Committee assists and advises on matters affecting the health, safety and wellbeing of staff and other workers at CDPP workplaces. As the central point of consultation between management, staff and other workers, the committee is responsible for disseminating work health and safety information, particularly in the regional offices, in a proactive and timely manner. In the past 12 months the committee has assisted in the consultation process regarding the new WHSMS and its associated policies and procedures. The committee has also been a key forum to promote the identification and management of work health and safety risk.

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

APPENDIX 4: **ADVERTISING AND MARKET RESEARCH**

Under section 311A of the *Commonwealth Electoral Act 1918*, we are required to disclose payments of \$10,000 or more (including GST) for advertising and market research.

We did not undertake any advertising campaigns during 2016–17.

APPENDIX 5: ECOLOGICALLY SUSTAINABLE DEVELOPMENT AND ENVIRONMENTAL PERFORMANCE

One of our priorities is the ongoing efficient and effective management of resources. We have initiatives in place that contribute to a more sustainable environment.

Our range of energy saving methods include:

- using technology to minimise energy use, including automatic power down devices on electrical equipment
- ensuring all of our computer equipment is energy star enabled
- sourcing a component of electricity costs for our Sydney and Canberra Offices from green energy options
- recycling waste paper and giving preference to environmentally sound products when purchasing office supplies
- providing staff with access to video and teleconferencing facilities in our offices with the aim of reducing the overall amount of air travel undertaken
- incorporating lighting that is activated by movement detectors in the new office fit-outs for the Sydney and Adelaide offices.

Environmental performance

The following table summarises the environmental performance of our sites during 2016–17.

Table 24: Environmental performance during in 2016–17

Item	Performance
Office tenant light and power	
Electricity	729,061 kilowatt hours
Green power	35,536 kilowatt hours
Total	2,752 gigajoules
Total electricity consumed per employee	6,023 megajoules
Passenger vehicles	
Petrol	8,794 litres
Total	306 gigajoules
Distance	122,658 kilometres
Megajoule/100 kilometres	4.21/100 kilometres
Total CDPP consumption	3,058 gigajoules

Notes:

1. CDPP sites for the reporting period included Canberra, Sydney, Melbourne, Brisbane, Perth, Adelaide, Hobart, Darwin, Townsville and Cairns.

APPENDIX 6: ENTITY RESOURCE STATEMENT AND EXPENSES BY OUTCOME

Table 25: Entity resource statement 2016–17

	Actual available appropriation for 2016–17 \$'000 (a)	Payments made 2016–17 \$'000 (b)	Balance remaining 2016–17 \$'000 (a)–(b)
DEPARTMENTAL			
Ordinary Annual Services ¹			
Prior-year departmental appropriation	15,665	15,665	0
Departmental appropriation ²	79,178	67,856	11,322
Section 74 relevant agency receipts ³	8,195	8,195	0
Total net resourcing for entity	103,038	91,716	11,322

Notes:

1. Appropriation Act (No. 1) 2016–17.
2. Includes an amount of \$1,895 million in 2016–17 for our departmental capital budget. For accounting purposes this amount has been designated as 'contributions by owners'.
3. Retained revenue receipts under section 74 of the PGPA Act.

Expenses by outcome

Table 26: Expenses and resources for Outcome 1

Outcome 1: Contribute to a fair, safe and just society by delivering an effective, independent prosecution service in accordance with the <i>Prosecution Policy of the Commonwealth</i>	Actual available appropriation for 2016–17 \$'000 (a)	Payments made 2016–17 \$'000 (b)	Balance remaining 2016–17 \$'000 (a)–(b)
Programme 1.1: An independent service to prosecute alleged offences against the criminal law of the Commonwealth			
Departmental expenses			
Departmental appropriation ¹	84,675	81,603	3,072
Expenses not requiring appropriation ²	4,839	3,957	882
Total expenses for Outcome 1	89,514	85,560	3,954
	Budget 2016–17	Actual 2016–17	
Average staffing level (number)	390	411	

Notes:

1. Departmental appropriation combines Ordinary annual services (Appropriation Act No. 1) and Retained Revenue Receipts under section 74 of the PGPA Act.
2. Expenses not requiring appropriation in the budget year are made up of services received free of charge, depreciation and amortisation expenses.

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ACRONYMS AND ABBREVIATIONS

ASL	Average staffing level
AUSTRAC	Australian Transaction Reports and Analysis Centre
CDPP	Commonwealth Director of Public Prosecutions
CRM	Centralised Referral Model
DPP	Director of Public Prosecutions
DPP Act	<i>Director of Public Prosecutions Act 1993 (Cth)</i>
FOI	Freedom of information
FTE	Full-time equivalent
GST	Goods and services tax
OECD	Organisation for Economic Co-operation and Development
PGPA Act	<i>Public Governance, Performance and Accountability Act 2013</i>
PILON	Pacific Islands Law Officers Network
POC	Proceeds of Crime
POCA	<i>Proceeds of Crime Act 2002</i>
PSM	Public Service Medal
RMS	Rehabilitation management system
SES	Senior Executive Service
SME	Small and medium enterprises
WHSMS	Work health and safety management system

GLOSSARY

OF TERMS

Acquit/Acquittal/Acquitted

When the Magistrate, jury or appeal court find that a person is not guilty of the crime.

Appeal

To take a case to a higher court in order to challenge a decision. The person who appeals is the appellant. Not all decisions can be appealed.

Brief or brief of evidence

This is a collection of statements from witnesses (both police and ordinary witnesses), documents, expert reports, medical reports, photographs, bail papers, charge sheets etc. given to the CDPP by the police or investigating agency after they have finished their investigation. We use the material contained in the brief of evidence to decide whether a prosecution should take place and, if so, to prosecute the accused.

Common law

The law based on previous court decisions and customs as distinct from statute law created by Parliament.

Commonwealth federal offence

A criminal offence against a Commonwealth federal law (as opposed to a state or territory law).

Conviction

When a person accused of committing a criminal offence is found guilty of that offence and is convicted, a record of their conviction is recorded on their criminal history.

The Crown

In higher courts the prosecution may be referred to as 'the Crown', that is representing the Queen in right of the Commonwealth.

Evidence

Information provided to the court that is used to prove or disprove a fact in issue in court proceedings.

ex officio indictment

Where the Director institutes a prosecution of a person on indictment for an indictable offence against the laws of the Commonwealth in respect of which the person has not been examined or committed for trial, or where a person stands trial on different charges from those upon which they were committed.

Guilty

To be legally responsible for a criminal offence. When a defendant enters a plea of guilty, they accept responsibility for the offence. When a defendant pleads not guilty, a jury will determine their guilt if the matter proceeds as a trial in a higher court. Where a defendant pleads not guilty in the Magistrates or Local Court, the Magistrate determines the guilt of the defendant.

Indictable offence

A serious criminal offence that is usually heard in a higher court before a Judge and jury. Less serious indictable offences and summary offences, are usually heard in a Local Court.

Indictment

A formal written accusation charging a person with an offence that is to be tried in a higher court.

Informant

Case officer from partner agency responsible for referring a matter to CDPP for prosecution.

Matter

A prosecution or a proceeding in a court (a 'case') may be referred to as a 'matter'.

No Bill/no further proceedings

We may decide that a case will not proceed further, for example, due to insufficient evidence. This may be called entering a 'no Bill' or deciding there will be no further proceedings. A prosecution is discontinued when the court is informed of this.

Prima facie

A case in which there is evidence that will suffice to support the allegations made in it, and which will stand unless there is evidence to rebut the allegation. When a case is being heard in court, the party on whom the burden of proof rests must make out a *prima facie* case, otherwise the other party will be able to submit that there is no case to answer and, if successful, the case will be dismissed.

Prosecutor/prosecution

The CDPP lawyer or lawyers conducting a criminal case before the court. Also referred to as Federal Prosecutors.

Prosecution counsel

A CDPP lawyer or private barrister who presents the prosecution case in court on behalf of the CDPP.

Sentencing

A range of penalties can be given during sentencing of an offender including imprisonment, community service orders, good behaviour bonds and fines. The *Crimes Act 1914* requires the court to consider a number of factors in deciding on the sentence for a federal offence, and also requires that the sentence be of a severity appropriate in all the circumstances of the offence.

Victim

A person who has suffered harm as the direct result of an offence or offences.

Witness

Any person who has to come to court and answer questions in front of a Magistrate or Judge and jury.

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Our motivation is to bring offenders to justice. This focuses our efforts to effectively prosecute matters and, through this work, to contribute to a fair, safe and just society for the benefit of the broader community.

SARAH McNAUGHTON SC, DIRECTOR



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