

Office of the Director of Public Prosecutions, NSW



ANNUAL REPORT

2012/2013



ODPP
New South Wales

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OUR REFERENCE

DIRECTOR'S CHAMBERS

YOUR REFERENCE

DATE

23 October 2013



Letter of Transmittal

Hon G E Smith SC
Attorney General
Level 31, Governor Macquarie Tower
1 Farrer Place
SYDNEY NSW 2000

Dear Attorney

2012-2013 Annual Report

I am pleased to forward to you the 26th Annual Report for the Office of the Director of Public Prosecutions (ODPP) for presentation to Parliament. This report encompasses the ODPP's financial statements and performance review for the financial period 2012-2013.

This report has been prepared in accordance to section 34 of the *Director of Public Prosecutions Act 1986* and in compliance with the guidelines from the *Annual Reports (Departments) Act 1985*, *Annual Reports (Departments) Regulation 2010* and the *Public Finance and Audit Act 1983*.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Lloyd Babb'.

Lloyd Babb SC
Director of Public Prosecutions

Key Result Areas - Highlights

The ODPP achieved strong outcomes in all its key result areas in the 2012/2013 reporting

| | |
|--|--|
| <p>Just, Independent and Timely Conduct of Prosecutions</p> | <ul style="list-style-type: none"> ▪ 82% of all matters resulted in findings of guilt, by way of verdict following trial or guilty plea. ▪ Approximately \$1.1 million worth of proceeds of crime property was recovered. ▪ 70% of all election referrals were processed within 14 days. ▪ 70% of committals resulted in early resolution. |
| <p>Victims and Witness Services</p> | <ul style="list-style-type: none"> ▪ WAS celebrated its 20th Anniversary. ▪ 73% of victims and witnesses rated ODPP service as good or very good. ▪ WAS made 110,666 case management service contacts with victims and witnesses in 4940 matters. ▪ Child sexual assault cases constituted 44.1% of WAS work. |
| <p>Accountability and Efficiency</p> | <ul style="list-style-type: none"> ▪ 100% of all Statutory Reports were provided within the prescribed timeframes throughout 2012/2013. ▪ The Net Cost of Service was \$2.3 million better than budget. |
| <p>Staff Resourcing and Development</p> | <ul style="list-style-type: none"> ▪ Conducted leadership training program for managers: Management Development Program. ▪ Developed and strengthened Health and Wellbeing strategies for all staff. ▪ Flu vaccination program was introduced. ▪ Staff turnover for 2012/2013 was 11.6% in comparison with a 13.7% turnover in 2011/2012. ▪ A 50% increase in training programs for staff during this period. |
| <p>Improvements in the Criminal Justice System</p> | <ul style="list-style-type: none"> ▪ Law reform submissions made in relation to sentencing law, the Bail Act, recommendations relating to people with cognitive and mental health impairments in the Criminal Justice System, jury directions and child protection legislation. ▪ Participation in over 30 interagency committees including stakeholders in the Criminal Justice System. ▪ New ODPP website was developed. |

Overview by the Director of Public Prosecutions



Lloyd Babb SC BA MA LLB
Director of Public Prosecutions

Lloyd Babb SC was appointed as New South Wales's third Director of Public Prosecutions in July 2011. Before his appointment to the position of DPP, Lloyd practised as a barrister for 16 years. Following Lloyd's admission as a solicitor, he worked in private practice and for the Office of the Director of Public Prosecutions before admission as a barrister. In 1998 Lloyd was appointed a Crown Prosecutor. He was then seconded as Director to the Criminal Law Review Division 2003 to 2005 and as an Acting Public Defender from 2006 until 2007. Lloyd was appointed both Senior Counsel and Crown Advocate in 2007 and was a member of the Bar Council of the Bar Association of New South Wales between 1995 and 2000.

This 26th Annual Report of my Office coincides with the 25 year anniversary of the Office. In December last year this milestone was celebrated by all staff and provided an excellent opportunity to remind us how far we have evolved from our early days of rotary phones, a rudimentary database and cramped offices on the outskirts of Darlinghurst. Technological advancements have allowed us to develop a much more efficient prosecution service but now, as then, our real strength rests in the quality of our staff.

I am especially proud of the volume and quality of the important work my staff has accomplished this year. Our work in New South Wales is of vital importance to all its citizens. While we are known for our legal work, we are supported ably by small and

dedicated teams of financial, administrative and technological professionals.

To this end, we have updated and enhanced our training program over the last twelve months. Our objective is not only to improve our work performances, but to engender a working environment where staff can continually improve and expand their skills. Our retention rate of staff is high, and we believe this willingness of people to establish careers in the ODPP is of great benefit to them, the Office and the State.

The work required behind the scenes to enable a first class prosecution service is immense. Young lawyers must be trained, mentored and afforded continuous opportunity for improvement while experienced lawyers have to keep abreast of an ever-changing legislation alongside

changes to investigation and policing techniques.

My long term goal is to oversee a training program that encourages and nurtures the best possible legal practitioners in New South Wales. The data is promising - this year we increased the number of training programs by 50%, and attendance to the courses has risen by 61%.

Our enhanced training programs are imperative in light of the increases in matters we are now handling in the District Court. Last year we recorded a significant increase in the matters committed for trial from the Local Court to the District Court.

2013 marks the 20th anniversary of our Witness Assistance Service (WAS), one of the most important services the ODPP offers the people of NSW. WAS officers play a critical role in the prosecution process, acting as support and information hubs for victims of serious crimes and/or their families. WAS officers have assisted thousands of victims of crimes through the prosecution process, and in many cases ensured that additional services such as counselling were provided after a case had been finalised. It is a unique service and one that has been copied and implemented by prosecution offices throughout the world.

Every two years the ODPP surveys victims and non-expert civilian witnesses who have been involved in a trial. This year's results are especially encouraging: 73% rate our services as good or very good. The surveys were sent to a random selection of 4,405 people, and invited respondents to rate our services and their value. The results enable the ODPP to evaluate processes or, where indicated, improve the way in which we deliver services.

Every year I am honoured to present my awards for excellence. In this financial year Jackie Eastburn and Colin Cupitt were the deserving recipients. Their hard work has not gone unnoticed by their colleagues and I was delighted to offer this recognition of their contributions to the ODPP.

Independence and Accountability

No guideline under section 26 of the Director of Public Prosecutions Act has been received from the Attorney General, nor has notice been received from him of the exercise by him of any of the functions described in section 27. No request has been made to the Attorney General pursuant to section 29.

The Deputy Directors of Public Prosecutions



Keith Alder B. Leg S

Deputy Director of Public Prosecutions

Keith Alder was admitted as a solicitor in 1988, and in that same year was employed as a solicitor in the Office of the Director of Public Prosecutions. Keith was appointed as the Managing Lawyer of the Penrith Regional Office before his appointment as a Trial Advocate in 1998. In 2010 Keith was appointed as a Deputy Senior Crown Prosecutor subsequent to his appointment as a Crown Prosecutor in 2001. Keith has undertaken secondments with the Office of the Ombudsman and the Independent Commission Against Corruption. Keith was appointed to the position of Deputy Director of Public Prosecutions in November 2011.



John Pickering SC BEC LLB

Deputy Director of Public Prosecutions

John Pickering SC commenced his employment as a solicitor in the Office of the Director of Public Prosecutions following his admission as a solicitor in 1993. In 1998 John was appointed to the position of Trial Advocate and soon after in 2001 was appointed as a Crown Prosecutor. Following John's appointment as an Acting Deputy Senior Crown Prosecutor in January 2012 he was appointed to the role of Deputy Director of Public Prosecutions in February 2012. In 2012 John was also appointed Senior Counsel.

Organisation

The Office of the Director of Public Prosecutions (the ODPP) was established by the *Director of Public Prosecutions Act 1986* ("the DPP Act") and commenced operation on 13 July, 1987. The creation of a Director of Public Prosecutions changed the administration of criminal justice in New South Wales. The day to day control of criminal prosecutions passed from the hands of the Attorney General to the Director of Public Prosecutions.

There now exists a separate and independent prosecution service which forms part of the criminal justice system in New South Wales. That independence is a substantial safeguard against corruption and interference in the criminal justice system.

OUR ROLE

To provide for the people of New South Wales an independent, efficient, fair and just prosecution service.

OUR VISION

A criminal prosecution system that is accepted by the community as being equitable and acting in the public interest.

OUR STAKEHOLDERS

The NSW Parliament, the Judiciary, the Courts, Police, victims, witnesses, accused persons and others in the criminal justice system and the community.

Functions

The functions of the Director are specified in the DPP Act and include:

- Prosecution of all committal proceedings and some summary proceedings before the Local Court;
- Prosecution of indictable offences in the District and Supreme Courts;
- Conduct of District Court, Court of Criminal Appeal and High Court appeals

on behalf of the Crown; and

- Conduct of related proceedings in the Supreme Court and Court of Appeal.

The Director has the same functions as the Attorney General in relation to:

- Finding a bill of indictment, or determining that no bill of indictment be found, in respect of an indictable offence, in circumstances where the person concerned has been committed for trial;
- Directing that no further proceedings be taken against a person who has been committed for trial or sentence; and
- Finding a bill of indictment in respect of an indictable offence, in circumstances where the person concerned has not been committed for trial.

Section 21 of the DPP Act provides that the Director may appear in person or may be represented by counsel or a solicitor in any proceedings which are carried on by the Director or in which the Director is a part.

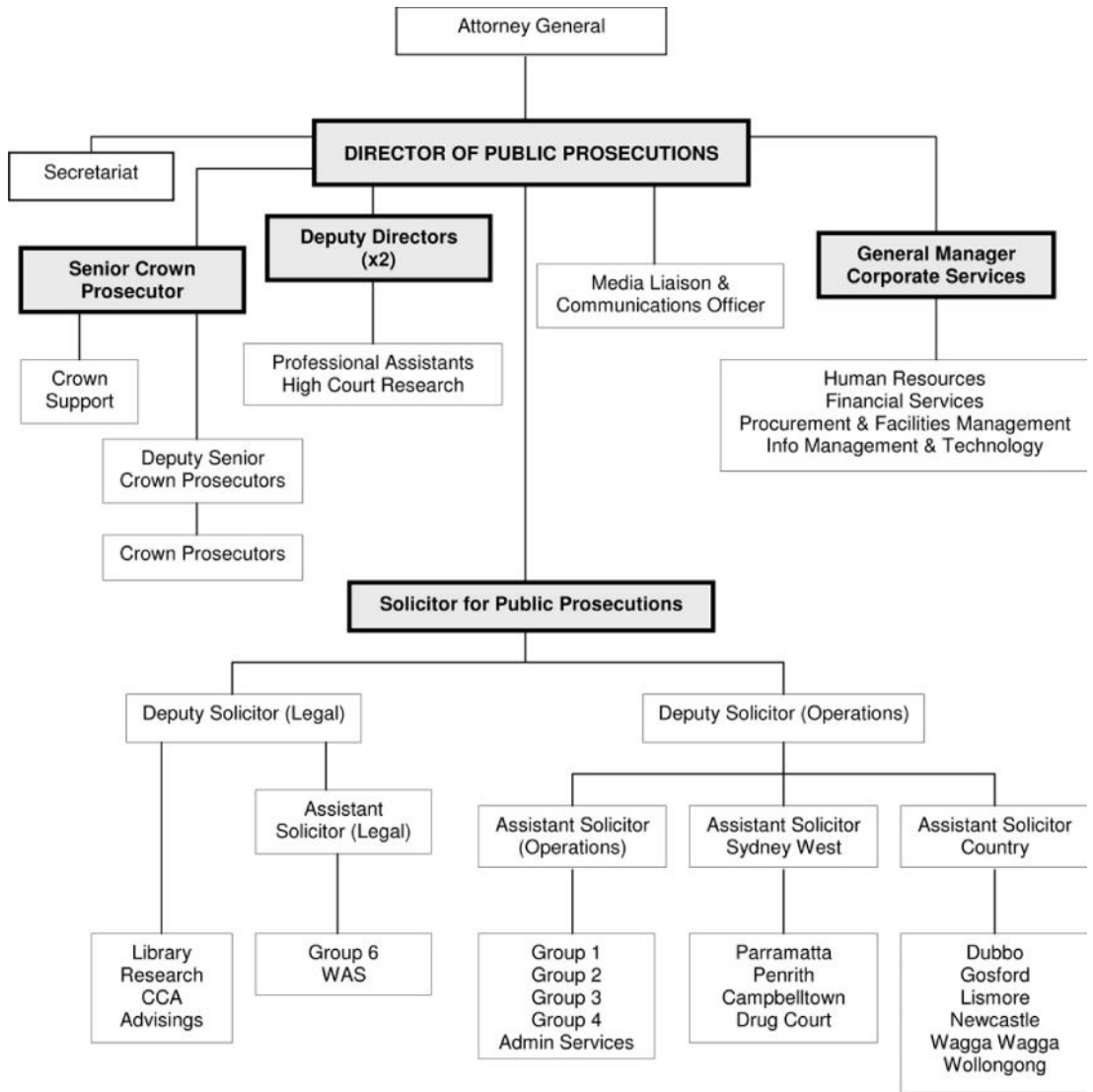
The functions of the Solicitor for Public Prosecutions are prescribed in section 23 of the DPP Act. These are:

- (a) to act as solicitor for the Director in the exercise of the Director's functions; and
- (b) to instruct the Crown Prosecutors and other counsel on behalf of the Director.

The functions of Crown Prosecutors are set out in section 5 of the *Crown Prosecutors Act 1986*. They include:

- (a) to conduct, and appear as counsel in, proceedings on behalf of the Director
- (b) to find a bill of indictment in respect of an indictable offence
- (c) to advise the Director in respect of any matter referred for advice by the Director
- (d) to carry out such other functions of counsel as the Director approves.

ODPP NSW Organisational Structure



█ Denotes Executive Board member

Significant Committees

Executive Board

The ODPP Executive Board comprises the Director (Chair), the two Deputy Directors, the Senior Crown Prosecutor, Solicitor for Public Prosecutions, General Manager Corporate Services and two independent members. The current independent members are Mr John Hunter and Ms Janis Watson-Wood.

The Board meets bi-monthly and its role is to:

- advise the Director on administrative and managerial aspects of the ODPP with a view to ensuring that it operates in a co-ordinated, effective, economic and efficient manner;
- advise the Director on issues relating to strategic planning, management improvement and monitoring performance against strategic plans;
- monitor the budgetary performance of the ODPP and advise the Director on improving cost effectiveness;
- identify and advise the Director on initiatives for change and improvement in the criminal justice system; and
- provide periodic reports on its operations to the Attorney General and report to the Attorney General upon request on any matter relating to the exercise of its functions, or, after consultation with the Attorney General, on any matters it considers appropriate.

An agenda is published prior to each meeting and minutes kept of proceedings.

Management Committees

This Committee comprises the Director (Chair), the two Deputy Directors, the Senior Crown Prosecutor, Solicitor for Public Prosecutions, General Manager Corporate Services, Deputy Solicitors (Legal and Operations) and Assistant Solicitors (Sydney, Sydney West and Country).

The Committee meets monthly and its primary functions are:

- to report, discuss and resolve upon action on operational and management issues affecting the ODPP, including (but not limited to) workload and resource allocation;
- to consider monthly financial reports and to initiate action where funding and expenditure issues are identified;
- to discuss issues affecting major policy decisions and other matters requiring referral to the ODPP Executive Board; and
- serve as a forum for discussion by senior management of any matter affecting the operations of the ODPP, including the activities, challenges and initiatives of the various areas within the Office.

An agenda is published prior to each meeting and minutes kept of proceedings.

Audit and Risk Committee

The Audit and Risk Committee, in accordance with Treasury Policy, comprises of an independent chair, an independent member and a representative of ODPP management. Representatives of the Audit Office of NSW, the Deputy Director, the Solicitor's Office and the General Manager Corporate Services attend meetings by invitation.

The Committee meets four times each year and monitors:

- internal audit;
- risk management; and
- anti-corruption functions across all areas of the Office's operations, ensuring that probity and accountability issues are addressed.

An agenda is published prior to each meeting and minutes kept of proceedings.

Information Management and Technology Steering Committee

The IM&T Steering Committee (IM&TSC) comprises the Chief Information Officer (currently the Deputy Solicitor (Operations) as Chair; Solicitor for Public Prosecutions, General Manager Corporate Services, Deputy Solicitor (Legal), Assistant Solicitor (Country), a Deputy Senior Crown Prosecutor, Manager Information Management & Technology Services and the Assistant Solicitor (Operations).

The Committee meets bi-monthly and is the management body convened to:

- ensure and promote effective use and management of information and technology;
- guide the selection, development and implementation of information and technology projects; and
- assure the strategic and cost effective use of information and systems to support ODPP activities.

An agenda is published prior to each meeting and minutes are kept of proceedings and published on the ODPP Intranet.

Internal Committees

| | | |
|---|--|--|
| Executive Board | Lloyd Babb SC (Chair) Keith Alder John Pickering SC Mark Tedeschi AM QC Stephen Kavanagh Bernie O'Keeffe John Hunter (Independent) Janis Watson-Wood (Independent) | |
| Management Committee | Lloyd Babb SC (Chair) Keith Alder John Pickering SC Mark Tedeschi AM QC Graham Bailey - final meeting 20 Sep 2012 Wendy Carr Johanna Pheils Sashi Govind Bernie O'Keeffe Stephen Kavanagh Claire Giroto | |
| Audit & Risk Committee | Keith Alder Chief Audit Executive Jon Isaacs (Chair/Independent) Patricia Azarias (Independent) - final meeting 12 Aug 2012 Sashi Govind (Member) Carolyn Walsh (Independent) | |
| Information Management & Technology Steering Committee | Claire Giroto (Chair) Stephen Kavanagh Richard Herps Graham Bailey - final meeting 7 Aug 2012 Mark Hobart SC Wendy Carr Bernie O'Keeffe Hop Nguyen | |
| Crown Prosecutors Management Committee | Mark Tedeschi AM QC Richard Herps Merv Grogan Peter Barnett SC Phil Ingram SC Lou Lungo Frank Veltro Deborah Carney (Crown Support) Siobhan Herbert Gina O'Rourke Phil Hogan (alt. Peter McGrath) Kara Shead Huw Baker Michael Fox Craig Everson (Treasurer) | |
| Occupational Health & Safety Committee | Sydney Office Employer Representatives Sydney West Country | Melissa Day Vesna Medica Peter Burns Peter Bridge Keith Holder Nigel Richardson (Proxy) Peter Phythian Bree Chisholm Andrew McMaster (Proxy) |
| PSA / Management Joint Consultative Committee | Nigel Richardson (Chair) Claire Giroto Stephen Kavanagh Graham Bailey - final meeting 7 Aug 2012 Sashi Govind Bernie O'Keeffe Wendy Carr Fiona Horder (PSA) Jenny Wells (PSA) - final meeting 7 Aug 2012 Andrew Horowitz (PSA) Carla Black (PSA) | |

External Committees

| Committee/Steering Group | ODPP Representative |
|---|--|
| Apprehended Violence Legal Issues Coordination Committee (reviews problems associated with apprehended violence orders) | Johanna Pheils Amy Watts |
| Campbelltown Criminal Court User Group | Janine Lacy |
| Court Security Committee | Claire Giroto Peter Bridge |
| Criminal Law Committee of the Law Society of NSW | Johanna Pheils |
| Criminal Listing Review Committee (reviewing listings in the District Court) | Claire Giroto |
| DNA Review Panel | Keith Alder |
| Drug Court Senior Officers Implementation Group (Sydney Metro) | Claire Giroto |
| Joint Investigative Response Team State Management Group | Amy Watts |
| Justice Cluster Bail Reform Working Group | Mark Holdsworth Wendy Carr |
| Justice Cluster Working Group | Hop Nguyen Wendy Carr |
| Justice Process Improvement Committee | Johanna Pheils |
| Local Court Rules Committee | Johanna Pheils |
| Magistrates Early Referral Into Treatment (MERIT) – Statewide Steering Group | Sashi Govind |
| National DPP Executives Conference | Claire Giroto Bernie O'Keeffe |
| Parramatta Children's Court User Forum | Melinda Graczol |
| Police – ODPP Liaison Group Meeting: Northern Region | Graham Bailey (Retired 5/10/12) Sashi Govind Aranka Zsidi Colin Cupitt |
| Police - ODPP Liaison Group Meeting: Southern | Graham Bailey (Retired 5/10/12) Sashi Govind Peter Burns Allison Dunn |
| Police – ODPP Liaison Group Meeting: Western | Graham Bailey (Retired 5/10/12) Sashi Govind Roger Montgomery Susan Ayre |
| Police – ODPP Liaison Group Meeting: Mid North Coast | Graham Bailey (Retired 5/10/12) Wendy Carr Amis Tillers Christine Hunter Janet Little Malcolm Young |
| DPP/Police Liaison Group Meeting: Riverina | Graham Bailey (Retired 5/10/12) Wendy Carr Tonia Adamson Kylie Knight |
| Police-ODPP Prosecution Liaison Standing Committee | Claire Giroto Stephen Kavanagh Johanna Pheils Sashi Govind Wendy Carr Amy Watts |
| NSW Sentencing Council | Lloyd Babb SC |
| Senior Officers Committee on Diversion | Johanna Pheils |
| Sex Crimes and Joint Investigation Response Squad Advisory Council Meeting | Amy Watts Lee Purches |
| Sexual Assault Review Committee | Lee Purches Amy Watts Kara Shead Gino O'Rourke |
| Victims Advisory Board under the Victims Rights Act | Johanna Pheils |
| Victims of Crime Advisory Group | Amy Watts Lee Purches |

Audit and Risk

OUR REFERENCE

DIRECTOR'S CHAMBERS

YOUR REFERENCE

DATE

28 October 2013



Internal Audit and Risk Management Attestation for the 2012-2013 Financial Year for the Office of the Director of Public Prosecutions

I, Lloyd Babb SC, am of the opinion that the Office of the Director of Public Prosecutions has internal audit and risk management processes in place that are, in all material respects, compliant with the core requirements set out in Treasury Circular NSW TC 09/08 *Internal Audit and Risk Management Policy*. These processes provide a level of assurance that enables the senior management of the Office of the Director of Public Prosecutions to understand, manage and satisfactorily control risk exposures.

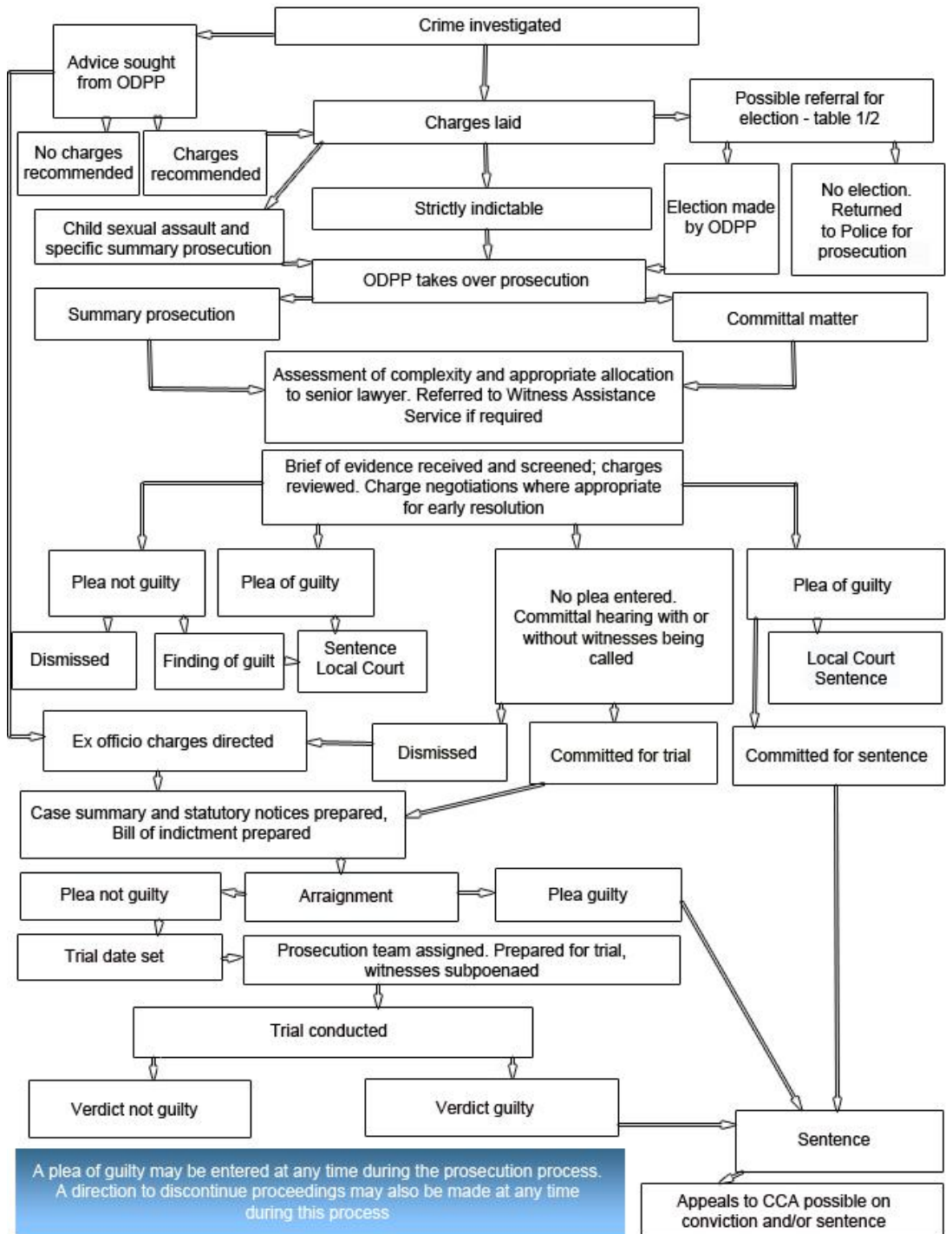
I, Lloyd Babb SC, am of the opinion that the Audit and Risk Committee for the Office of the Director of Public Prosecutions is constituted and operates in accordance with the independence and governance requirements of Treasury Circular NSW TC 09/08. The Chair and Members of the Audit and Risk Committee are:

- John Isaac, Independent Chairperson (31 August 2012 - 31 August 2013)
- Patricia Azarias, Independent Member (16 October 2011 – 16 October 2012)
- Carolyn Walsh, Independent Member (7 January 2013 – 6 January 2016)
- Sashi Govind, Non-independent Member (31 August 2012 – 30 August 2016)

Lloyd Babb SC
Director of Public Prosecutions

Department Contact Officer/ Chief Executive Officer (Audit and Risk)
Keith Alder
Deputy Director of Public Prosecutions

Outline of a Typical Prosecution Process



Director of Public Prosecutions Act 1986: Key Provisions

Section 4(3)

The Director is responsible to the Attorney General for the due exercise of the Director's functions, but nothing in this subsection affects or derogates from the authority of the Director in respect of the preparation, institution and conduct of any proceedings.

Section 7(1)

The principal functions and responsibilities of the Director are: to institute and conduct prosecutions in the District and Supreme Courts; to institute and conduct appeals in any court; to conduct, as respondent, appeals in any court.

Section 7(2)

The Director has the same functions as the Attorney General in relation to: finding bills of indictment; determining that no bill be found; directing no further proceedings; finding ex officio indictments.

Section 8

Power is also given to the Director to institute and conduct proceedings of either a committal or summary nature in the Local Court.

Section 9

The Director can take over prosecutions commenced by any person (and see section 17).

Section 11

The power to give consent to various prosecutions has been delegated to the Director.

Section 13

The Director can furnish guidelines to Crown Prosecutors and officers within the ODPP.

Section 14

Guidelines can also be issued to the Commissioner of Police with respect to the prosecution of offences.

Section 15

Guidelines furnished each year must be published in the Annual Report.

Section 15A

Police must disclose to the Director all relevant material obtained during an investigation that might reasonably be expected to assist the prosecution or defence case.

Section 18

The Director may request police assistance in investigating a matter that may be taken over by the Director.

Section 19

The Director may request the Attorney General to grant indemnities and give undertakings from time to time, but may not do so himself/herself.

Section 24

Appointment to prosecute Commonwealth offences is provided for by this section.

Section 25

Consultation with the Attorney General is provided for.

Section 26

The Attorney General may furnish guidelines to the Director.

Section 27

The Attorney General shall notify the Director whenever the Attorney General exercises any of the following functions:

finding a bill of indictment; determining that no bill be found; directing no further proceedings; finding ex officio indictments; appealing under s5D of the *Criminal Appeal Act 1912* to the Court of Criminal Appeal against a sentence. The Director shall include in the Annual Report information as to the notifications received by the Director from the Attorney General under this section during the period to which the report relates.

Section 29

If the Director considers it desirable in the interests of justice that the Director should not exercise certain functions in relation to a particular case, the Director may request the Attorney General to exercise the Attorney General's corresponding functions.

Section 33

The Director may delegate certain of his/her functions.

Ethnics Affairs Priority Statement

Ethnics Affairs Priority Statement

The ODPP continues to meet its commitment to the Community and Ethnic Affairs Priority Statement. All staff endeavour to ensure that members of the community are afforded every respect when dealing with the ODPP. The Office continues to adhere to the Memorandum of Understanding implemented in 2008 with the Community Relations Division and the Department of Attorney General and Justice. All witnesses, victims and accused are entitled to access free interpreter services and the Office consistently ensures these entitlements are met.

Witness Assistance Service

The ODPP Witness Assistance Service (the WAS) prioritises service delivery to sexual assault complainants, family of deceased victims in homicide and danger driving matters, domestic violence victims, children, Aboriginal and Torres Strait Islanders, people with a disability, the elderly and other vulnerable witnesses and special needs groups. A number of victims and witnesses can experience cultural or language barriers. WAS Officers consult with ODPP solicitors and Crown Prosecutors to assess the special needs and support issues victims and witnesses may have when they deal with our solicitors and give evidence at court. While some victims and witnesses who have cultural and language difficulties can often communicate effectively, their interaction with the criminal justice system can cause stress and anxiety. The WAS utilises interpreter services for both face-to-face and telephone contacts with victims and witnesses so that the victim or witness

can use their primary language. Victims are also able to utilise both interpreters and translation services when writing their victim impact statements. When an interpreter is required for giving evidence at court, the interpreters are booked by the ODPP solicitors through the courts.

Training

The ODPP training programs for all staff have components covering cultural diversity. Training providers are required to adhere to the ODPP Code of Conduct, which requires respect for individual differences and non-discriminatory behaviours.

In March 2013 the Office engaged the Anti-Discrimination Board of NSW to conduct a series of training sessions for all staff titled 'Bullying and Harassment Prevention: Creating Safe and Healthy Workplaces'. These sessions were recorded and are available through the Online DVD Resource Library to all staff. Judge Richard Cogswell SC presented a paper to all staff at the 2012 Annual Solicitors Conference titled 'Ethics of Prosecuting'.

Training supporting cultural awareness has been offered in the specific areas of 'Working Effectively with Refugee Survivors' presented by Anne Mainsbridge from the Survivors of Torture and Trauma Assistance and Rehabilitation Service (December 2012), 'Working with clients from Afghanistan, Iran and Iraq' run by Community Migrant Resource Centre and Legal Aid (June 2013) and 'Understanding of Islam and Muslims' which was run by the

Islamic Sciences & Research Academy Australia and Corrective Services NSW (September 2012).

Corporate Induction training held in April 2013 included information on the ODPP's policies on 'Dignity and Respect in the Workplace', 'Workplace relations Policy (Building a Harassment-Free Workplace)' and 'Workplace Wellbeing Policy'.

Interagency Groups

The ODPP regularly participates in interagency meetings and fora which address issues for victims of crime and vulnerable witnesses. The ODPP participates in a number of committees and consultation processes with representatives

of ethnic communities. The WAS regularly liaises with a range of relevant services and regularly updates the resources available for people from culturally and linguistically diverse background.

International Delegations

In the last year, the Office has hosted a delegation from China, a group of Tianjin Judges and, as part of a state wide visit of legal agencies undertaken to enhance their prosecution skills, a delegation of African Prosecutors. The Office also hosted two prosecutors from the Maldives for 3 weeks at the Drug Court.

The ODPP will continue to host international delegations.

Report of the Senior Crown Prosecutor



Mark Tedeschi AM QC MA LLB
Senior Crown Prosecutor

Mark Tedeschi has been a Crown Prosecutor since 1983. He was previously a private barrister. He has been a Queen's Counsel since 1988, and Senior Crown Prosecutor since 1997. He is the author of a book in international trade law and of numerous articles on environmental law, social welfare law, business law, mental health law and criminal law. He is the President of the Australian Association of Crown Prosecutors and a visiting Professor in the Centre for Transnational Crime Prevention at the University of Wollongong. He is a member of the Board of Directors of the National Art School in Sydney.

The Crown Prosecutors of New South Wales make up the largest "floor" of criminal barristers in the State. They are counsel who, as statutory office holders under the *Crown Prosecutors Act 1986*, conduct, and appear as counsel, in proceedings on behalf of the Director; to find a bill of indictment in respect of an indictable offence; to advise the Director in respect of any matter referred for advice by the Director; and to carry out such other functions of counsel as the Director approves.

The vast bulk of criminal jury trials in the District and Supreme Courts and criminal appeals in this State are prosecuted by a Crown Prosecutor. Occasionally they appear at coronial inquests, inquiries under Part 7 of the *Crimes (Appeal and Review) Act 2001* and in unusually complex committal proceedings.

The Crown Prosecutors are a repository of some of the most experienced and able criminal lawyers in Australia. Their Chambers encourage substantial collegiate interaction in the finest traditions of the Bar and take great pride in being able to apply their considerable expertise to represent the

community of New South Wales independently and fearlessly.

This talent has been recognised over the years when Crown Prosecutors have been seconded to such organisations as the Police Integrity Commission, the ICAC and the Public Defenders. They have also been called upon to work in international humanitarian law arenas, including the Solomon Islands, Afghanistan and the former Yugoslavia. In addition, there are a significant number of former Crown Prosecutors who are Judges of the Supreme Court and District Court. The Crown Prosecutors are almost all members of the NSW Bar Association and participate in its Council, its Committees (including Professional Conduct Committees) and its collegiate life.

As at August 2013, there were 81 Crown Prosecutors. Their locations were: head office Sydney (51), Sydney West at Parramatta, Campbelltown and Penrith (12), and also at regional locations in Newcastle, Wollongong, Lismore, Dubbo, Wagga Wagga and Gosford (18). In the City Office the Crown Prosecutors were divided as

follows: trial Crown Prosecutors 37, Court of Criminal Appeal 9, Pre Trial Unit (PTU) 5. In addition, there are private barristers on long-term retainer in both Sydney and Sydney West.

Prosecutions

Each year the Crown Prosecutors prosecute the highest profile criminal cases in New South Wales. Here are a few of the cases that have been prosecuted over the last year;

R v Michael Jacobs

Michael Jacobs was found guilty of the shooting murder of Senior Constable David Rixon of the Oxley Highway Patrol at Tamworth on 2nd March 2012. The officer had been shot after having pulled up a vehicle which contained Jacobs and requiring Jacobs to undergo a roadside breath test. The Crown alleged that it was at this point that Jacobs shot Constable Rixon. After being shot in the chest, the officer returned fire and wounded Jacobs, before holstering his weapon and handcuffing the offender. The trial involved an allegation by Jacobs that a third man who escaped the scene had fired the shots at Rixon. The jury rejected this account. This was the first case in which the 2011 amendment to the Crimes Act, which provides for a mandatory life sentence for the murder of a policeman in the execution of his duty, had application.

R v Malcolm Naden

Mr Naden pleaded guilty to 2 murders, a child sexual assault and numerous break enter and steal offences. Mr Naden received much media attention after remaining on the run from police for many years after committing the two murders. After delicate negotiations between the Crown and the defence, Mr Naden entered pleas of guilty. The sentence proceedings were protracted

and resulted in Mr Naden receiving a life sentence for one of the murders.

R v Roger Dean

Mr Dean, a senior nurse, was charged with 11 murders and a number of offences of causing grievous bodily harm arising out of a fire which he set at the Quakers Hill nursing home, where he was on duty as a supervisor at the time. Mr Dean was set to go for trial, however one working day prior to the trial commencing he indicated a willingness to plead guilty to all offences. After lengthy sentence proceedings, Mr Dean was sentenced to life imprisonment.

R v Philip Nguyen

Mr Nguyen had been charged with the homicide of Constable Bill Crews, who died during a police raid on the car park of a unit block. This was a highly unusual case in that the fatal shot had, in fact, been fired by one of Constable Crews fellow police officers in response to Mr Nguyen producing a firearm and pointing it at the police. Mr Nguyen entered a plea of guilty to manslaughter, which was accepted by the Crown. Prior to being sentenced, Mr Nguyen sought to reverse his plea to 'not guilty', in order to stand trial. The Crown opposed his application, and the Supreme Court held that he had not established sufficient grounds for withdrawing his plea. Mr Nguyen was sentenced for the manslaughter. The sentence is subject to a Crown appeal.

R v Kristi Abrahams

The offender pleaded guilty to the murder of her six year old child Kiesha. The skeletal remains of the deceased had been found scattered around a shallow grave in bushland in Western Sydney. The accused hit the child with an intent to cause really serious bodily injury as a result of which the death occurred. The offender took part in

the burial of the deceased. Evidence on the sentencing proceedings indicated that the offender experienced an extremely deprived upbringing. This case attracted a great deal of attention from the community largely because the offender had given interviews initially indicating that the deceased had disappeared from the house.

Achurch v R (No 2)

[2013] NSWCCA 117 (Bathurst CJ, McClellan JA, Johnson, Garling and Bellew JJ). The Court of Criminal Appeal was constituted by a five judge bench to consider whether it is appropriate to use the review mechanism in s 43 of the *Crimes (Sentencing Procedure) Act 1999* to permit the original sentencing court to reconsider sentences that are said to have relied on the decision of the NSW CCA in **R v Way** (2004), which was overruled by the High Court in **Muldrock v The Queen** (2011). The Court rejected the application and so **Muldrock** appeals are to be heard by the Court of Criminal Appeal in the normal course.

FP v R [2012] NSWCCA 182 (McClellan CJ at CL, R A Hulme and Schmidt J). Appeal to the Court of Criminal Appeal against conviction and sentence for multiple counts of administering an intoxicating substance with intent, aggravated sexual assault and conspiracy to commit sexual assault. This appeal was heard over two days. The conviction appeal involved fifteen grounds of appeal, including alleged errors in the summing up concerning tendency and coincidence, the meaning of "*in company*" as an element of aggravated sexual assault, knowledge of lack of consent as an element of aggravated sexual assault and directions on the criminal standard following a jury note seeking clarification about '*beyond reasonable doubt*'.

GWM v R [2012] NSWCCA 240 (McClellan CJ at CL, Johnson and Bellew JJ). This

Crown appeal to the Court of Criminal Appeal against sentence considered the correct approach to self-induced intoxication in relation to the assessment of the gravity of an offence of aggravated sexual assault and as a circumstance of mitigation, and the assessment of objective gravity and the proper approach to standard non-parole periods following the decision in *Muldrock*. The judgment of Johnson J regarding the extent to which self-induced intoxication may properly be taken into account in sexual assault cases is an important development in sentencing law in NSW.

R v Sean Lee King

The accused was charged with the murder of his 19-year-old girlfriend. He applied for trial by judge alone and his application was refused. They had been in a turbulent relationship. Friends overheard the accused saying he was coming to kill the deceased and she had told her mother she was very scared of the accused. As depicted on CCTV footage, she allowed the accused into her apartment building in Pyrmont and he admitted that once inside he stomped her to death. The accused pleaded not guilty to murder, but guilty to manslaughter on the basis that he was so affected by methyl amphetamine ("ICE") that he did not form the specific intent to kill or inflict grievous bodily harm. The jury found the accused guilty of murder. The total sentence imposed for this offence and others was imprisonment for 33 years and six months with a non-parole period of 25 years and six months. Justice Bellew found that the offender's intoxication aggravated the murder.

Sydney Supreme Court trials

In the period from July 2012 to June 2013 there were 72 trials listed for hearing in the Sydney Supreme Court.

Of those trials:

- 28 were briefed to the Senior Crown Prosecutor and the Deputy Senior Crown Prosecutors;
- 44 were briefed to junior Crown Prosecutors.

The Senior Crown Prosecutor had a junior Crown Prosecutor or a trial advocate appearing with him in 2 of those matters.

Of the trials listed, 5 accused pleaded guilty before the trial date and 6 accused pleaded guilty on the trial date or in the week that the trial was listed.

Of the trials listed:

- 7% had an estimated length of up to 10 days
- 38% had an estimated length of up to 15 days
- 17% had an estimated length of up to 20 days
- 38% had an estimated length of over 20 days

Country Crown Prosecutors

The 17 Country Crown Prosecutors are in

regional chambers at Newcastle, Lismore, Gosford, Wollongong, Wagga Wagga, and Dubbo. The Deputy Senior Crown Prosecutor (Country) has his Chambers at Newcastle and oversees the administration of the Country Crown Prosecutors.

The Country Crown Prosecutors are required to attend Supreme and District Court circuits away from their usual regional centres. Regional District Courts sat in the following centres in this period:

| | |
|-----------|----------------|
| Albury | Orange |
| Armidale | Parkes |
| Bathurst | Port Macquarie |
| Bega | Queanbeyan |
| Bourke | East Maitland |
| Grafton | Tamworth |
| Griffith | Taree |
| Moree | Broken Hill |
| Nowra | Coffs Harbour |
| Coonamble | Goulburn |

The 12 Sydney West Crown Prosecutors are in regional chambers at Parramatta, Campbelltown and Penrith. The Deputy Senior Crown Prosecutor (Sydney West) has his Chambers at Parramatta and oversees the administration of the Sydney West Crowns.

Report of the Solicitor for Public Prosecutions

Stephen Kavanagh LLB
Solicitor for Public Prosecutions

Stephen Kavanagh practised as a solicitor following admission in 1973 in a city firm and later at the State Crown Solicitor's office from 1976 to 1988, primarily in the areas of civil, criminal and constitutional law. Following the establishment of the ODPP in 1987, he was appointed as Managing Lawyer (Advisings Unit) in 1989 undertaking responsibility for a wide range of appellate litigation conducted by the unit in the Supreme, Court of Appeal and High Court. Stephen was appointed Solicitor for Public Prosecutions in June 2004.

All members of staff of the Solicitor's Office are entitled to be proud of their contribution to the effective and efficient professional performance of the ODPP over the past twelve months.

Despite ongoing budgetary pressures, resourcing constraints and the increasing complexity of the prosecutorial process the Office conducted over 16,000 prosecutions and appeals during the year across all jurisdictions and throughout the State.

The provision of a high quality, ethical and independent prosecution service is essential to the community interest. However, it is equally essential for the service to be adequately funded to carry on this work. Following the completion in December 2012 of a Review of the Office's base budget, considerable work is now being undertaken in the development of a funding model which is expected to provide for greater budget certainty for future needs.

As reported elsewhere 82% of prosecutions concluded during the reporting period in the District and Supreme Courts resulted in findings of guilt, either by way of plea or verdict following trial. There were significant improvements in the turnaround time for advice work and in the early resolution of matters. With the recent amendments to the

Criminal Procedure Act providing for mandatory pre-trial defence disclosure it is anticipated that further efficiencies will be achievable in the disposal of defended trials.

As is the case each year a number of sensitive and at times controversial matters arose for consideration. It is reassuring to note that such matters were consistently addressed by staff in accordance with the Prosecution Guidelines, the independence of the Office and in the general public interest.

The work of the Office is not limited simply to the prosecution of matters. We work collaboratively with other public justice agencies including Police, the Department of Attorney General and Justice, the Police Integrity Commission, the Independent Commission against Corruption, the Judicial Commission and the Commonwealth DPP. Through the Solicitor's Office we play a major role in law reform developments and in the work of numerous external committees with a criminal law focus.

Amongst many achievements during the year the following are deserving of particular mention:

Victims and witnesses

In February 2013 the ODPP conducted its biannual survey of victims and non-expert civilian witnesses to assess witness satisfaction levels with ODPP services. The survey revealed that 73% of respondents rated ODPP services as good or very good.

Aspects of ODPP service that made a difference with victims and witnesses included professionalism, reliable and caring support, good and prompt communication, provision of information and explanation about the case and court process.

Legal Development Programme (LDP)

The Office conducts a structured 12 month programme for law graduates incorporating the Practical Legal Training component necessary for law graduates to be admitted to practice as solicitors. LDP officers are rotated across different aspects of operational work, from preparation of files to trial instructing and simple appearance work.

In the 2012/13 intake, the fourth year of the implementation of the programme in its current form, 15 graduates were appointed in the Sydney Metropolitan region.

This programme has proved an extremely successful initiative for graduates and for the Office. Many of our senior lawyers and some Crown Prosecutors began their careers in the Office under this programme.

Drug Court

The Drug Court of New South Wales commenced operation at Parramatta in

February 1999. Within a short time its effectiveness in reducing drug dependency and promoting the reintegration of drug dependant persons into the community became clear. Evaluations of the Drug Court consistently report that it is more cost effective than conventional sanctions in reducing re-offending. The DPP participates in the programme with the Legal Aid Commission, representatives from Justice Health, the Probation Service and a Police prosecutor who together, provide significant input to the Court's decisions making process. The value and success of the Drug Court have been the product of the carefully considered application of those professionals to a team based therapeutic approach involving a great deal of collaboration between its members.

In 2006 the Drug Court jurisdiction was extended to sentenced prisoners under the Compulsory Drug Treatment Correctional Centre Act. It has now been made a permanent feature of the legal landscape. In 2011 its operations were extended to Toronto and on 14 February 2013 to the Sydney Metropolitan region. The ODPP team has 7 staff based at Parramatta and 3 at Toronto Court.

In summary it has been another productive and rewarding year. I extend my thanks and appreciation to all members of staff of the Solicitor's Office, the Director's Chambers, the Crown Prosecutors' Chambers, and Corporate Services for their support and commitment during the year. In particular I should also wish to acknowledge the team effort of the Solicitor's Executive as well as Group and Regional Managers in addressing the major legal, managerial and administrative challenges of the year.

Report of the Deputy Solicitor for Public Prosecutions (Operations)

Claire Girotto B. LegS
Deputy Solicitor for Public Prosecutions

Claire Girotto joined the ODPP in 1990 as a junior lawyer at a country office. She became the manager of that office in 1998 and in 2000, joined the Solicitor's Executive in the role of Assistant Solicitor, Sydney West. Since 2003 she has been the Deputy Solicitor Operations, and is responsible for the management of all operational areas of the Solicitor's Office.

The ODPP's Operations areas comprise 4 groups in Sydney and 9 regional offices – 3 in Sydney West (Campbelltown, Parramatta and Penrith) and 6 in Country NSW (Dubbo, Gosford, Lismore, Newcastle, Wagga Wagga and Wollongong). Each country office services a region of NSW

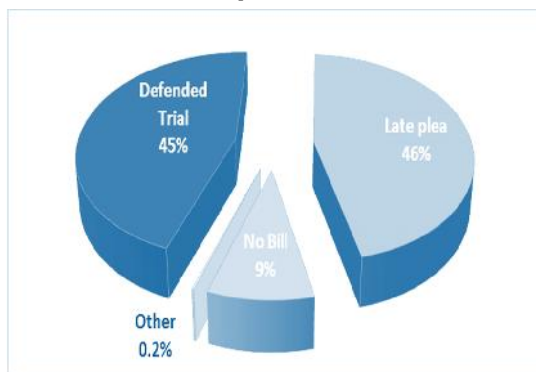
Early resolution of cases is undertaken by way of pleas of guilty or disposal in the Local Court, where the level of criminality in sentencing options can be adequately addressed by appropriate charges. Through careful screening and evaluation of the evidence gathered by investigators, in this

Independent, efficient, fair and just prosecution service

necessitating travel to circuit courts, including those in remote areas of the State.

Solicitors in the ODPP are responsible for the conduct of summary prosecutions, committals, District Court appeals, District Court Sentencing and instructing Crown Prosecutors in trials and appeals. Solicitor Trial Advocates conduct some trials in the District Court.

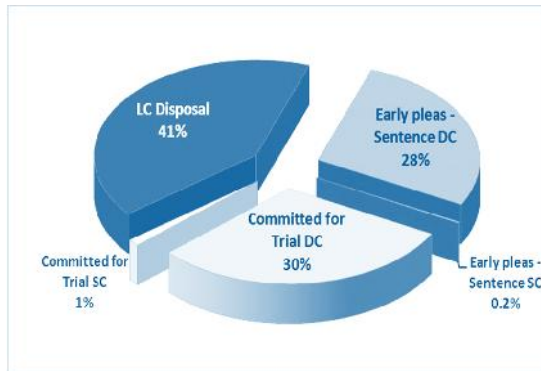
Local Court Disposal



reporting period, solicitors resolved almost 70% of the 5,947 committal cases completed, either by summary disposal or by way of early pleas that are committed for sentence to the higher courts. The 1,875 cases that could not be resolved were committed for trial to either the District or the Supreme Court.

A matter committed for trial is allocated a trial listing at arraignment. Matters listed for trial are briefed to Crown Prosecutors or Trial Advocates, according to the complexity of the case. Where possible and especially in cases involving sexual assault, committal lawyers maintain continuity of the case until it is resolved. Other cases are allocated to junior solicitors and all trial prosecution teams work together to present the best possible case on behalf of the people of NSW.

Disposal of matters listed for trial in the District Court



Screening, evaluation and negotiation with defence lawyers continues up to and during the trial process.

District Court trials constitute the bulk of the higher court work of the Operations Units. This year, 1,106 matters were listed for trial and completed in the reporting period, 45% of those as defended trials. Pleas of guilty on or before the trial date accounted for 46% of trial disposals. Trial Advocates were briefed in 32% of those 1,106 cases.

Of the 500 defended trials conducted, verdicts of guilty were returned in 54% or 270 matters.

Disposal of matters listed for trial in the Supreme Court

Although fewer Supreme Court trials are conducted, they are generally larger and more resource intensive than other trials. Matters listed for trial and completed in the reporting period resulted in 66% proceeding to defended hearing and 31% pleading guilty on or before the trial date.

Verdicts of guilty were returned in 68% of the 38 trials that were concluded.

Discontinuances

Cases are discontinued for a variety of reasons and in accordance with the Prosecution Guidelines. This year the Director's Chambers received 903 submissions seeking discontinuance of proceedings after committal for trial or sentence.

A total of 162 matters, or 18% of the submissions received, were discontinued, representing 5% of all cases finalised after committal for trial or sentence. Of those, 59 (36%) were discontinued predominantly due to the wishes of the complainant in the case. 101 of the 162 matters discontinued were in relation to matters that had a trial listing.

Cost

The Activity Based Costing System has been utilised during the year but complete data in relation to the cost of particular types of matters is not available for this report.

The added complexity and length of trials over recent years have increased the average cost of a matter from \$7,750 to \$7,915 from the previous reporting period. This figure represents the net cost of services divided by the total number of matters concluded, excluding severity appeals, call ups and election advisings. If these matters were included the average cost of a matter in this reporting period was \$4,849, compared to \$4,731 in the last reporting period.

Finding of Guilt

There has also been an increase in the rate of finding of guilt, either by way of plea of guilty or by verdict after a defended trial. Over the past 3 years the percentage of cases with guilty outcomes has risen from 77% in 2010 to 82% in this reporting period.

Summary prosecutions conducted by the Office included 218 Child Sexual Assault matters. Findings of guilt were returned in 61% of those cases.

Timeliness

| 1. Summary matters | | |
|---|---------|--------|
| Average and median number of days between: | | |
| | Average | Median |
| Arrest and service of brief | 135 | 86 |
| Service of brief and disposal | 146 | 113 |
| Date of arrest and disposal | 281 | 237 |
| 2. Local Court committals | | |
| Average and median number of days between: | | |
| Arrest and brief service | | |
| | Average | Median |
| Committals for trial | 92 | 59 |
| Committals for sentence | 83 | 57 |
| Brief service and committal | | |
| Committals for trial | 131 | 110 |
| Committals for sentence | 106 | 77 |
| Summary Disposal | 140 | 93 |
| 3. Disposal in Higher Courts | | |
| Average and median number of days between | | |
| Committal and completion | | |
| | Average | Median |
| Committed for trial | 360 | 311 |
| Committed for sentence | 172 | 136 |

Trial prosecution teams were ready to proceed on the first day of trial in 96% of total trial listings in this reporting period. This reflects the hard work and commitment of solicitors, Crown Prosecutors, Witness Assistance Officers and support staff.

The Office continues to provide timely and high quality advice in election considerations and advice on sufficiency of evidence and/or appropriateness of

charges. In relation to matters referred by police for a decision as to jurisdiction (election matters), 70% were completed within 14 days of receipt of the request. The decision to elect may be delayed when a proper consideration of the appropriate jurisdiction cannot be made purely on the facts prepared by the police. Where more detailed information is required to properly inform the election decision, the completion time may be delayed pending receipt of that information from investigators.

Advice work seeking guidance on the appropriateness of charges or the sufficiency of evidence usually involves the consideration of complex legal and factual issues. A protocol in relation to this work includes an allowance for mutually agreed timeframes to ensure that a proper evaluation of the evidence is conducted.

Turnover times for this Advice work have improved over the past 2 years by 30%. Of the 201 requests for advice received this year, 28% were completed within 30 days and 52% within 90 days.

The Operations Units will continue to manage a growing number of cases across all jurisdictions with an increased level of complexity. A major challenge continues to be the evaluation and presentation of cases involving more reliance on electronic evidence. We are strengthening our information technology and are developing better applications to support litigation and information exchange.

Efficiency and Developmental Initiatives

The Operations Unit has focused on a number of initiatives in 2012/13:

- Our solicitors continue to make a concerted effort in front end resolution of matters, that is, early resolution of appropriate cases in the Local Court in

the form of summary disposal and negotiation of pleas of guilty. The input of Crown Prosecutors in the committal phase of the prosecution process has provided further assistance in the evaluation of evidence and negotiation of charges.

- Early briefing of trials has been vigorously pursued by the Office, contributing to the efficient running of the Courts. Trials suitable for Trial Advocates are identified and briefed soon after arraignment. There has been an increase in the number of long trials that are briefed early, resulting in better preparation and in some cases earlier negotiation of charges and evidentiary issues.
- In order to develop our staff and reduce trial matters briefed out, suitably qualified

solicitors are briefed in appropriate trials as a developmental opportunity. These trials are briefed well in advance and a mentor, usually a Deputy Director, is available to the solicitor for assistance during the preparation for and conduct of the trial

- Managers across NSW held the first of several planning days to workshop initiatives for improvement. The focus will be to effect efficiencies and to standardise processes and systems.
- A centralised unit for formatting and editing electronic evidence will be trialled in 2013/2014.
- Financial modelling of workload, including a systematic approach to weighting of cases is also being developed.

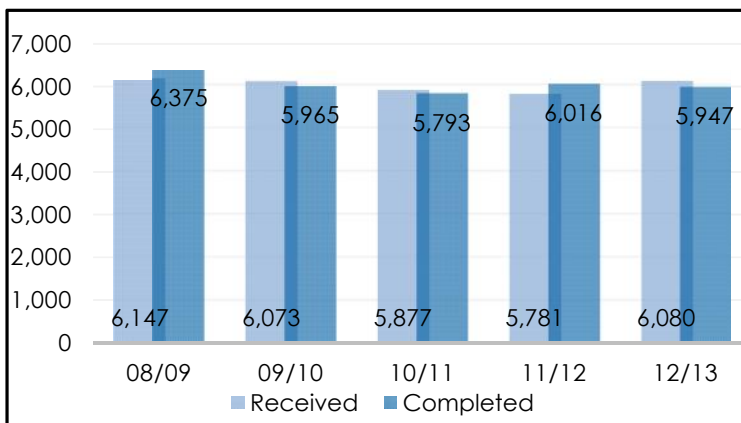
Productivity

The ODPD continues to deliver quality service in a high volume environment. The Office handles approximately 22,000 matters annually; of which more than 16,000 are prosecutions and appeal matters.

Below are statistics in relation to the most resource intensive work conducted. These statistics relate to matters received and completed. A matter “completed” relates to the closing of a file, not the outcome of the matter.

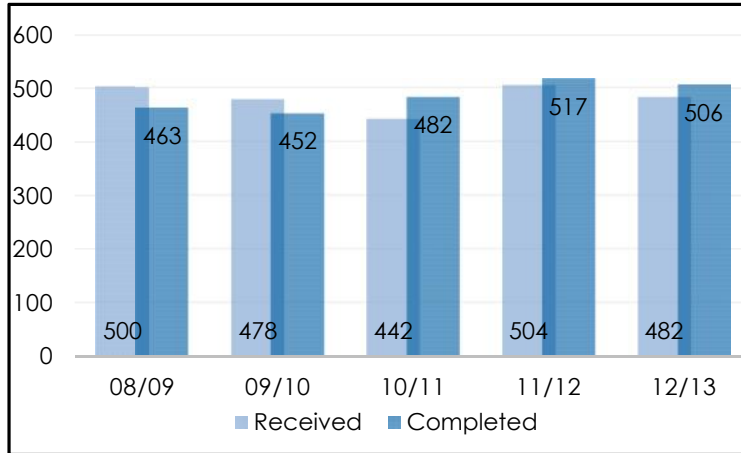
Matters received and completed

Local Court Committals

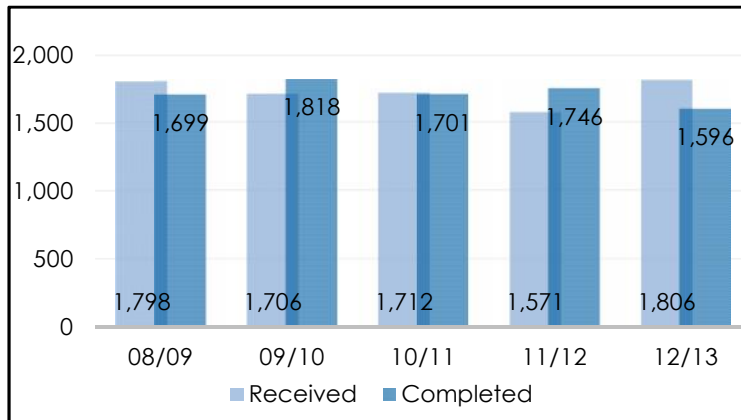


Productivity

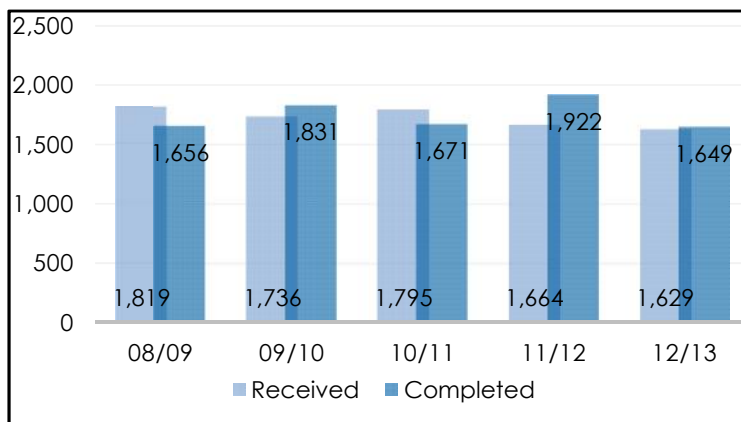
Local Court Summary



District Court Trials

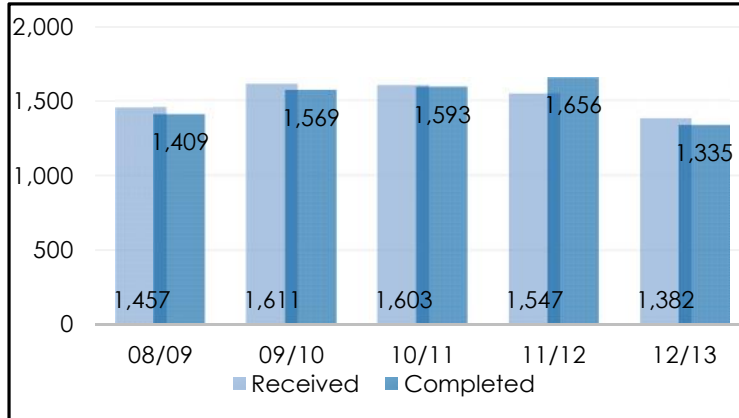


District Court Conviction Appeals

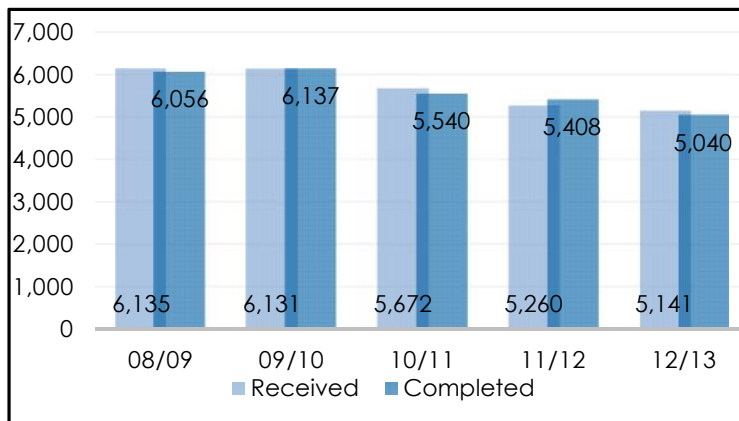


Productivity

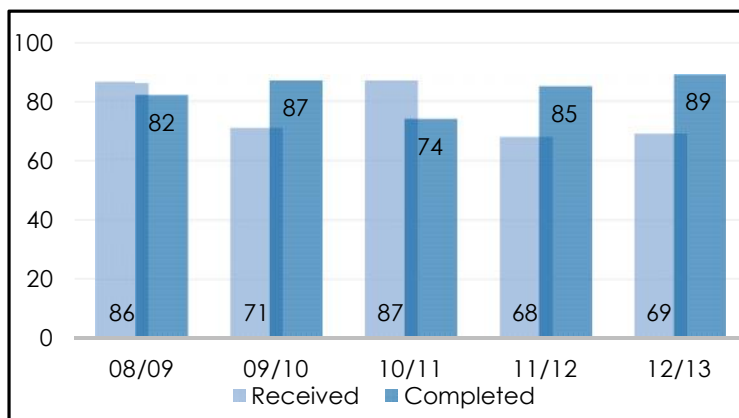
District Court Conviction Appeals



District Court Severity Appeals

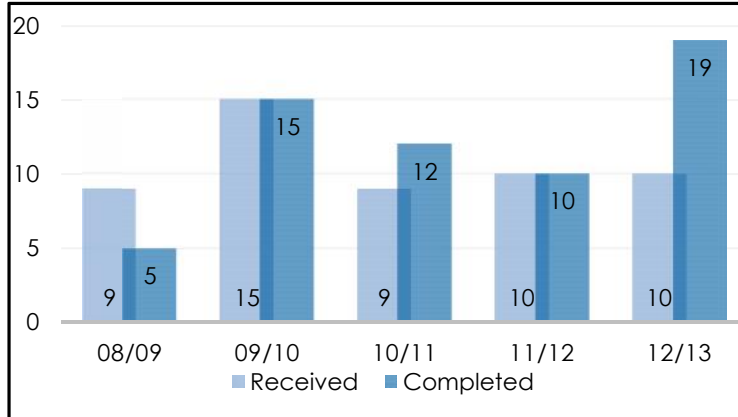


Supreme Court Trials

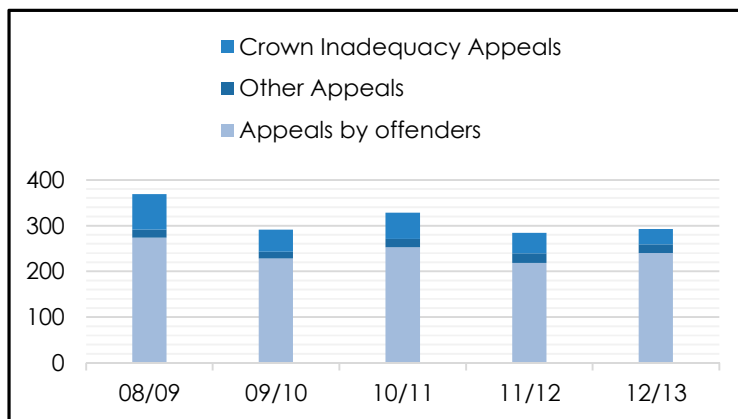


Productivity

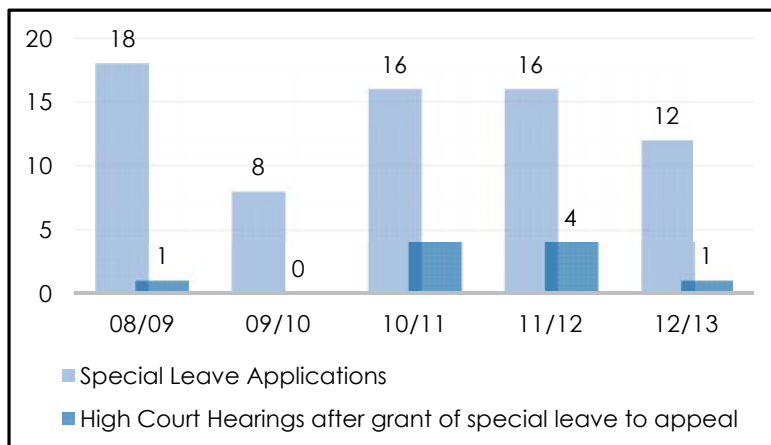
Supreme Court Sentences



Appeals finalised in CCA



Appeal Finalised in the High Court of Australia



Report of the Deputy Solicitor for Public Prosecutions (Legal)

Johanna Pheils BA LLB

Deputy Solicitor for Public Prosecutions (Legal)

Johanna Pheils BA LLB was admitted to practice in 1988. She has worked at the ODPP since 1991 in a number of roles, including as the Manager of the Child Sexual Assault Unit, Drug Court, Short Matters Unit and the Court of Criminal Appeal Unit. She has been a member of the Senior Executive since 2006 as the Assistant Solicitor (Legal) and then as the Acting Deputy Solicitor for Public Prosecutions (Legal).

Legislative changes

The Legal section of the ODPP includes the Witness Assistance Service (WAS), the Court of Criminal Appeal Unit, Group 6, the Advising Unit the Research Unit and the Library. The Deputy Solicitor (Legal) and Assistant Solicitor (Legal) provide policy advice to the Director and are involved in a number of interagency committees concerning legislative reform. This report highlights a number of cases these units have dealt with this year and other activities in the Legal section

The most significant legislative change this year were the amendments commencing 1 January 2013 to section 15A of the Director of Public Prosecutions Act, *Director of Public Prosecutions Amendment (Disclosures) Act 2012 (No 80)* relating to

This decision concerned section 15 A of the DPP Act and a claim by the New South Wales Police Force for public interest immunity (PII). The upshot of the decision was that the DPP could not simply accept that the police had a claim for PII, the prosecutor had to look at the material and be satisfied that the material should not be disclosed to the defence.

The amendments:

(a) Require the NSW Crime Commission, the Police Integrity Commission and the Independent Commission Against Corruption, when investigating possible indictable offences, to disclose to the DPP all relevant material that may reasonably assist the Crown or the defence case, in the same manner as police;

(b) clarify a disclosure exception for material

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police disclosure to the DPP. Section 15A and the form of the disclosure certificate were substantially amended, following the decision in **R v Lipton** [2011]NSWCCA 247.

that is subject to a claim of privilege, public interest immunity or statutory immunity and remove a "sunset clause" in s 15A (6) of the *Director of Public Prosecutions Act 1986*

which applies to that exception and was due to expire on 1 January 2013;

(c) allow law enforcement officers to decline to provide the DPP with material obtained during an investigation that is subject to a "statutory publication restriction".

Law Reform

This year, as always, we participated in a large number of inter-agency committees, court user groups and working parties with the main aim of considering the reform of the criminal law and to implement new legislation. The reform topics included: the Law Reform Commission's reference on sentencing law in NSW, the implementation of the Bail Act 2013, and the Government response to the Law Reform Commission recommendations in respect of people with cognitive and mental health impairments in the criminal justice system.

The Director also made numerous submissions on proposals for law reform identified by the Attorney General, Law Reform Commissions, Legislative Council Standing Committee on Law and Justice and the Sentencing Council. Examples include: jury directions, sentencing, Provocation, creation of a new offence of strangulation and the Child Protection Legislative Reform Discussion Paper.

Some of the interagency committees that we participated this year were:

- Strengthening Victims Rights Government Implementation Group formed by Victims Services, Department of Attorney General and Justice. Activities of this forum included the creation of a Code of Practice to implement the Victims Charter and a review of Court Support Services conducted by Price Waterhouse Cooper. The ODPP also cooperates with an additional working group Strengthening

the Charter and Strengthening Victims Rights Government Implementation Group;

- The Senior Officers Group formed by the Department of Premier and Cabinet to review the NSW Police, Health and ODPP guidelines for Responding to Adult Victims of Sexual Assault. We are currently working with DAGJ Victims Services and other agencies relating to informed consent of complainants to release of SAIK kits to the NSW Police.

The development of procedures for the correct referral of prisoners with mental health issues, following the decision in **State of New South Wales v TD** [2013] NSWCA 32 about the wrongful detention of a forensic patient, for 16 days in 2002, in part of Long Bay Prison hospital that was not gazetted as a hospital.

The Deputy Solicitor (Legal) has continued to be a member of and has participated in the Law Society of New South Wales Criminal Law Committee.

The Advising Unit

The Advising Unit undertakes various types of criminal related litigation in the Court of Appeal and Supreme Court, provides advice to the Director and conducts some High Court work. It also instructs the Crown Solicitors Office in respect of malicious prosecution claims against the ODPP.

This year the Unit finalised a number of cases of interest.

The **DPP v Gardner** [2013] NSWSC 28, involved negligent driving and whether separate charges should be laid for each victim injured as a result of the driving. The defendant while driving a utility vehicle turned into the path of another vehicle travelling in the opposite direction, causing

a collision. Two passengers in the other vehicle suffered serious injuries.

The defendant was charged with a single offence of “negligent driving occasioning grievous bodily harm”, in which the prosecution relied on the injuries caused to both victims. The Magistrate held that the charge was invalid because reliance on injuries to two victims was duplicitous, and that the prosecution was only entitled to rely on the injuries to one victim.

The DPP sought judicial review of the Magistrate's decision in the Supreme Court. The Supreme Court granted the relief sought, holding that a single charge was appropriate even though grievous bodily harm had been caused to more than one victim. The court noted that s 42(1)(b) of the *Road Transport (Safety and Traffic Management) Act* penalised the act of driving if it possessed the forbidden characteristics of being negligent and having caused grievous bodily harm, to whomever that harm may have been caused.

After 5 years of operation there has been a CCAI decision providing guidance on the operation of Drug Proceeds Orders made pursuant to s 29 of the *Confiscation of Proceeds of Crime Act* (CoPoCA). In **R v Hall** [2013] NSWCCA 47, Hall was charged with supplying cannabis between (s 25(1) *Drug Misuse and Trafficking Act* 1985) and knowingly dealing with the proceeds of crime (s 193B(2) *Crimes Act* 1900). The DPP applied for an order for forfeiture of cash \$4,110. under s 13(2)(a) of CoPoCA. A Drug Proceeds Order was also sought in respect of benefits derived by the respondent from the commission of the drug trafficking offences of \$54,750 (s 13(2)(b) of the Act).

In the District Court the Judge said that s 29:

"really provides the court with the power, where any person has been convicted of an offence involving drug trafficking, to consider whether he has at any time in the past obtained a benefit in connection with drug trafficking, although not in connection with the offence for which he was dealt with by the court".

The evidence from the investigating police officer was that Hall had volunteered to the police that he had been involved in the supply of drugs for “nearly 12 months” before the commission of the offence, daily half and ounce - \$150,200. However His Honour concluded that because he could not make any meaningful assessment from the available material, he declined to make a drug proceeds order.

On appeal by the DPP, the CCA determined that the position under the Act is made plain by the contrast between the power in s 18 concerning forfeiture and s 24 concerning pecuniary penalty orders and the power in s 29. Both s 18 and s 24 provide that in appropriate circumstances the court may make an order, clearly providing discretion to the court. By contrast s 29 provides that a court must undertake the task in subsections 29(1) (a), (b) and (c). The words of obligation in the preamble can only be understood as obliging an order to be made in accordance with s 29(1)(c) provided that the assessment contemplated by s 29(1)(b) has been made. Section 29(1)(a) requires the court to determine whether a defendant has derived any benefit in connection with drug trafficking at any time. If the court believes that a defendant has so benefited it must assess the value of that benefit (s 29(1)(b)) and order the defendant to pay a pecuniary penalty equal to the amount so assessed: s 29(1)(c).

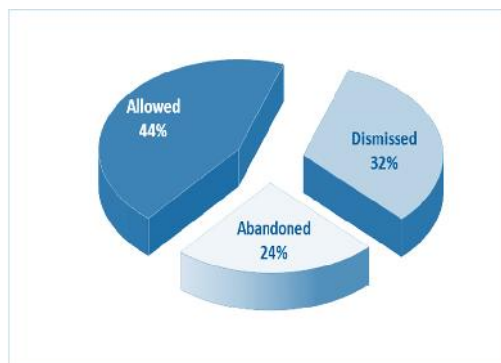
The information before the court did not enable the precise amount of the benefit to

the respondent from his drug trafficking to be assessed. However, the admissions made by the respondent clearly provided information from which an assessment could be made. His Honour should have made that assessment. The CCA concluded on the balance of probabilities that the respondent was trafficking to at least the extent of \$70 per day for nearly twelve months (being the \$50 of cannabis he smoked plus an additional sale of at least \$20). Hall is seeking leave to appeal to High Court.

The Court of Criminal Appeal Unit

During this past year, the Court of Criminal Appeal has dealt with a number of high profile appeals. In **Graham Reeves** ([2013] NSWCCA 34), an obstetrician and gynaecologist at Bega and Pambula District Hospitals, became widely known as the "Butcher from Bega" as a result of the removal by him of genitalia from one of his female patients during an operation. (He was also convicted of indecently assaulting two other patients during medical examinations - one of these convictions was quashed on appeal). The appeal against conviction was dismissed. The Court was not satisfied that Mr Reeves honestly believed that the complainant had consented to the operation. The Crown successfully appealed against the manifest inadequacy of the sentence initially imposed.

CCA Sentence Appeals by Crown



The CCA also refused leave for **Phung Ngo** ([2013] NSWCCA 142) to appeal against his life sentence, imposed in November 2001 for the murder of Mr John Newman in 1994. The Court rejected the admission of evidence from the 2009 Patten Inquiry into Mr Ngo's conviction, which was sought to be led so as to establish that the murder had not been committed with a political motive.

In 2013 the CCA also heard a conviction appeal by **Percy Small** ([2013] NSWCCA 165), who was convicted of culpable navigation under the influence. Six people (out of 14) were killed when a workboat collided with a fishing boat in Sydney Harbour in 2008. Mr Small was at the helm of the workboat at the time, although he did not have a boat licence and had been a passenger on the boat when he was summonsed to take the helm by the man who was, at the time, master of vessel. The appeal raised the issue of whether or not Mr Small was "navigating" the boat, and the Court held that he was.

Another high profile conviction appeal heard in 2013 was an appeal by a Catholic Priest (**BJS**) ([2013] NSWCCA 123) against his convictions on 11 counts against 4 victims over a 5 year period. One of the live issues in the appeal was the impact of hypnotherapy and whether any of the victims had been the subject of recovered memories. Competing expert evidence from two experts was assessed, and the Court ultimately dismissed the appeal.

The Court (constituted by a 5 Judge Bench) in an interlocutory appeal filed by the Crown of **XY** ([2013] NSWCCA 121) confirmed a decision of *Shamouil* (reported at 66 NSWLR 228) which was held to be manifestly wrong by the Victorian Court of Appeal in relation to how trial judges should apply s137 of the *Evidence Act* in relation to matters they must assess when faced with an application to exclude evidence.

The restrictive approach adopted in NSW was confirmed as being the law.

The CCA also heard an appeal by the Crown under s 107 of the *Crimes (Appeal and Review) Act 2001*, which allows the Crown to appeal against a directed verdict by a trial Judge. This was only the second time the Court has dealt with an appeal under that provision. The appeal was successful and the Court directed that the matter proceed to a new trial.

Group 6

Group 6 is responsible for the prosecution of complex matters including cases involving police officers who are charged with criminal offences. Group 6 also provides advice to the Director concerning the commencement of proceedings arising out of ICAC inquiries and proceedings from the Police Integrity Commission.

After entering into a revised Memorandum of Understanding with the ICAC in May 2011, Group 6 has greatly reduced its outstanding advice work. It now completes requests for advice (including large volume briefs) within a 6 to 12 month period in accordance with the Memorandum of Understanding.

One of the cases prosecuted by Group 6 this year involved a police officer (**DPP v Osborn**) who was charged with three offences contrary to s 91K of the Crimes Act, being offences of filming a person engaged in a private act without their consent for the purpose of obtaining sexual arousal or gratification. The charges related to the covert filming of sexual encounters between the defendant and three women (on separate occasions) who he had met through online dating websites. The videos were recorded using a spy camera installed in a bedside alarm clock located in his bedroom. The defendant uploaded the

videos to his mobile phone and showed them to other officers at the Police Station.

The defendant did not deny filming the sexual encounters without the knowledge or consent of the women involved. However, he gave evidence that the recordings were made in order to prove to his younger colleagues that the stories of his sexual exploits were true and that 'the old man's still got it'. He claimed that the recordings were not made for sexual arousal or gratification. This argument was rejected by the Magistrate who found that the element of sexual gratification was satisfied by the defendant's desire to prove his sexual virility to his friends and colleagues. The defendant was convicted on all counts.

The Witness Assistance Service (WAS)

This year marked the 20th anniversary of the WAS. The WAS provides services to victims and witnesses, to assist in minimising the stress for victims and witnesses who are involved in prosecutions and meet the requirements in the NSW Charter of Victims Rights.

In the last year the WAS provided assistance in many large multiple victim and high profile matters, including the Quakers Hill Nursing Home tragedy. The handling of this case was a reflection of the WAS's proactive model of service delivery, involving early contact, information provision, interagency liaison and a coordinated multi-disciplinary team approach to witness support, the ODPP, WAS, the NSW Police Force and Homicide Victims Support Group.

The WAS also continued to provide services to victims and witnesses across the State during the year, and has adapted its service to meet the challenge of the number of priority matters exceeding the number of

WAS officers available. During 2012-2013 there were 2,250 new referrals, 55 more matters than last year. There are currently 30 WAS officers including 3 Aboriginal WAS Officers and 3 Senior WAS Officers. Initiatives introduced by WAS for 2012-2013 include:

- the piloting of the placement of the Aboriginal Witness Assistance Officer (Country West) in Sydney and providing an outreach service.
- sharing caseloads as a way of providing a service to all priority matters. This is being trialled in Penrith, Parramatta and Sydney.
- training has been provided on "Supporting Victims and Witnesses under Cross Examination". This has been provided to WAS Statewide, some external agencies (eg. Mission Australia) and also presented at the National WAS conference.

The priority matters handled by WAS were:

- child sexual assault 44.1% (child and adult survivor),
- adult sexual assault 13.7%,
- physical assault of children 2.3%,
- homicide 7.8%, and
- dangerous driving matters involving death 4.6%.

These matters accounted for 72.4% (1,629) of new registrations during 2012-2013. In addition, 14.1% of all WAS registrations were identified as being domestic or family violence related crimes and 141 matters involving aboriginal victims and witnesses were registered. Of the Aboriginal victims and witnesses receiving a service, 34% were in child sexual assault matters; 9.2% in adult sexual assault matters; 33.3% in physical assault matters (generally domestic and family violence related matters); and 14.2% in homicide matters involving the death of the primary victim.

Sexual Assault Prosecutions

The prosecution of sexual assault trials and summary hearings continues to be a significant component of the work of the ODPP. In June 2013 the ODPP had 1,025 sexual assault matters on hand. Of these, 520 (adult – 209; child – 311) were committed for trial. This represents 25.6% of all trials currently on hand.

The Sexual Assault Review Committee (SARC) hosted by the ODPP and chaired by Amy Watts, the Assistant Solicitor (Legal), is an interagency committee that meets quarterly to discuss legal and procedural issues that arise in the matters we prosecute. The SARC continues to agitate for reform in relation to separation of trials involving multiple complainants and or accused persons despite **R v Ellis** ([2003] NSWCCA 319). The separation of such trials invariably weakens the Crown case, requires complainants at times to give evidence multiple times and considerably lengthens the prosecution process and invariably the cost.

SARC also examined the issue of cross examination of children and vulnerable witnesses and identified the need for legislative provisions to enable the use of witness intermediaries in the court process so that vulnerable witnesses have an understanding of the questions being asked of them when giving evidence and being cross examined.

In June 2013 Amy Watts the Chair of SARC was awarded a Churchill Fellowship to investigate models of registered intermediaries for child victims and witnesses in the criminal justice system. She will be travelling to Ireland, the United Kingdom, Austria, Norway and Iceland later in 2013.

During the past year the ODPP has made 118 referrals on behalf of complainants to

NSW Legal Aid's Specialist Sexual Assault Communications Privilege Service. This Service provides representation for complainants who wish to claim privilege over their counselling records when these records are subpoenaed by the defence.

The ODPP also cooperated with the NSW Ombudsman's audit into 35 child sexual assault matters involving Aboriginal children for their report "Responding to child Sexual Assault in Aboriginal Communities" A report under Part 6A of the *Community Services (Complaints, Reviews and Monitoring) Act 1993* December 2012.

The Research Unit and the Library

The Research Unit regularly publishes legislation updates, new decisions and case notes for all ODPP lawyers. It also assists individual lawyers with particular research

questions. This year a register of all the inquiries dealt with by the Research Unit since 2003 was published on the intranet to assist other lawyers with similar questions. A similar register of Library inquiries has also been published since 2009.

One of the many challenges of prosecuting cases, particularly in remote courts across NSW, is providing ODPP lawyers with up to date legal resources that can be easily carried and accessed while the lawyer is not only away from the Office but is also on their feet in court. This year a number of ODPP lawyers piloted the use of iPads equipped with online criminal law references and eBook versions of loose-leaf reference books. Overall the feedback from staff testing the products was extremely positive and use of the eBook licences was extended to lawyers to use on their own devices.

In **Burns v The Queen [2012] HCA 35**, the High Court considered criminal liability in connection with manslaughter. The appellant obtained a dose of methadone from a clinic. That afternoon the deceased went to appellant's unit to purchase methadone from the appellant and her husband. The appellant and her husband supplied him with methadone. Shortly afterwards the deceased was found to be unresponsive, and the appellant's husband walked him around the room and told him he intended to call an ambulance. The deceased refused the offer of an ambulance. The appellant then said that the deceased could not stay. Her husband asked the deceased to leave, and then accompanied him out of the unit.

The deceased's body was discovered the next day in a toilet block behind the appellant's unit. The likely cause of death was a combination of methadone and olanzapine, a drug the deceased had been prescribed.

The appellant was convicted of manslaughter. At her trial, the prosecution case was left to the jury on two possible bases. The first basis was that the supply of the methadone was an unlawful and dangerous act which caused the death. The second basis was that the appellant's failure to seek medical attention for the deceased was a grossly negligent cause of his death.

The appellant appealed unsuccessfully to the CCA, and then by leave to the High Court. The High Court allowed the appeal and directed the entry of a verdict of acquittal.

The High Court noted that, the first basis on which the case was left to the jury was not in fact available, as while the supply of drugs to another may be an unlawful act it is not in itself a dangerous act. Any danger lies in ingesting what is supplied. There was no evidence that the appellant had administered the methadone to the deceased.

On the second basis the High Court noted that criminal liability does not fasten on the omission to act, save in the case of an omission to do something that a person is under a legal obligation to do. The appellant's relationship with the deceased (as the supplier of a prohibited drug to him) did not of itself impose upon her an obligation to act to preserve his life. Further, she had not voluntarily assumed care of him nor secluded him such as to deny him the opportunity that others would assist him.

Recovery of proceeds of crime

Confiscation of Proceeds of Crime Act 1989 (CoPoCA)

The Director of Public Prosecutions may commence proceedings for the forfeiture of assets and pecuniary penalty orders pursuant to CoPoCA after a conviction has been recorded. In NSW the Crime Commission also has responsibility for taking confiscation proceedings under the *Criminal Assets Recovery Act 1990*; such proceedings are not conviction based. The Crime Commission usually commences proceedings in matters where there are significant amounts that may be forfeited to the State.

On 1 January 2008 amendments to CoPoCA commenced, providing greater power to the NSW Police Force and ODPP in relation to freezing tainted property and the confiscation of the proceeds of drug trafficking. From 1 January 2008 to accommodate the amendments, the ODPP has made a number of administrative changes to the way proceedings pursuant to CoPoCA are handled. Prosecution Guideline 30 was also amended to highlight the obligations of all ODPP lawyers and Crown Prosecutors to identify and pursue confiscation action where appropriate.

Resources

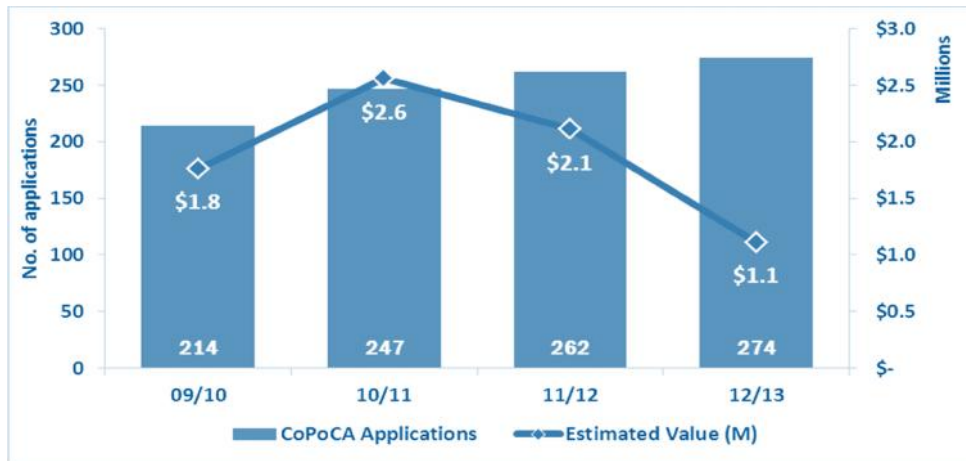
The ODPP receives recurrent funding of \$310,000 per annum to fulfil the obligations required under CoPoCA. This funding is partly applied to the position of a full time confiscation lawyer in Sydney with the remainder being applied to other related resources required in the area, including information technology development and training.

Performance and Statistics

During the 2012/2013 financial year there was a moderate rise in the number of applications made pursuant to the Act. Particulars appear in the following table and graph.

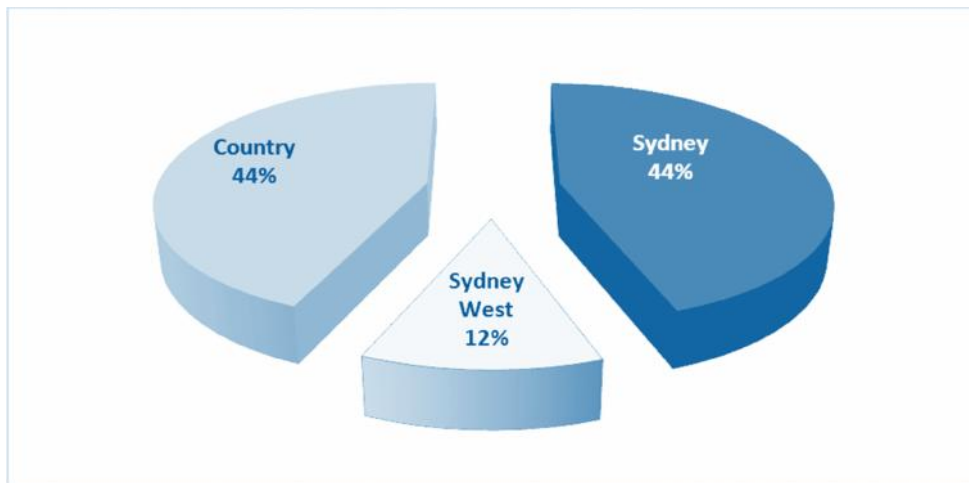
| | 2009/10 | 2010/11 | 2011/12 | 2012/13 |
|---|---------|---------|---------|---------|
| Number of Orders Applied for (FO, PPO & DPO) | 214 | 247 | 262 | 274 |
| Number of Orders Granted | 199 | 240 | 240 | 265 |
| Number of Forfeiture Orders (FO) | 188 | 226 | 223 | 257 |
| Number of Pecuniary Penalty Orders (PPO) | 7 | 4 | 9 | 4 |
| Number of Drug Proceeds Orders | 19 | 10 | 8 | 3 |
| Percentage of matters where application was successful | 93% | 97% | 92% | 97% |
| Total Estimated Value of property confiscated (Millions) | \$1.8 | \$2.6 | \$2.1 | \$1.1 |

Number of Applications and estimated value



Cash was the most common property confiscated, followed by motor vehicles. Computers used in child pornography, mobiles phones, and hydroponics equipment were also forfeited.

Estimated value of property confiscated by region



Between 1 July 2012 and 30 June 2013, 2,019 matters were identified on CASES where confiscation action warranted consideration.

Cost efficiency

Costs were awarded against the ODPP in 2012/13 in 81 matters. This is a slight reduction from 83 matters in 2011/12. The total value of costs orders made in 2012/13 was \$1,104,884.

Matters where costs were awarded against the ODP

| | 2008/09 | 2009/10 | 2010/11 | 2011/12 | 2012/13 |
|---|---------|---------|---------|---------|---------|
| Criminal Procedure Act | 59 | 35 | 35 | 49 | 64 |
| Costs in Criminal Cases Act | 5 | 14 | 17 | 12 | 13 |
| "Mosely" Orders | 5 | 1 | 9 | 10 | 3 |
| Crimes (Appeal & Review) Act | 0 | 4 | 1 | 11 | 1 |
| CoPoCA | | | 2 | 1 | 0 |
| Total number of orders | 69 | 54 | 64 | 83 | 81 |
| Total Value of orders made (\$'000) | 535 | 352 | 1,288 | 1,933 | 1,105 |
| Number of matters dealt with by ODP | 17,023 | 16,862 | 16,254 | 15,736 | 16,347 |
| Number of costs awarded where fault of prosecution | 12 | 6 | 18 | 6 | 12 |
| Percentage of matters where costs orders were made due to the conduct of the prosecution | 0.07% | 0.04% | 0.11% | 0.04% | 0.07% |

Value and number of costs orders awarded against the ODP



Costs awarded against the ODP: Applications for adjournment

The Criminal Procedure Act provides for costs to be awarded against the prosecutor in the Local Court where an adjournment of proceedings is sought. There is no power in the District Court to make an order for costs against the Crown as a condition of granting an adjournment: **R v Mosely** (1992) 28 NSWLR 735. However in an appropriate case the Court can ask the Crown to agree voluntarily to pay costs in an application for adjournment by the Crown.

The following table sets out a comparison between, 2008/9, 2009/10, 2010/11, 2011/12, 2012/13 where costs were awarded on prosecution applications for adjournment.

Matters where costs were awarded on adjournment

| | 2008/09 | 2009/10 | 2010/11 | 2011/12 | 2012/13 |
|---|---------|---------|---------|---------|---------|
| Mosely Orders | 5 | 1 | 9 | 10 | 3 |
| Criminal Procedure Act other adjournments | 9 | 15 | 4 | 5 | 4 |
| Adjournment because full brief not served - Criminal Procedure Act | 11 | 5 | 7 | 1 | 7 |
| Other costs orders | 44 | 33 | 44 | 67 | 67 |
| Total | 69 | 54 | 64 | 83 | 81 |

Government Information (Public Access) Act 2009 NSW

Name of agency

Office of the Director of Public Prosecutions (ODPP)

Period

1 July 2012 to 30 June 2013

Contact

Right to Information Officer
A/Deputy Solicitor (Legal)
Telephone (02) 9285 8669

Summary

The ODPP is an agency under the *Government Information (Public Access) Act 2009* (GIPA Act). Pursuant to section 43 and clause 1 of Schedule 2 of the GIPA Act, information in respect of the ODPP's prosecuting functions is "excluded information".

In the period 1 July 2012 to 30 June 2013 the ODPP received 2 valid and 16 invalid applications under the GIPA Act for access to documents. The ODPP was consulted by 2 Agencies pursuant to section 30 of the Act.

Pursuant to s7(3) of GIPA the ODPP is obliged to review its program for the release of government information. In the period 1 July 2012 to 30 June 2013 the Right to Information Officer has been involved in developing a new website for the ODPP. All information published by the ODPP is being reviewed in connection with this project. No new information has been released in this period. The new website is expected to be launched by October 2013.

Statistical information about access applications

Table A: Number of applications by type of applicant and outcome*

| | Access granted in full | Access granted in part | Access refused in full | Information not held | Information already available | Refuse to deal with application | Refuse to confirm/deny whether information is held | Application withdrawn |
|---|------------------------|------------------------|------------------------|----------------------|-------------------------------|---------------------------------|--|-----------------------|
| Media | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 |
| Members of Parliament | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Private sector business | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Not for profit organisations or community groups | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Members of the public (application by legal representative) | 0 | 0 | 6 | 0 | 0 | 0 | 0 | 0 |
| Members of the public (other) | 0 | 0 | 10 | 0 | 0 | 0 | 0 | 0 |

*More than one decision can be made in respect of a particular access application. If so, a recording must be made in relation to each such decision. This also applies to Table B.

Table B: Number of applications by type of application and outcome*

| | Access granted in full | Access granted in part | Access refused in full | Information not held | Information already available | Refuse to deal with application | Refuse to confirm/deny whether information is held | Application withdrawn |
|--|------------------------|------------------------|------------------------|----------------------|-------------------------------|---------------------------------|--|-----------------------|
| Personal information applications | 0 | 0 | 17 | 0 | 0 | 0 | 0 | 0 |
| Access applications (other than personal information applications) | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 |
| Access applications that are partly personal information applications and partly other | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

*A **personal information application** is an access application for personal information (as defined in clause 4 of Schedule 4 to the Act) about the applicant (the applicant being an individual).

Table C: Invalid applications

| Reason for invalidity | No of applications |
|---|--------------------|
| Application does not comply with formal requirements (section 41 of the Act) | 0 |
| Application is for excluded information of the agency (section 43 of the Act) | 17 |
| Application contravenes restraint order (section 110 of the Act) | 0 |
| | |
| Total number of invalid applications received | 17 |
| Invalid applications that subsequently became valid applications | 0 |

Table D: Conclusive presumption of overriding public interest against disclosure: matters listed in Schedule 1 to Act

| | Number of times consideration used* |
|---|-------------------------------------|
| Overriding secrecy laws | 0 |
| Cabinet information | 1 |
| Executive Council information | 0 |
| Contempt | 0 |
| Legal professional privilege | 0 |
| Excluded information | 0 |
| Documents affecting law enforcement and public safety | 0 |
| Transport safety | 0 |
| Adoption | 0 |
| Care and protection of children | 0 |
| Ministerial code of conduct | 0 |
| Aboriginal and environmental heritage | 0 |

*More than one public interest consideration may apply in relation to a particular access application and, if so, each such consideration is to be recorded (but only once per application). This also applies in relation to Table E.

Table F: Timeliness

| | Number of applications |
|--|------------------------|
| Decided within the statutory timeframe (20 days plus any extensions) | 18 |
| Decided after 35 days (by agreement with applicant) | 0 |
| Not decided within time (deemed refusal) | 0 |
| Total | 18 |

Table G: Number of applications reviewed under Part 5 of the Act (by type of review and outcome)

| | Decision varied | Decision upheld | Total |
|--|-----------------|-----------------|-------|
| Internal review | 0 | 0 | 0 |
| Review by Information Commissioner* | 0 | 2 | 2 |
| Internal review following recommendation under section 93 of Act | 0 | 0 | 0 |
| Review by ADT | 0 | 1 | 1 |
| Total | | | |

*The Information Commissioner does not have the authority to vary decisions, but can make recommendations to the original decision-maker. The data in this case indicates that a recommendation to vary or uphold the original decision has been made by the Information Commissioner.

Table H: Applications for review under Part 5 of the Act (by type of applicant)

| | Number of applications for review |
|---|-----------------------------------|
| Applications by access applicants | 2 |
| Applications by persons to whom information the subject of access application relates (see section 54 of the Act) | 2 |

Delegations

The Attorney General has delegated to the Director, by orders published in the Government Gazette, authority to consent to prosecutions for particular offences. Such delegation is permitted by Section 11 (2) of the *Director of Public Prosecutions Act 1986*. Section 11 (6) provides. The Director shall notify the person who gives an authorisation under this section of the giving or refusal to consent under the authorisation. The giving and refusals of consent pursuant to these authorisations for the year 2011 - 2012 are as follows:

Consent given

* Section 66F(3), *Crimes Act 1900* (sexual intercourse with person with cognitive impairment) x 4

* Section 61M(1)/(3)(e), *Crimes Act 1900* (aggravated indecent assault of person with cognitive impairment) x 4

* Section 78A, *Crimes Act 1900* (incest) x 10

* Section 327, *Crimes Act 1900* (perjury) x 1

Consent refused

* Section 7(1), *Surveillance Devices Act 2007* (unlawful installation / use / maintenance of a listening device) x 1

Report of the General Manager, Corporate Services

Bernard O’Keeffe B. Bus FCPA

Chief Financial Officer & General Manager, Corporate Services

Bernard O’Keeffe joined the NSW Public sector in 1977 and worked in a number of finance roles with the Government Printing Office and Department of Education and Training then joined Arnott’s Biscuits in 1988 as the Cost and Management Accountant. From that point on Bernard held a variety of CFO, senior financial, business management and business consulting roles in the private sector including a multi-national company. He was appointed Chief Financial Officer of the ODPP in June 2009 and the General Manager, Corporate Services in 2010. Bernard was appointed to the Advisory Board for the NSW Public Sector Community of Finance Professionals in 2010 and the NSW Public Sector Committee for CPAs Australia in 2011.

Overview

Corporate Services were successful in implementing initiatives that focused on staff, technology, business tools, policies and processes. All initiatives were designed to improve productivity and advance the provision of services.

We strive to be an innovative centre of excellence that is effective and efficient

Corporate Services Highlights

Health and Well Being

Building on progress already made, the Office continues to further develop and strengthen Health & Well-Being strategies for all staff. This has included the provision of information sessions for both managers and staff and the introduction of a flu vaccination program. The numerous training sessions held focused on mental health and were a huge success. Both the training sessions and flu vaccination program will continue to form part of the ODPP’s health and well-being strategy into the future.

In 2012/13 the Office saw a reduction in Workers Compensation claims.

During the year staff participated in a state wide people matter survey, the results of which will assist in the development of the agencies future plans and priorities.

Management Development

The Office commenced a Management Development Program that is module based and focuses on the key aspects of being a successful manager. This program will continue throughout the coming year with further development made to the modules to ensure continued success. The program has been positively received by the management team.

Staff Awards

Many staff received 10 and 20 year Service Awards this year, which demonstrates the dedication of our staff and their desire to continue working with the NSW ODPP. As in previous years, Excellence Awards were issued for outstanding service and they were presented by the Director at an all staff address that was broadcast to all ODPP Offices simultaneously.

Training

A revamped training program in 2012 has dramatically increased learning and development opportunities for staff at all levels to assist them in achieving their required professional development. Last year the number of training programs held increased by 50% with attendees at courses increasing by 61.5%.

Staff Security

Security within the office and Courts is always a high priority to ensure the on-going safety of our staff in their workplaces. Throughout the year we have continued to work closely with the Courts and Sheriff to provide the best security possible in an environment where various interested parties have easily available access.

Corporate Governance, Procurement and Financial Accountability

Finance

In 2012/13, the Finance team met all statutory obligations on time and paid over 5000 invoices. 100% of payments to small business were made on time and 98% of total payments were paid on time. Work commenced on implementing a new online purchasing card system to capture and streamline transactions.

The Business Intelligence tool enabled efficiency gains to be made in budgeting and at month end through the use of better analysis and enhanced reporting systems.

Procurement and Cost Savings

The Office successfully met a range of budget savings requirements during 2012/13. Cost savings initiatives focused on better utilisation of the motor vehicle fleet, contract reductions in utilities and optimisation of our labour costs.

Other procurement strategies included purchasing recycled or 'green' products and recycling furniture and equipment where the Office business needs were not compromised.

The Procurement Team were innovative in changing from individual supply providers to service providers that can 'package' at improved prices and reduce waiting time for service calls on building and equipment.

The Office continues to carefully manage its energy and water needs and again achieved a 5-star NABERS rating for the Sydney Office and 4.5-star NABERS ratings for the Parramatta Office.

Information Management and Technology

The Technology team continued to provide stable, reliable and secure operational systems as well as improving the use of technology for video conferencing and streaming of multimedia training materials.

Technology

To improve the productivity of a mobile workforce, the Office commenced work on the development of a mobile device tablet platform to enable staff to connect to the ODPP network. These devices will include smart phones and mobile tablet devices.

Business Intelligence

A Business Intelligence (BI) tool was implemented to enable the ODPP to better and more quickly analyse, monitor, manage and report on organizational performance. The tool has proven to be a success and will continue to be further developed for wider use. BI provides a significant improvement in data access and reporting capability and is expected to greatly assist the Office over

time to better manage the operation and resources.

Other achievements

- Continued implementation of strategies to deliver the savings in ICT expenditure required under the Treasury's NSW ICT Expenditure Review Project for 2012/13 onwards.
- Maintain the certification of the IM&T Information Security Management System (ISMS) under the ISO/IEC 27001:2005 standard.
- Implement the interface between JusticeLink and the business systems of ODPP for the 'Joined up Justice' project.
- Implementation of the Business Intelligence and Reporting System.
- Development of the new ODPP website.
- Disaster Recovery technical procedures developed and tested.

Human Resources

Health and Well-being

The Office remains committed to the prevention and management of psychological injury by providing ongoing training and education on related well-being topics and constantly seeking new opportunities to improve psychological well-being for staff.

The Office is in the final stages of preparing a new performance management system which will have a specific focus on drawing attention to psychological well-being related issues. It will include indicators that ensure staff welfare is given appropriate priority in the management of performance and workload.

The Office introduced a 'Flu Vaccination' program this year, with a total of 232 staff participating across the state. The overall success of this program in relation to the

reduction in sick leave absences will be measured in the coming years; however the immediate boost in staff morale will ensure that the program remains a regular WH&S commitment for the Office.

Public Service Commission 'State of the Sector' Report

Following the results of the Public Service Commission's 'State of the Sector' report, the Office focused attention on the area of bullying, with office-wide training programs for managers and information sessions for all staff being delivered by the Anti-Discrimination Board. These programs were well received and continue to reinforce the Office's commitment to dignity, respect and professionalism in the workplace.

Workers Compensation

The Office continues to work on preventative and early intervention strategies to effectively manage workers compensation claims and this year the return to work process and performance in this area was outstanding.

There was a:

- 53% reduction in the Number of Compensable Injuries (compared to the previous year);
- 66% reduction in the Average Cost of Claims (target being 5%); and an
- 8.4% reduction in Average Time on Weekly Benefits – Section 36 (first 26 weeks).

(It is worth noting that the Office had a 118% increase in this measure last year)

The ongoing development and improvement in monthly WH&S reporting to the Management Committee and Executive Board has assisted in reiterating our commitment to a broader strategic approach to injury prevention and management.

Equal Employment Opportunities Statistics

| A. Trends in the Representation of EEO Groups | | | | | | |
|--|---------------------|------------------|------|------|-------|-------|
| EEO Group | Benchmark or Target | % of Total Staff | | | | |
| | | 2009 | 2010 | 2011 | 2012 | 2013 |
| Women | 50% | 62% | 61% | 60% | 61.9% | 62.3% |
| Aboriginal people and Torres Strait Islanders | 2.6% | 0.8% | 0.7% | 0.8% | 0.7% | 1.0% |
| People whose first language was not English | 19% | 16% | 16% | 16% | 14.8% | 14.9% |
| People with a disability | N/A | 5% | 5% | 5% | 5.9% | 5.4% |
| People with a disability requiring work-related adjustment | 1.5% | 2.2% | 1.9% | 1.8% | 2.1% | 1.7% |

| B. Trends in the Distribution of EEO Groups | | | | | | |
|--|---------------------|--------------------|------|------|------|------|
| EEO Group | Benchmark or Target | Distribution Index | | | | |
| | | 2009 | 2010 | 2011 | 2012 | 2013 |
| Women | 100 | 83 | 85 | 86 | 85 | 85 |
| Aboriginal people and Torres Strait Islanders | 100 | N/A | N/A | N/A | N/A | N/A |
| People whose first language was not English | 100 | 89 | 91 | 91 | 91 | 91 |
| People with a disability | 100 | 94 | 94 | 95 | 96 | 94 |
| People with a disability requiring work-related adjustment | 100 | N/A | N/A | N/A | N/A | N/A |

Notes:

1. Staff numbers are as at 30 June 2013 excluding casual staff.
2. A Distribution Index of 100 indicates that the centre of the distribution of the EEO group across salary levels is equivalent to that of other staff. Values less than 100 mean that the EEO group tends to be more concentrated at lower salary levels than is the case for other staff. The more pronounced this tendency is, the lower the index will be. In some cases the index may be more than 100, indicating that the EEO group is less concentrated at lower salary levels.
3. The Distribution Index is not calculated where EEO group or non-EEO group numbers are less than 20.

Equality and Diversity Achievements

Indigenous Recruitment

This year the Office was successful in recruiting a targeted Indigenous Legal Development Programme placement.

Professional Learning Programs

Included in the professional learning programs offered to staff this year were the following topics specific to equity and diversity:

- Working with Refugee Survivors
- Bullying and harassment prevention
- Understanding of Islam and Muslims
- Working with clients from Afghanistan, Iran and Iraq
- Managing psychological Injury or illnesses and difficult behaviours for managers

Notable Statistics

- 11% of staff are working part time
- 62% of all employees are female
- 8% of new starters are under the age of 25
- 33 was the average age of new starters

Chief Executive Service and Senior Executive Service

| Number of CES/SES Positions | Total | Total | Total | Total | Total | Total | Total | Total |
|----------------------------------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|
| Level: | 30 | 30 | 30 | 30 | 30 | 30 | 30 | 30 |
| | June 2006 | June 2007 | June 2008 | June 2009 | June 2010 | June 2011 | June 2012 | June 2013 |
| SES Level 1 | 3 | 2 | 3 | 3 | 3 | 3 | 3 | 3 |
| SES Level 2 | 3 | 2 | 3 | 3 | 2 | 2 | 2 | 2 |
| SES Level 3 | - | - | - | - | - | - | - | - |
| SES Level 4 | - | - | - | - | - | - | - | - |
| SES Level 5 | - | - | - | - | - | - | - | - |
| SES Level 6 | - | - | - | 1 | 1 | 1 | 1 | 1 |
| Statutory Appointments | | | | | | | | |
| Under the DPP Act* | 4 | 3 | 4 | 4 | 4 | 4 | 4 | 4 |
| Positions filled by women | 2 | 1 | 3 | 4 | 3 | 4 | 4 | 4 |

* The Director of Public Prosecutions, Deputy Director of Public Prosecutions and Solicitor for the Public Prosecutions are statutory appointees, appointed under the Director of Public Prosecutions Act 1996

| Staff Numbers | 30 June 2006 | 30 June 2007 | 30 June 2008 | 30 June 2009 | 30 June 2010 | 30 June 2011 | 30 June 2012 | 30 June 2013 |
|--|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|
| Statutory Appointed & SES | 105 | 100 | 97 | 94 | 92 | 90 | 89 | 84 |
| Lawyers | 324 | 311 | 299 | 301 | 300 | 320 | 319 | 319 |
| Administration & Clerical Staff | 225 | 219 | 216 | 211 | 210 | 212 | 209 | 214 |
| Total | 654 | 630 | 612 | 606 | 602 | 622 | 617 | 617 |
| Staff Profile used to prepare above statistics | | | | | | | | |

| Recruitment Statistics | | | | | | | |
|--|----------------|----------------|----------------|----------------|----------------|----------------|----------------|
| | 2006/07 | 2007/08 | 2008/09 | 2009/10 | 2010/11 | 2011/12 | 2012/13 |
| Senior Executive Service | 0 | 0 | 1 | 0 | 0 | 0 | 0 |
| Statutory Appointed | 0 | 0 | 0 | 0 | 0 | 3 | 0 |
| Crown Prosecutors | 2 | 1 | 0 | 2 | 0 | 5 | 2 |
| Prosecution Officer (Lawyers) | 25 | 19 | 28 | 18 | 32 | 33 | 21 |
| Prosecution Officer (Admin) | 41 | 45 | 48 | 35 | 50 | 49 | 29 |
| Total | 68 | 65 | 77 | 55 | 82 | 90 | 52 |
| As per Workforce Profile, all new starters within the financial year | | | | | | | |

Corporate Governance

Risk Management and Insurance Activities

Risk Management

A Fiduciary and Governance Control internal audit was conducted this year.

The Office accepted the improvement recommendations made by the internal auditor.

Insurance Activities

Motor Vehicles

The Office's 2012-13 Motor Vehicle claims totaled 24, representing an average damaged/lost net cost in claim payments of \$2,460 per vehicle. In comparison to the 2011-2012 financial year, there was an increase of 6 claims, however there was a decrease in the net damage/lost cost per vehicle of \$2,340.

Property

In 2012-2013, there were a total of three Property Claims for the Office. Of the two claims relating to the loss of laptop computers, one was accepted and the other declined. The third claim was as a result of windstorm damage to the Penrith Office's balcony cover and was accepted.

Miscellaneous

The 2012-2013 reporting period saw the Office with zero miscellaneous claims.

Credit Card Certification

During this financial year, credit card use within ODPP was in accordance with Premier & Cabinet Memoranda, Treasurer's directions and award conditions for travel related expenses.

Credit card use

Credit card use within ODPP is largely limited to:

- Claimable work related travel expenses; and
- Expenditure for minor purchases where the use of credit cards is a more efficient means of payment.

Monitoring credit card use

The following measures and practices are used for providing guidelines and monitoring

the efficient use of credit cards within ODPP:

- Officers are issued with a credit card monthly statement to verify and certify that all expenses were incurred for official purposes. Acquittals are examined and authorised by officers with appropriate financial delegation;
- As a minimum, annual reviews of usage levels and appropriateness of credit card limits are conducted; and
- A half-yearly report is submitted to Treasury certifying that credit card use in the ODPP is within set guidelines.

Consultants

(a) Consultancies each engagement costing more than \$50,000: Nil

(b) Consultancies each engagement costing less than \$50,000:

| Categories | Total number of engagements | Cost Exc. GST |
|---|-----------------------------|---------------|
| Internal Audit | 1 | \$6,525 |
| Human Resources | 1 | \$9,997 |
| Management | 1 | \$6,000 |
| Total consultancies each engagements costing less than \$50,000 | | \$22,522 |

Overseas Travel Information

| | | | |
|-----------|-----------------------------|---|------------|
| L Babb SC | 29-31 May 2013 Hong Kong | Head of Prosecuting Agencies Conference Airfare \$5,337.98, Accommodation \$2,079.81 | \$7,417.79 |
| | | TOTAL | \$7,417.79 |

Government Energy Management Plan (GEMP)

The Office continues to practice sound energy management with the Sydney Office achieving a 5-Star NABERS rating for the second successive year.

The ODPP is committed to assisting the Government in attaining its energy management goals by purchasing energy within the Government's 776 and 777 contracts and by continuing to practice and promote the following energy management methodologies:

Lighting and Utilities

- Energy efficient purchases and usage
- Practice of energy saving methodologies
- Waste elimination when not in use
- Improvement of energy management during refurbishments

Equipment

- Energy efficient star-rated purchases
- Provision of operational training
- Improvement of energy management during refurbishments

Energy

- Purchasing within the Government's 776 and 777 contracts at the most economical price

The ODPP's ongoing goals under the GEMP include:

- Assisting the Government to achieve a reduction of State-wide total energy consumption for government buildings by attaining the highest tenancy star-rating possible;
- Upgrading the energy efficient facilities at every opportunity and when lighting upgrade to efficient sensor operated systems can be affected;

- Purchasing electricity within Government contracts 776 and 777 to ensure maximum savings;
- Continuing to purchase equipment that complies with energy star-rating requirements and reducing overall equipment numbers by consolidating to Multi-Function Devices (MFD);
- Increasing staff awareness of energy management by publishing best practice methodology and provision of facilities (i.e. placement of power points within reach so they can be turned-off easily at the close of business); and
- To obtain the first Nabers rating for our George Street, Parramatta premises.

The Manager, Procurement and Facilities manages the daily GEMP related tasks, with the General Manager, Corporate Services having overall responsibility for the energy management of the Office.

Waste Reduction and Purchasing Plan and Recycling (WRAPP)

Procurement strategies throughout the year focused on:

- Waste reduction;
- Utilise Government contracts to purchase recycled or 'green' products (carbon neutral) products; and
- Recycle or reuse furniture and equipment where possible.

Facilities exist within the Sydney, Parramatta and Lismore offices to have recycled office products such as paper, cardboard and co-mingled items collected. Other offices located in multi-tenanted buildings do not have lessors that support recycling and waste reduction or provide space for storage and collection of recycling items.

Strategies to Recycle and Reduce Waste

To ensure the reduction of waste recycling, the Office follows established Government and agency strategies or negotiated contracts. Strategies adopted are:

Paper wastes

- Multi-function devices (MFDs) that offer double-sided copying
- Concise instructions and training in the use of copying machines and printers
- Multi-destination (internal) envelopes
- Enhancement of our waste products and stationery recycling and reuse achievements

Equipment

- Reduction of equipment through the purchase of MFDs that combine the copy, printer, facsimile and scanning facilities
- Expired MFDs are traded in at the expiry of their serviceable life (5 years) and reused as re-engineered machines or stripped for parts
- Expired serviceable computers are recycled for the use of appropriate parts or re-engineered as usable machines

Toner Cartridges

- All toner cartridges are collected and recycled where possible

Furniture

- Furniture is re-used, sold at auction, tender or transferred to other Government Departments

Electricity

- A lighting replacement programme was undertaken in the 2012-2013 year. Five offices were fitted out with T5 energy efficient tubes and adaptors. All ODPP offices now have T5 lighting which saves energy and is estimated to last five times longer than the older bulbs
- Photocopiers have power reduce buttons
- Air conditioning plant is fitted with timers to limit operation only to business hours
- Energy efficient hot water systems are used in bathrooms and kitchens
- Electricity contract 777 and 776 are being utilised where available

Water

- Water efficient taps in are used bathrooms and kitchens
- Auto flushing systems in the men's toilets
- Showers are fitted with water saving heads
- Hydra boil or mini boil hot water units are installed to eliminate water wastage

Environmental Strategies

Printed Stock

| Stock Item | Recycled | Environmental Accreditation | Elemental Chlorine Free | Wood Fibre Sustainable Forests | Archival | ISO14001 International Standard |
|-------------------|----------|-----------------------------|-------------------------|--------------------------------|----------|---------------------------------|
| Folders | 40-60% | ✓ | ✓ | ✓ | | |
| Letterhead | | ✓ | ✓ | | ✓ | ✓ |
| Compliments Slips | | ✓ | ✓ | | ✓ | ✓ |
| Business Cards | | ✓ | ✓ | | | ✓ |
| Envelopes | 80-90% | | | | | |
| Brochures | 30% | ✓ | ✓ | ✓ | | |

Soy based inks are used in preference to solvent based products for printing of stock where possible.

Information and Technology

Report of the C.I.O on Major IM&T Projects during 2012/2013

JusticeLink and Joined up Justice (JuJ)

The JuJ Data Exchange Project was successfully implemented in the ODPP in October 2012.

JuJ is a joint project between the ODPP and Legal Aid NSW (LANSW) to develop and implement links between the agencies to access and share information with the JusticeLink system. JusticeLink is the case management system which manages cases through the Local, District, Supreme and Children's Courts.

ICT INFRASTRUCTURE UPGRADES

Wireless Network

This project successfully set up segregated wireless networks at all ODPP offices in March 2013.

The wireless networks were a pre-requisite for the iPad extended trial project and are needed to support mobile devices over the Wi-Fi network.

Citrix Access Gateway and Integration with New Citrix XenApp 6.5

In March 2013 this project successfully implemented the Citrix Access Gateway to improve the use of remote access using RSA keys. The project also upgraded existing software allowing integration with the Gateway.

ESX Servers Upgrade

ESX is computer virtualisation software that runs on server hardware and provides an environment for multiple numbers of virtual servers. The result will be a reduction in the number of physical servers needed to support the work of the ODPP, greater flexibility and reduced costs.

ESX was successfully implemented in the Head Office server farm and at the Disaster Recovery site at Penrith in April 2013.

Upgrade of Storage Area Network (SAN)

Upgrading the Storage Area Network (SAN), which is the core storage facility for all ODPP information systems, has increased the amount of available storage and extended its life.

This project was successfully completed in June 2013.

INFORMATION MANAGEMENT & TECHNOLOGY PROJECTS

Email Archiving

In September 2012 this project was implemented to provide an automatic solution which archives emails on a rolling schedule in order to meet Premier's Memorandum M2004-14 and the State Records Act. All archived emails are easily accessible and restored from secure storage.

Business Intelligence and Reporting (BIR)

Phase one of a Business Intelligence and Reporting (BIR) system was completed in August 2012, enabling the ODPP to analyse, monitor, manage and report on its organisation performance more efficiently. Additional development to the system continued up to December 2012.

Further enhancements to the BIR system are planned for 2013-14.

iPad Extended Trial

This project involved providing iPads to a select number of ODPP business users where access to ODPP information systems was required when they were mobile. The results of the extended trial showed that iPads were an efficient and effective use of technology for the staff that used them.

The project was successfully completed in June 2013 and the results of a post implementation survey analysed and reported to the ODPP Executive Board in July 2013.

ODPP Website

The ODPP website has been re-developed using Sitefinity software as the Content Management Software (CMS), with the structural re-development now complete.

Site content is currently being updated by the various business areas and implementation of the live site is expected in November 2013.

Consolidation of Objective Services

This project consolidates all Objective Document Management Services from 9 regional offices to a single service at Head Office, which will result in an improved response time in opening and saving documents store in the system. Successful consolidation of these services will also enable a migration of the Integrated Document Management System (IDMS) to back-end management system TRIM in 2013-14.

Development of this project was completed in June 2013 and implementation is scheduled for August 2013.

Security Certification

The Information Management & Technology (IM&T) Security Management System for the activities of the IM&T Branch was re-certified in August 2012.

Financial Information



INDEPENDENT AUDITOR'S REPORT

Office of the Director of Public Prosecutions

To Members of the New South Wales Parliament

I have audited the accompanying financial statements of the Office of the Director of Public Prosecutions (the Office), which comprise the statement of financial position as at 30 June 2013, the statement of comprehensive income, statement of changes in equity, statement of cash flows, service group statements and a summary of compliance with financial directives for the year then ended, notes comprising a summary of significant accounting policies and other explanatory information.

Opinion

In my opinion the financial statements:

- give a true and fair view of the financial position of the Office as at 30 June 2013, and of its financial performance and its cash flows for the year then ended in accordance with Australian Accounting Standards
- are in accordance with section 45E of the *Public Finance and Audit Act 1983* (the PF&A Act) and the Public Finance and Audit Regulation 2010

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

Director's Responsibility for the Financial Statements

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

Auditor's Responsibility

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

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

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

My opinion does *not* provide assurance:

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

Independence

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

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



Jack Kheir
Director, Financial Audit Services

20 September 2013
SYDNEY

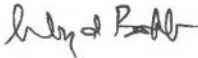
Office of the Director of Public Prosecutions

**Financial statements
for the year ended 30 June 2013**

**Office of the Director of Public Prosecutions
Statement by Director for the year ended 30 June 2013**

Pursuant to Section 45F of the Public Finance and Audit Act 1983, I state that:

- (a) the accompanying financial statements have been prepared in accordance with applicable Australian Accounting Standards, the requirements of the *Public Finance and Audit Act 1983*, and the Financial Reporting Directions published in the Financial Reporting Code for Budget Dependent General Government Sector Agencies, the applicable clauses of the *Public Finance and Audit Regulation 2010* and the Treasurer's Directions;
- (b) the statements exhibit a true and fair view of the financial position and transactions of the Office; and
- (c) I am not aware of any circumstances which would render any particulars included in the financial statements to be misleading or inaccurate.



Lloyd Babb SC
Director of Public Prosecutions

Sydney
20 September 2013

Office of the Director of Public Prosecutions
Statement of comprehensive income for the year ended 30 June 2013

| | Actual 2013 \$'000 | Budget 2013 \$'000 | Actual 2012 \$'000 |
|--|--------------------------|--------------------------|--------------------------|
| Notes | | | |
| Expenses excluding losses | | | |
| Operating expenses | | | |
| Employee related | 2(a) 85,563 | 87,072 | 89,832 |
| Other operating expenses | 2(b) 17,258 | 15,340 | 16,742 |
| Depreciation and amortisation | 2(c) 2,869 | 3,085 | 2,736 |
| Other expenses | 2(d) 2,925 | 3,814 | 2,832 |
| | <u>108,615</u> | <u>109,311</u> | <u>112,142</u> |
| Total expenses excluding losses | | | |
| Revenue | | | |
| Recurrent appropriation | 3(a) 99,288 | 99,343 | 95,283 |
| Capital appropriation | 3(a) 1,368 | 1,368 | 1,814 |
| Sale of goods and services | 3(b) 65 | 70 | 49 |
| Investment revenue | 3(c) 168 | 190 | 246 |
| Grants and contributions | 3(d) 127 | - | 2,837 |
| Acceptance by the Crown Entity of employee benefits and other liabilities | 3(e) 4,542 | 7,968 | 9,311 |
| Other revenue | 3(f) 1,539 | 30 | 786 |
| | <u>107,097</u> | <u>108,969</u> | <u>110,326</u> |
| Total Revenue | | | |
| Gain / (loss) on disposal | 4 <u>(3)</u> | <u>5</u> | <u>11</u> |
| Net result | | | |
| | 14, 16 <u>(1,521)</u> | <u>(337)</u> | <u>(1,805)</u> |
| Other comprehensive income | | | |
| Net increase / (decrease) in plant and equipment asset revaluation reserve | - | - | - |
| Total other comprehensive income | - | - | - |
| TOTAL COMPREHENSIVE INCOME | <u>(1,521)</u> | <u>(337)</u> | <u>(1,805)</u> |

The accompanying notes form part of these financial statements.

Office of the Director of Public Prosecutions
Statement of financial position as at 30 June 2013

| | Notes | Actual 2013 \$'000 | Budget 2013 \$'000 | Actual 2012 \$'000 |
|--------------------------------------|-------|--------------------------|--------------------------|--------------------------|
| ASSETS | | | | |
| Current assets | | | | |
| Cash and cash equivalents | 6 | 5,319 | 5,134 | 5,453 |
| Receivables | 7 | <u>879</u> | <u>829</u> | <u>1,144</u> |
| Total current assets | | <u>6,198</u> | <u>5,963</u> | <u>6,597</u> |
| Non-current assets | | | | |
| Plant and equipment | 8 | 11,266 | 11,222 | 12,517 |
| Intangible assets | 9 | <u>757</u> | <u>367</u> | <u>779</u> |
| Total non-current assets | | <u>12,023</u> | <u>11,589</u> | <u>13,296</u> |
| Total assets | | <u>18,221</u> | <u>17,552</u> | <u>19,893</u> |
| LIABILITIES | | | | |
| Current liabilities | | | | |
| Payables | 10 | 2,988 | 2,710 | 4,067 |
| Provisions | 11 | 11,137 | 8,322 | 10,211 |
| Other | 12 | <u>27</u> | <u>150</u> | <u>158</u> |
| Total current liabilities | | <u>14,152</u> | <u>11,182</u> | <u>14,436</u> |
| Non-current liabilities | | | | |
| Provisions | 11 | 2,271 | 400 | 2,138 |
| Other | 12 | <u>-</u> | <u>1,770</u> | <u>-</u> |
| Total non-current liabilities | | <u>2,271</u> | <u>2,170</u> | <u>2,138</u> |
| Total liabilities | | <u>16,423</u> | <u>13,352</u> | <u>16,574</u> |
| Net assets | | <u>1,798</u> | <u>4,200</u> | <u>3,319</u> |
| EQUITY | | | | |
| Accumulated funds | | <u>1,798</u> | <u>4,200</u> | <u>3,319</u> |
| Total equity | | <u>1,798</u> | <u>4,200</u> | <u>3,319</u> |

The accompanying notes form part of these financial statements.

**Office of the Director of Public Prosecutions
Statement of changes in equity for the year ended 30 June 2013**

| | Accumulated Funds | Total |
|---|----------------------|----------------|
| | \$'000 | \$'000 |
| Balance at 1 July 2012 | 3,319 | 3,319 |
| Net result for the year | <u>(1,521)</u> | <u>(1,521)</u> |
| Other comprehensive income: | | |
| Total other comprehensive income | <u>-</u> | <u>-</u> |
| Total comprehensive income for the year | <u>(1,521)</u> | <u>(1,521)</u> |
| Balance at 30 June 2013 | <u>1,798</u> | <u>1,798</u> |
| | | |
| Balance at 1 July 2011 | 5,124 | 5,124 |
| Net result for the year | <u>(1,805)</u> | <u>(1,805)</u> |
| Other comprehensive income: | | |
| Total other comprehensive income | <u>-</u> | <u>-</u> |
| Total comprehensive income for the year | <u>(1,805)</u> | <u>(1,805)</u> |
| Balance at 30 June 2012 | <u>3,319</u> | <u>3,319</u> |

Office of the Director of Public Prosecutions
Statement of cash flows for the year ended 30 June 2013

| | Actual 2013 \$'000 | Budget 2013 \$'000 | Actual 2012 \$'000 |
|---|--------------------------|--------------------------|--------------------------|
| Notes | | | |
| CASH FLOWS FROM OPERATING ACTIVITIES | | | |
| Payments | | | |
| Employee related | (81,191) | (78,957) | (78,698) |
| Other | <u>(22,544)</u> | <u>(20,788)</u> | <u>(21,979)</u> |
| Total payments | <u>(103,735)</u> | <u>(99,745)</u> | <u>(100,677)</u> |
| Receipts | | | |
| Recurrent appropriation | 99,315 | 99,343 | 95,441 |
| Capital appropriation | 1,368 | 1,368 | 1,814 |
| Transfers to the Crown Entity | (168) | - | (574) |
| Sale of goods and services | 65 | 70 | 49 |
| Interest received | 217 | 190 | 209 |
| Grants and contributions | 127 | - | 2,837 |
| Other | <u>4,034</u> | <u>2,047</u> | <u>2,588</u> |
| Total receipts | <u>104,968</u> | <u>103,018</u> | <u>102,364</u> |
| NET CASH FLOWS FROM OPERATING ACTIVITIES | 16 <u>1,233</u> | <u>3,273</u> | <u>1,687</u> |
| CASH FLOWS FROM INVESTING ACTIVITIES | | | |
| Proceeds from sale of plant and equipment | 1 | 5 | 24 |
| Purchases of plant and equipment | (1,092) | (1,268) | (1,353) |
| Other | <u>(276)</u> | <u>(100)</u> | <u>(461)</u> |
| NET CASH FLOWS FROM INVESTING ACTIVITIES | <u>(1,367)</u> | <u>(1,363)</u> | <u>(1,790)</u> |
| CASH FLOWS FROM FINANCING ACTIVITIES | | | |
| NET CASH FLOWS FROM FINANCING ACTIVITIES | <u>-</u> | <u>-</u> | <u>-</u> |
| NET INCREASE (DECREASE) IN CASH | (134) | 1,910 | (103) |
| Opening cash and cash equivalents | <u>5,453</u> | <u>3,224</u> | <u>5,556</u> |
| CLOSING CASH AND CASH EQUIVALENTS | 6 <u>5,319</u> | <u>5,134</u> | <u>5,453</u> |

The accompanying notes form part of these financial statements.

Office of the Director of Public Prosecutions
Service group statements for the year ended 30 June 2013

Supplementary financial statements

| | Service Group 1 Prosecutions * | | Service Group 2 Victim and Witness Assistance * | | Not Attributable | | Total | |
|--|-----------------------------------|-----------------|--|----------------|------------------|----------------|----------------|----------------|
| | 2013 \$'000 | 2012 \$'000 | 2013 \$'000 | 2012 \$'000 | 2013 \$'000 | 2012 \$'000 | 2013 \$'000 | 2012 \$'000 |
| OFFICE'S EXPENSES AND INCOME | | | | | | | | |
| Expenses excluding losses | | | | | | | | |
| Operating expenses | | | | | | | | |
| • Employee related | 82,673 | 86,567 | 2,890 | 3,265 | - | - | 85,563 | 89,832 |
| • Other operating expenses | 16,696 | 16,151 | 562 | 591 | - | - | 17,258 | 16,742 |
| Depreciation and amortisation | 2,732 | 2,596 | 137 | 140 | - | - | 2,869 | 2,736 |
| Other expenses | - | - | 2,925 | 2,832 | - | - | 2,925 | 2,832 |
| Total expenses excluding losses | 102,101 | 105,314 | 6,514 | 6,828 | - | - | 108,615 | 112,142 |
| Revenue** | | | | | | | | |
| Recurrent appropriation | - | - | - | - | 99,288 | 95,283 | 99,288 | 95,283 |
| Capital appropriation | - | - | - | - | 1,368 | 1,814 | 1,368 | 1,814 |
| Sale of goods and services | 65 | 49 | - | - | - | - | 65 | 49 |
| Investment revenue | 162 | 237 | 6 | 9 | - | - | 168 | 246 |
| Grants and contributions | 127 | - | - | 2,837 | - | - | 127 | 2,837 |
| Acceptance by the Crown Entity of employee benefits and other liabilities | 4,388 | 8,972 | 154 | 339 | - | - | 4,542 | 9,311 |
| Other revenue | 1,535 | 785 | 4 | 1 | - | - | 1,539 | 786 |
| Total revenue | 6,277 | 10,043 | 164 | 3,186 | 100,656 | 97,097 | 107,097 | 110,326 |
| Gain / (loss) on disposal | (3) | 10 | - | 1 | - | - | (3) | 11 |
| Net result | (95,827) | (95,261) | (6,350) | (3,641) | 100,656 | 97,097 | (1,521) | (1,805) |
| Other comprehensive income | | | | | | | | |
| TOTAL COMPREHENSIVE INCOME | (95,827) | (95,261) | (6,350) | (3,641) | 100,656 | 97,097 | (1,521) | (1,805) |

* The names and purposes of each service group are summarised in note 5

** Appropriations are made on an entity basis and not to individual service groups. Consequently, appropriations must be included in the 'Not Attributable' column.

Office of the Director of Public Prosecutions
Service group statements for the year ended 30 June 2013

| OFFICE'S ASSETS & LIABILITIES | Service Group 1 Prosecutions * | | Service Group 2 Victim and Witness Assistance * | | Not Attributable | | Total | |
|--------------------------------------|-----------------------------------|----------------|--|----------------|------------------|----------------|----------------|----------------|
| | 2013 \$'000 | 2012 \$'000 | 2013 \$'000 | 2012 \$'000 | 2013 \$'000 | 2012 \$'000 | 2013 \$'000 | 2012 \$'000 |
| Current assets | | | | | | | | |
| Cash and cash equivalents | 5,098 | 5,213 | 221 | 240 | - | - | 5,319 | 5,453 |
| Receivables | 853 | 1,114 | 26 | 30 | - | - | 879 | 1,144 |
| Total current assets | 5,951 | 6,327 | 247 | 270 | - | - | 6,198 | 6,597 |
| Non-current assets | | | | | | | | |
| Plant and equipment | 10,707 | 11,859 | 559 | 658 | - | - | 11,266 | 12,517 |
| Intangibles | 720 | 738 | 37 | 41 | - | - | 757 | 779 |
| Total non-current assets | 11,427 | 12,597 | 596 | 699 | - | - | 12,023 | 13,296 |
| TOTAL ASSETS | 17,378 | 18,924 | 843 | 969 | - | - | 18,221 | 19,893 |
| Current liabilities | | | | | | | | |
| Payables | 2,674 | 3,683 | 314 | 384 | - | - | 2,988 | 4,067 |
| Provisions | 10,788 | 9,868 | 349 | 343 | - | - | 11,137 | 10,211 |
| Other | - | - | 27 | 158 | - | - | 27 | 158 |
| Total current liabilities | 13,462 | 13,551 | 690 | 885 | - | - | 14,152 | 14,436 |
| Non-current liabilities | | | | | | | | |
| Provisions | 2,198 | 2,057 | 73 | 81 | - | - | 2,271 | 2,138 |
| Total non-current liabilities | 2,198 | 2,057 | 73 | 81 | - | - | 2,271 | 2,138 |
| TOTAL LIABILITIES | 15,660 | 15,608 | 763 | 966 | - | - | 16,423 | 16,574 |
| NET ASSETS | 1,718 | 3,316 | 80 | 3 | - | - | 1,798 | 3,319 |

* The names and purposes of each service group are summarised in note 5

Office of the Director of Public Prosecutions
Summary of compliance with financial directives for the year ended 30 June 2013

Supplementary financial statements

| | 2013 | | | | 2012 | | | |
|---|--------------------------------------|---|------------------------------------|---|--------------------------------------|---|------------------------------------|---|
| | Recurrent Appropriation \$'000 | Expenditure / Net Claim on Consolidated Fund \$'000 | Capital Appropriation \$'000 | Expenditure / Net Claim on Consolidated Fund \$'000 | Recurrent Appropriation \$'000 | Expenditure / Net Claim on Consolidated Fund \$'000 | Capital Appropriation \$'000 | Expenditure / Net Claim on Consolidated Fund \$'000 |
| ORIGINAL BUDGET APPROPRIATION / EXPENDITURE | | | | | | | | |
| ▪ Appropriation Act | 99,343 | 98,126 | 1,368 | 1,368 | 95,930 | 95,283 | 1,814 | 1,814 |
| | 99,343 | 98,126 | 1,368 | 1,368 | 95,930 | 95,283 | 1,814 | 1,814 |
| OTHER APPROPRIATIONS / EXPENDITURE | | | | | | | | |
| • Transfers from another agency (per section 31 of the Appropriation Act) | 1,162 | 1,162 | - | - | - | - | - | - |
| | 1,162 | 1,162 | - | - | - | - | - | - |
| Total Appropriations / Expenditure / Net Claim on Consolidated Fund (includes transfer payments) | 100,505 | 99,288 | 1,368 | 1,368 | 95,930 | 95,283 | 1,814 | 1,814 |
| Amount drawn down against Appropriation | | 99,315 | | 1,368 | | 95,441 | | 1,814 |
| Liability to Consolidated Fund * | | 27 | | - | | 158 | | - |

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

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

Office of the Director of Public Prosecutions
Notes to the financial statements for the year ended 30 June 2013

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**Office of the Director of Public Prosecutions
Notes to the financial statements for the year ended 30 June 2013**

1 Summary of Significant Accounting Policies

(a) *Reporting entity*

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

These financial statements for the year ended 30 June 2013 have been authorised for issue by the Director on 20 September 2013.

(b) *Basis of preparation*

The Office's financial statements are general purpose financial statements which have been prepared in accordance with:

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

Plant and equipment are measured at fair value. Other financial statement items are prepared in accordance with the historical cost convention.

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

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

(c) *Statement of compliance*

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

(d) *Insurance*

The Office's insurance activities are conducted through the NSW Treasury Managed Fund Scheme of self insurance for Government entities. The expense (premium) is determined by the Fund Manager based on past claim experience.

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

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

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

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

(f) *Income recognition*

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

(i) *Parliamentary appropriations and contributions*

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

Appropriations are not recognised as income in the following circumstances.

Office of the Director of Public Prosecutions
Notes to the financial statements for the year ended 30 June 2013

1 Summary of Significant Accounting Policies (cont'd)

(f) *Income recognition (cont'd)*

- Unspent appropriations are recognised as liabilities rather than income, as the authority to spend the money lapses and the unspent amount must be repaid to the Consolidated Fund.
- The liability is disclosed in note 12 as part of 'Current liabilities - Other'. The amount will be repaid and the liability will be extinguished next financial year.

(ii) *Rendering of services*

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

(iii) *Investment revenue*

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

(g) *Assets*

(i) *Acquisitions of assets*

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

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

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

(ii) *Capitalisation thresholds*

Plant and equipment and intangible assets costing \$5,000 and above individually (or forming part of a network costing more than \$5,000) are capitalised.

(iii) *Revaluation of plant and equipment*

Physical non-current assets are valued in accordance with the 'Valuation of Physical Non-Current Assets at Fair Value' Policy and Guidelines Paper (TPP 07-1) (as amended by NSWTC 12/05 and NSWTC 10/07). This policy adopts fair value in accordance with AASB 116 *Property, Plant and Equipment*.

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

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

The Office revalues each class of plant and equipment at least every five years or with sufficient regularity to ensure that the carrying amount of each asset in the class does not differ materially from its fair value at reporting date. The last revaluation of the Office's library books was completed on 30 June 2011 and was based on an independent assessment.

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

Office of the Director of Public Prosecutions
Notes to the financial statements for the year ended 30 June 2013

1 Summary of Significant Accounting Policies (cont'd)

(g) *Assets (cont'd)*

(iii) Revaluation of plant and equipment (cont'd)

When revaluing non-current assets by reference to current prices for assets newer than those being revalued (adjusted to reflect the present condition of the assets), the gross amount and the related accumulated depreciation are separately restated.

For other assets, any balances of accumulated depreciation at the revaluation date in respect of those assets are credited to the asset accounts to which they relate. The net asset accounts are then increased or decreased by the revaluation increments or decrements.

Revaluation increments are credited directly to the asset revaluation surplus, except that, to the extent that an increment reverses a revaluation decrement in respect of that class of asset previously recognised as an expense in the net result, the increment is recognised immediately as revenue in the net result.

Revaluation decrements are recognised immediately as expenses in the net result, except that, to the extent that a credit balance exists in the asset revaluation surplus in respect of the same class of assets, they are debited directly to the asset revaluation surplus.

As a not-for-profit entity, revaluation increments and decrements are offset against one another within a class of non-current assets, but not otherwise.

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

(iv) Impairment of plant and equipment

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

(v) Depreciation of plant and equipment

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

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

| | |
|-------------------------------|----------|
| Office equipments | 5 years |
| Office furniture and fittings | 10 years |
| Computer equipments | 4 years |
| Photocopiers | 5 years |
| PABX equipments | 5 years |
| Laptop computers | 3 years |
| Servers | 3 years |
| Library books | 15 years |

(vi) Restoration costs

The estimated cost of dismantling and removing an asset and restoring the site is included in the cost of an asset, to the extent it is recognised as a liability.

(vii) Maintenance

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

Office of the Director of Public Prosecutions
Notes to the financial statements for the year ended 30 June 2013

1 Summary of Significant Accounting Policies (cont'd)

(g) *Assets (cont'd)*

(viii) Leased assets

A distinction is made between finance leases which effectively transfer from the lessor to the lessee substantially all the risks and benefits incidental to ownership of the leased assets, and operating leases under which the lessor does not transfer substantially all the risks and benefits.

Operating lease payments are charged to the statement of comprehensive income in the periods in which they are incurred. Property lease fixed escalations are spread equally over the period of the lease term.

(ix) Intangible assets

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

Development costs are only capitalised when certain criteria are met.

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

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

The Office's intangible assets are amortised using the straight line method over a period of 4 years.

Intangible assets are tested for impairment where an indicator of impairment exists. If the recoverable amount is less than its carrying amount the carrying amount is reduced to recoverable amount and the reduction is recognised as an impairment loss.

(x) Receivables

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

(xi) Impairment of financial assets

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

For financial assets carried at amortised cost, the amount of the allowance is the difference between the asset's carrying amount and the present value of estimated future cash flows, discounted at the effective interest rate. The amount of the impairment loss is recognised in the net result for the year.

When an available for sale financial asset is impaired, the amount of the cumulative loss is removed from equity and recognised in the net result for the year, based on the difference between the acquisition cost (net of any principal repayment and amortisation) and current fair value, less any impairment loss previously recognised in the net result for the year.

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

(xii) Derecognition of financial assets and financial liabilities

A financial asset is derecognised when the contractual rights to the cash flows from the financial assets expire; or if the Office transfers the financial asset:

- where substantially all the risks and rewards have been transferred or

Office of the Director of Public Prosecutions
Notes to the financial statements for the year ended 30 June 2013

1 Summary of Significant Accounting Policies (cont'd)

(g) *Assets (cont'd)*

(xii) Derecognition of financial assets and financial liabilities (cont'd)

- where the Office has not transferred substantially all the risks and rewards, if the entity has not retained control.

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

A financial liability is derecognised when the obligation specified in the contract is discharged or cancelled or expires.

(xiii) Other assets

Other assets are recognised on a cost basis.

(h) *Liabilities*

(i) Payables

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

(ii) Financial guarantees

The Office has reviewed its financial guarantees and determined that there is no material liability to be recognised for financial guarantee contracts as at 30 June 2013 and at 30 June 2012. However, refer note 15 regarding disclosures on contingent liabilities.

(iii) Employee benefits and other provisions

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

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

Long-term recreation leave that is not expected to be taken within twelve months is measured at present value in accordance with AASB 119 *Employee Benefits*. Market yields on Commonwealth government bonds of 3.76% are used to discount long-term recreation leave.

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

Crown Prosecutors are entitled to compensatory leave when they perform duties during their vacation. Unused compensatory leave gives rise to a liability and is disclosed as part of recreation leave.

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

(b) Long service leave and superannuation

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

Office of the Director of Public Prosecutions
Notes to the financial statements for the year ended 30 June 2013

1 Summary of Significant Accounting Policies (cont'd)

(h) *Liabilities (cont'd)*

(iii) Employee benefits and other provisions (cont'd)

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

The superannuation expense for the financial year is determined by using the formulae specified in the Treasurer's Directions. The expense for certain superannuation schemes (e.g. Basic Benefit and First State Super) is calculated as a percentage of the employees' salary. For other superannuation schemes (ie State Superannuation Scheme and State Authorities Superannuation Scheme), the expense is calculated as a multiple of the employees' superannuation contributions.

(c) Other provisions

Other provisions exist when: the Office has a present legal or constructive obligation as a result of a past event; it is probable that an outflow of resources will be required to settle the obligation; and a reliable estimate can be made of the amount of the obligation.

Any provisions for restructuring are recognised only when the Office has a detailed formal plan and the Office has raised a valid expectation in those affected by the restructuring that it will carry out the restructuring by starting to implement the plan or announcing its main features to those affected.

If the effect of the time value of money is material, provisions are discounted at 3.76% , which is a pre-tax rate that reflects the current market assessments of the time value of money and the risks specific to the liability.

(i) *Equity and reserves*

(i) Revaluation surplus

The revaluation surplus is used to record increments and decrements on the revaluation of non-current assets. This accords with the Office's policy on the revaluation of property, plant and equipment as discussed in note1(g)(iii)

(ii) Accumulated Funds

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

(j) *Budgeted amounts*

The budgeted amounts are drawn from the original budgeted financial statements presented to Parliament in respect of the reporting period, as adjusted for section 24 of the PFAA where there has been a transfer of functions between departments. Other amendments made to the budget are not reflected in the budgeted amounts.

(k) *Comparative information*

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

(l) *Lease incentive*

Lease incentives payable under operating leases are recognised initially as liabilities. The incentive is subsequently amortised over the lease term, as a reduction of rental expenses. The straight-line method is adopted for reduction of rental expense.

(m) *Witness expenses*

Witness expenses are paid to witnesses who attend conferences with the Office and court to give evidence for the prosecution. Witness expenses are designed to minimise financial hardship and are paid towards lost income and direct out of pocket expenses such as travel expenses incurred in attending court.

**Office of the Director of Public Prosecutions
Notes to the financial statements for the year ended 30 June 2013**

1 Summary of Significant Accounting Policies (cont'd)

(n) *The following new Accounting Standards have not been applied and are not effective.*

AASB 9 regarding financial instruments. This standard applies to annual reporting periods beginning on or after 1 January 2013

AASB 12 regarding disclosure of interests in other entities. This standard applies to annual reporting periods beginning on or after 1 January 2013

AASB 13 regarding fair value measurement. This standard applies to annual reporting periods beginning on or after 1 January 2013

AASB 119 regarding employee benefits. This Standard applies to annual reporting periods beginning on or after 1 January 2013

AASB1053 regarding application of tiers of Australian accounting standards. This Standard applies to annual reporting periods beginning on or after 1 July 2013

AASB2010-2 regarding reduced disclosure requirements. This Standard applies to annual reporting periods beginning on or after 1 July 2013

AASB 2010-10 regarding removal of fixed dates for first time adopters. This standard applies to annual reporting periods beginning on or after 1 January 2013

AASB2011-4 regarding individual key management personnel disclosure requirements. This Standard applies to annual reporting periods beginning on or after 1 July 2013

While the impact of these standards in the period of initial application has not been specifically quantified, they are not expected to materially impact the financial statements.

Office of the Director of Public Prosecutions
Notes to the financial statements for the year ended 30 June 2013

2 Expenses Excluding Losses

| | 2013 \$'000 | 2012 \$'000 |
|--|----------------|----------------|
| (a) Employee related expenses | | |
| Salaries and wages (including recreation leave) | 71,435 | 69,915 |
| Superannuation - defined benefit plans | 2,739 | 2,967 |
| Superannuation - defined contribution plans | 4,731 | 4,484 |
| Long service leave | 1,653 | 6,186 |
| Workers' compensation insurance | 490 | 515 |
| Payroll tax and fringe benefit tax | 4,637 | 4,549 |
| On-cost on long service leave | (180) | 1,146 |
| Temporary staff | 58 | 70 |
| | <u>85,563</u> | <u>89,832</u> |
| | 2013 \$'000 | 2012 \$'000 |
| (b) Other operating expenses include the following: | | |
| Auditor's remuneration - audit of the financial statements | 44 | 56 |
| Cleaning | 303 | 276 |
| Consultants | 23 | 72 |
| Insurance | 330 | 300 |
| Motor vehicle expenses | 292 | 258 |
| Operating lease rental expense - minimum lease payments | 7,851 | 7,688 |
| Telephone | 693 | 702 |
| Printing | 34 | 118 |
| Stores and equipment | 543 | 502 |
| Training | 128 | 148 |
| Travel | 1,123 | 1,234 |
| Other expenses | 802 | 800 |
| Outgoings | 580 | 415 |
| Books | 101 | 137 |
| Fees - private barristers | 2,118 | 1,890 |
| Fees - practising certificates | 301 | 283 |
| Fees - security | 170 | 213 |
| Gas and electricity | 452 | 394 |
| Postage | 126 | 129 |
| Courier | 13 | 15 |
| Maintenance* | 1,231 | 1,112 |
| | <u>17,258</u> | <u>16,742</u> |
| * Reconciliation - Total maintenance | | |
| Maintenance expense - contracted labour and other (non-employee related), as above | 1,231 | 1,112 |
| Employee related maintenance expense included in Note 2(a) | 16 | 16 |
| Total maintenance expenses included in Note 2(a) + 2(b) | <u>1,247</u> | <u>1,128</u> |
| | 2013 \$'000 | 2012 \$'000 |
| (c) Depreciation and amortisation expense | | |
| Depreciation | | |
| Plant and Equipment | 1,795 | 1,749 |
| Computer equipment | 670 | 731 |
| Library collection | 106 | 81 |
| Total Depreciation | <u>2,571</u> | <u>2,561</u> |
| Amortisation | | |
| Intangible | 298 | 175 |
| | <u>2,869</u> | <u>2,736</u> |

Office of the Director of Public Prosecutions
Notes to the financial statements for the year ended 30 June 2013

2 Expenses Excluding Losses (cont'd)

| | 2013 | 2012 |
|---|--------------|--------------|
| | \$'000 | \$'000 |
| (d) Other expenses | | |
| Allowances to witness | 2,890 | 2,774 |
| Ex-gratia payments | - | 6 |
| Living expenses of non Australian citizens defendants | 35 | 52 |
| | <u>2,925</u> | <u>2,832</u> |

3 Revenue

| | 2013 | 2012 |
|--|--------|--------|
| | \$'000 | \$'000 |

(a) Appropriations and transfers to the Crown entity

| | | |
|--|---------------|---------------|
| <i>Recurrent appropriations</i> | | |
| Total recurrent draw-downs from NSW Treasury (per Summary of compliance) | 99,315 | 95,441 |
| Less: Liability to Consolidated Fund (per Summary of compliance) | 27 | 158 |
| | <u>99,288</u> | <u>95,283</u> |

| | | |
|--|---------------|---------------|
| Comprising: | | |
| Recurrent appropriations (per Statement of comprehensive income) | 99,288 | 95,283 |
| | <u>99,288</u> | <u>95,283</u> |

| | | |
|--|--------------|--------------|
| <i>Capital appropriations</i> | | |
| Total capital draw-downs from NSW Treasury (per Summary of compliance) | 1,368 | 1,814 |
| Less: Liability to Consolidated Fund (per Summary of compliance) | - | - |
| | <u>1,368</u> | <u>1,814</u> |

| | | |
|--|--------------|--------------|
| Comprising: | | |
| Capital appropriations (per Statement of comprehensive income) | 1,368 | 1,814 |
| | <u>1,368</u> | <u>1,814</u> |

| | 2013 | 2012 |
|--|--------|--------|
| | \$'000 | \$'000 |

(b) Sale of goods and services

| | | |
|--|-----------|-----------|
| Rendering of services | 1 | 2 |
| Commissions - miscellaneous deductions | 1 | 1 |
| Cost awarded | 61 | 40 |
| Appearance fees | 2 | 5 |
| On-cost - Officers on loan | - | 1 |
| | <u>65</u> | <u>49</u> |
| | 2013 | 2012 |
| | \$'000 | \$'000 |

(c) Investment revenue

| | | |
|---|------------|------------|
| Interest revenue from financial assets not at fair value through profit or loss | 168 | 246 |
| | <u>168</u> | <u>246</u> |

Office of the Director of Public Prosecutions
Notes to the financial statements for the year ended 30 June 2013

3 Revenue (cont'd)

| | 2013 | 2012 |
|--|--------|--------|
| | \$'000 | \$'000 |

(d) Grants and contributions

| | | |
|---|-----|-------|
| Contribution from Budget Dependant agencies | 127 | 2,837 |
| | 127 | 2,837 |

Witness assistant grant received from DAGJ in prior years transferred to ODPP recurrent fund in 2012-13

| | 2013 | 2012 |
|--|--------|--------|
| | \$'000 | \$'000 |

(e) Acceptance by the Crown Entity of employee benefits and other liabilities

The following liabilities and / or expenses have been assumed by the Crown Entity or other government agencies:

| | | |
|----------------------------------|-------|-------|
| Superannuation - defined benefit | 2,739 | 2,967 |
| Long service leave | 1,653 | 6,186 |
| Payroll tax | 150 | 158 |
| Other operating expenses | - | - |
| | 4,542 | 9,311 |

Long service leave valuations are subject to actuarial reviews. The Commonwealth 10 year bond rate as at 30th June each year has an impact on the valuation. In 2012 the impact was significant at \$3.6M above budget. In 2013 the impact was again significant and lowered the provision by \$1.9M. Both results have provided large fluctuations in provision amounts from year to year.

| | 2013 | 2012 |
|--|--------|--------|
| | \$'000 | \$'000 |

(f) Other revenue

| | | |
|---------------|-------|-----|
| Other revenue | 1,539 | 786 |
| | 1,539 | 786 |

\$1.049 M revenue in 2013 (2012:\$0.633M) represents costs recovered from WA ODPP for representation by the NSW ODPP in the Western Australia Rayney matter.

4 Gain / (Loss) on Disposal

| | 2013 | 2012 |
|--|--------|--------|
| | \$'000 | \$'000 |

Gain / (loss) on disposal of computer equipment

| | | |
|---|-----|------|
| Proceeds from disposal | 1 | 24 |
| Written down value of assets disposed | (4) | (13) |
| Net gain / (loss) on disposal of office equipment | (3) | 11 |

Office of the Director of Public Prosecutions
Notes to the financial statements for the year ended 30 June 2013

5 Service Groups of the Office

(a) Service Group 1 Prosecutions

Purpose: To provide the people of New South Wales with an efficient, fair and just prosecution service.

Description: This service group covers instituting and conducting prosecutions and related proceedings for indictable offences under NSW laws in the Supreme Court, District Court and Local Court on behalf of the Crown. This includes providing advice to police and investigative agencies on evidentiary matters, participating in the law reform process and capturing the proceeds of crime.

(b) Service Group 2 Victim and Witness Assistance

Purpose: To provide victims and witnesses with relevant information and support in the prosecution process.

Description: This service group covers providing information, referral and support services to victims of violent crimes and to vulnerable witnesses who are giving evidence in matters prosecuted by the Director of Public Prosecutions. This includes assisting victims and witnesses to minimise the traumatic impact of the court process, providing access to services in remote areas and assisting indigenous victims and witnesses.

Service Group 'Statement of assets and liabilities' and 'Statement of expenses and income' are provided in the supplementary financial statements.

6 Current Assets - Cash and Cash Equivalents

| | 2013 \$'000 | 2012 \$'000 |
|---------------------------|----------------|----------------|
| Cash at bank and on hand | 5,276 | 5,410 |
| Permanent witness advance | <u>43</u> | <u>43</u> |
| | <u>5,319</u> | <u>5,453</u> |

For the purposes of the statement of cash flows, cash and cash equivalents include cash at bank, cash on hand and witness advances float given to courthouses.

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

| | 2013 \$'000 | 2012 \$'000 |
|---|----------------|----------------|
| Cash and cash equivalents (per statement of financial position) | <u>5,319</u> | <u>5,453</u> |
| Closing cash and cash equivalents (per statement of cash flows) | <u>5,319</u> | <u>5,453</u> |

Refer note 17 for details regarding credit risk, liquidity risk, and market risk arising from financial instruments.

7 Current Assets - Receivables

| | 2013 \$'000 | 2012 \$'000 |
|---|----------------|----------------|
| Rendering of services | 5 | 264 |
| Goods and Services Tax recoverable from ATO | 169 | 238 |
| Prepayments | 624 | 508 |
| Interest | 76 | 125 |
| Advances | <u>5</u> | <u>9</u> |
| | <u>879</u> | <u>1,144</u> |

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

Office of the Director of Public Prosecutions
Notes to the financial statements for the year ended 30 June 2013

8 Non-Current Assets - Plant and Equipment

| | Plant and Equipment |
|-------------------------------------|--------------------------------|
| At 1 July 2012 - fair value | |
| Gross carrying amount | 32,265 |
| Accumulated depreciation | <u>(19,748)</u> |
| Net carrying amount | <u>12,517</u> |
| At 30 June 2013 - fair value | |
| Gross carrying amount | 28,914 |
| Accumulated depreciation | <u>(17,648)</u> |
| Net carrying amount | <u>11,266</u> |

Reconciliation

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

| | |
|--------------------------------------|----------------|
| Year ended 30 June 2013 | |
| Net carrying amount at start of year | 12,517 |
| Additions | 1,324 |
| Disposals | (4) |
| Depreciation expense | <u>(2,571)</u> |
| Net carrying amount at end of year | <u>11,266</u> |

\$'000

| | |
|-------------------------------------|-----------------|
| At 1 July 2011 - fair value | |
| Gross carrying amount | 33,136 |
| Accumulated depreciation | <u>(19,398)</u> |
| Net carrying amount | <u>13,738</u> |
| At 30 June 2012 - fair value | |
| Gross carrying amount | 32,265 |
| Accumulated depreciation | <u>(19,748)</u> |
| Net carrying amount | <u>12,517</u> |

Reconciliation

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

| | |
|--------------------------------------|----------------|
| Year ended 30 June 2012 | |
| Net carrying amount at start of year | 13,738 |
| Additions | 1,353 |
| Disposals | (13) |
| Depreciation expense | <u>(2,561)</u> |
| Net carrying amount at end of year | <u>12,517</u> |

9 Non-Current Assets - Intangible Assets

| | Software and Others \$'000 |
|------------------------------|---|
| At 1 July 2012 | |
| Cost (gross carrying amount) | 9,048 |
| Accumulated amortisation | <u>(8,269)</u> |
| Net carrying amount | <u>779</u> |
| At 30 June 2013 | |
| Cost (gross carrying amount) | 1,319 |
| Accumulated amortisation | <u>(562)</u> |
| Net carrying amount | <u>757</u> |

Office of the Director of Public Prosecutions
Notes to the financial statements for the year ended 30 June 2013

| | Software and Others \$'000 |
|--|---|
| Reconciliation | - |
| Year ended 30 June 2013 | |
| Net carrying amount at start of year | 779 |
| Additions | 276 |
| Amortisation (recognised in "depreciation and amortisation") | <u>(298)</u> |
| Net carrying amount at end of year | <u>757</u> |
| At 1 July 2011 | |
| Cost (gross carrying amount) | 10,144 |
| Accumulated amortisation | <u>(9,651)</u> |
| Net carrying amount | <u>493</u> |
| At 30 June 2012 | |
| Cost (gross carrying amount) | 9,048 |
| Accumulated amortisation | <u>(8,269)</u> |
| Net carrying amount | <u>779</u> |
| Year ended 30 June 2012 | |
| Net carrying amount at start of year | 493 |
| Additions | 461 |
| Amortisation (recognised in "depreciation and amortisation") | <u>(175)</u> |
| Net carrying amount at end of year | <u>779</u> |

10 Current Liabilities - Payables

| | 2013 \$'000 | 2012 \$'000 |
|--------------------------------------|----------------|----------------|
| Accrued salaries, wages and on-costs | 1,996 | 1,836 |
| Creditors | 340 | 1,623 |
| Accruals | <u>652</u> | <u>608</u> |
| | <u>2,988</u> | <u>4,067</u> |

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

11 Current / Non-Current Liabilities - Provisions

| | 2013 \$'000 | 2012 \$'000 |
|---|----------------|----------------|
| Current | | |
| Employee benefits and related on-costs | | |
| Recreation leave | 6,467 | 5,783 |
| On-cost on recreation leave and long service leave | 2,447 | 2,327 |
| Payroll tax on-cost for recreation leave and long service leave | <u>1,770</u> | <u>1,802</u> |
| | <u>10,684</u> | <u>9,912</u> |
| Other provisions | | |
| Restoration costs | 421 | 210 |
| Rent adjustment reserve | - | 66 |
| Lease incentive | <u>32</u> | <u>23</u> |
| | <u>453</u> | <u>299</u> |
| Total provisions - current | <u>11,137</u> | <u>10,211</u> |

Office of the Director of Public Prosecutions
Notes to the financial statements for the year ended 30 June 2013

11 Current / Non-Current Liabilities - Provisions (cont'd)

| | 2013 \$'000 | 2012 \$'000 |
|---|----------------|----------------|
| Non-current | | |
| Employee benefits and related on-costs | | |
| On-cost on long service leave | 100 | 105 |
| Payroll tax on-cost for long service leave | <u>73</u> | <u>77</u> |
| | <u>173</u> | <u>182</u> |
| Other provisions | | |
| Restoration costs | 1,671 | 1,650 |
| Rent adjustment reserve | 138 | 11 |
| Lease incentive | <u>289</u> | <u>295</u> |
| | <u>2,098</u> | <u>1,956</u> |
| Total provisions - non-current | <u>2,271</u> | <u>2,138</u> |
| Aggregate employee benefits and related on-costs | | |
| Provisions - current | 10,684 | 9,912 |
| Provisions - non-current | 173 | 182 |
| Accrued salaries, wages and on-costs (note 10) | <u>1,996</u> | <u>1,836</u> |
| | <u>12,853</u> | <u>11,930</u> |

Movements in provisions (other than employee benefits)

Movements in each class of provision during the financial year, other than employee benefits are set out below:

| | Lease incentive \$'000 | Restoration costs \$'000 | Rent adjustment reserve \$'000 | Total \$'000 |
|--|------------------------------|--------------------------------|---|-----------------|
| 2013 | | | | |
| Carrying amount at the beginning of financial year | 318 | 1,860 | 77 | 2,255 |
| Additional provisions recognised | 30 | 232 | 127 | 389 |
| Amounts used | <u>(27)</u> | <u>-</u> | <u>(66)</u> | <u>(93)</u> |
| Carrying amount at end of financial year | <u>321</u> | <u>2,092</u> | <u>138</u> | <u>2,551</u> |

12 Current / Non-Current Liabilities - Other

| | 2013 \$'000 | 2012 \$'000 |
|--------------------------------|----------------|----------------|
| Current | | |
| Liability to consolidated fund | <u>27</u> | <u>158</u> |
| | <u>27</u> | <u>158</u> |

**Office of the Director of Public Prosecutions
Notes to the financial statements for the year ended 30 June 2013**

13 Commitments for Expenditure

| | 2013 | 2012 |
|--|--------|--------|
| | \$'000 | \$'000 |

(a) Other expenditure commitments

Aggregate other expenditure for the acquisition of insurance and software maintenance contracted for at balance date and not provided for:

| | | |
|-------------------------|-----|----|
| Not later than one year | 954 | 40 |
| Total (including GST) | 954 | 40 |

The total "other expenditure commitments" above includes input tax credit of \$0.085 M (30 June 2012 : \$0.04 M) recoverable from Australian Taxation Office.

| | 2013 | 2012 |
|--|--------|--------|
| | \$'000 | \$'000 |

(b) Operating lease commitments

Future non-cancellable operating lease rentals not provided for and payable;

| | | |
|---|--------|--------|
| Not later than one year | 8,462 | 8,205 |
| Later than one year and not later than five years | 14,909 | 17,374 |
| Later than five years | 8,268 | 10,841 |
| Total (including GST) | 31,639 | 36,420 |

The total "operating lease commitments" above includes input tax credit of \$2,876 M (30 June 2012:\$3,311M) recoverable from Australian Taxation Office.

Non-cancellable leases relate to commitments for accommodation for ten leased premises throughout the state and lease of motor vehicles. Commitments for accommodation are based on current costs and are subject to future rent reviews.

14 Budget Review

Net result

The Treasury set three budget control limits for the ODPP 2012-13 budget as follows.

1. Net cost of service: \$109.016M
2. Labour expense cap: \$87.072M
3. Capital expenditure authorisation limit: \$1.368M

The 12-13 actual result for the net cost of service was \$106.719M which was \$2.297M better than budget; the actual labour expense cap was \$85.565M which was \$1.509M better than budget and capital expenditure was equal to budget.

The total net result budget as set by Treasury for 2012-13 is (\$0.337M). The recurrent budget appropriation given to ODPP was overstated by \$1.190M. When adjusted for this error, the total net result budget is (\$1.527M). The actual result for 2012-13 is a total net result of (\$1.521M) which when compared to the corrected budget, is \$0.006M better than budget.

The actual net result was worse than the uncorrected budget by \$1.184M, primarily due to:

Over budget expenditure \$4.194M

- \$1.380M increased salaries owing to additional funding for core solicitors, third party expenditure for prosecution services provided to Western Australia ODPP, NSW Special Commission of Inquiry, NSW Legal Aid secondment and NSW ICAC Special Prosecutions Unit

**Office of the Director of Public Prosecutions
Notes to the financial statements for the year ended 30 June 2013**

14 Budget Review (cont'd)

- \$0.601M increased cash superannuation payments owing to increased number of employees contributing to superannuation guarantee charge schemes
- \$1.640M increased private barrister expenditure owing to insufficient Crown Prosecutors to meet court demand and prosecution services provided to Western Australia ODPP
- \$0.101M increased accommodation costs, owing to prior year adjustments in outgoings and increases in cleaning contracts
- \$0.163M increased maintenance costs including software and photocopier maintenance
- \$0.152M in contract services not included in original budget
- \$0.157M increased other working expenses including furniture and equipment, stores and Supreme Court litigation.

Under budget expenditure \$4.890M

- \$1.316M decreased crown accepted superannuation expenses due to the movement in employees belonging to defined benefit funds to superannuation guarantee charge funds
- \$2.172M decreased crown accepted long service leave due to actuarial valuation at 30th June 2013
- \$0.297M decreased other operating costs including motor vehicle leases, auditor fees and other general expenses
- \$0.216M decreased depreciation expense
- \$0.889M reduced number and amount of witness expense claims.

Decreased Revenue \$1.872M

- \$1.427M increased revenue mainly due to cost recovery from Western Australia ODPP, Special Commission of Inquiry and Legal Aid
- \$0.127M increased grant from DAGJ for the Sydney Drug Court
- \$3.426M decreased Acceptance by the Crown Entity of employee benefits and other liabilities due to Treasury's valuation of LSL liability at year end, and reducing number of employees belonging to defined benefit superannuation funds.

Loss on sale of assets: \$0.008M

- \$0.008M – Loss on disposal of office equipment due to sale of photocopiers no longer attracting a trade in value

Assets and liabilities

Non-current assets are \$0.434M higher than budget mainly due to \$0.216M decrease in depreciation and \$0.232M capitalisation of restoration costs

Current assets increased by \$0.235M due to \$0.185M less than expected cash payments and \$0.049M more prepayments

Non-current liabilities increased by \$0.101M due to more than expected provisions

Current liabilities increased by \$2.970M mainly due to \$2.204M more than expected recreation leave and oncosts provision, \$0.447M increase in employee related payable and \$0.302M recognition of additional property related provisions

Office of the Director of Public Prosecutions
Notes to the financial statements for the year ended 30 June 2013

14 Budget Review (cont'd)

Cash flows

Net cash flow from operating activities was \$2.040M lower than budget mainly due to timing of cash payments across budget years.

15 Contingent Liabilities and Contingent Assets

Contingent liabilities

The Office was not aware of any contingent asset or liability as at 30 June 2013 (nil in 2012) that may materially affect the future results of the Office.

16 Reconciliation of Cash Flows from Operating Activities to Net Result

| | 2013 \$'000 | 2012 \$'000 |
|---|----------------|----------------|
| Net cash flow from operating activities | 1,233 | 1,687 |
| Depreciation and amortisation | (2,869) | (2,736) |
| Decrease / (increase) in provisions | (1,059) | (1,268) |
| Increase / (decrease) in prepayments and other assets | (265) | 361 |
| Decrease / (Increase) in creditors | 1,079 | (276) |
| Decrease / (increase) in other liabilities | 131 | 416 |
| Increase/(decrease) in Assets | 229 | 11 |
| Net result | <u>(1,521)</u> | <u>(1,805)</u> |

17 Financial Instruments

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

The Office's main risks arising from financial instruments are outlined below, together with the Office's objectives, policies and processes for measuring and managing risk.

The Director has overall responsibility for the establishment and oversight of risk management and reviews and agrees policies for managing each of these risks. Risk management policies are established to identify and analyse the risks faced by the Office, to set risk limits and controls and to monitor risks. Compliance with policies is reviewed by the Audit and Risk Committee on a continuous basis.

(a) Financial instrument categories

| Financial Assets | Note | Category | Carrying Amount 2013 \$'000 | Carrying Amount 2012 \$'000 |
|------------------------------|-------------|--|--|--|
| Class: | | | | |
| Cash and cash equivalents | 6 | N/A | 5,319 | 5,453 |
| Receivables ¹ | 7 | Receivables measured at cost | 86 | 399 |
| Financial Liabilities | Note | Category | Carrying Amount 2013 \$'000 | Carrying Amount 2012 \$'000 |
| Class: | | | | |
| Payables ² | 10 | Financial liabilities measured at cost | 3,061 | 3,194 |

¹ Excludes statutory receivables and prepayments

**Office of the Director of Public Prosecutions
Notes to the financial statements for the year ended 30 June 2013**

17 Financial Instruments (cont'd)

² Excludes statutory payables and unearned revenue

(b) Credit risk

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

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

Credit risk associated with the Office's financial assets, other than receivables, is managed through the selection of counterparties and establishment of minimum credit rating standards.

Cash

Cash comprises cash on hand and bank balances within the NSW Treasury Banking System. Interest is earned on daily bank balances at the monthly average NSW Treasury Corporation (TCorp) 11am unofficial cash rate, adjusted for a management fee to NSW Treasury.

Receivables - trade debtors

All trade debtors are recognised as amounts receivable at balance date. Collectibility of trade debtors is reviewed on an ongoing basis. Procedures as established in the Treasurer's Directions are followed to recover outstanding amounts, including letters of demand. Debts which are known to be uncollectible are written off. An allowance for impairment is raised when there is objective evidence that the entity will not be able to collect all amounts due. This evidence includes past experience, and current and expected changes in economic conditions and debtor credit ratings. No interest is earned on trade debtors. Sales are made on 30 day terms.

The Office is not materially exposed to concentrations of credit risk to a single trade debtor or group of debtors. Based on past experience, debtors that are not past due (2013:\$nil; 2012: \$nil) and not less than 3 months past due are not considered impaired. Together, these represent 100% of the total trade debtors. Most of the Office's debtors have a 100% credit rating. There are no debtors which are currently not past due or impaired whose terms have been renegotiated.

(c) Liquidity risk

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

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

The liabilities are recognised for amounts due to be paid in the future for goods or services received, whether or not invoiced. Amounts owing to suppliers (which are unsecured) are settled in accordance with the policy set out in NSW TC 11/12. For small business suppliers, where terms are not specified, payment is made not later than 30 days from date of receipt of a correctly rendered invoice. For other suppliers, if trade terms are not specified, payment is made no later than the end of the month following the month in which an invoice or a statement is received. For small business suppliers, where payment is not made within the specified time period, simple interest must be paid automatically unless an existing contract specifies otherwise. For payments to other suppliers, Office may automatically pay the supplier simple interest. No interest was paid during the year (30 June 2013: \$nil, 30 June 2012: \$nil).

(d) Market risk

The Office's borrowing is nil. The Office has no exposure to foreign currency risk and does not enter into commodity contracts.

Interest rate risk

The Office has no interest bearing liabilities.

Office of the Director of Public Prosecutions
Notes to the financial statements for the year ended 30 June 2013

17 Financial Instruments (cont'd)

Other price risk

The Office has no direct equity investments.

Financial instruments are generally recognised at cost and the carrying amount is a reasonable approximation of fair value.

18 After Balance Date Events

The Office is not aware of any circumstances that occurred after balance date, which would materially affect the financial statements.

End of audited financial statements

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Note: Each Office is open Monday to Friday (excluding Public Holidays) from 9:00am to 5:00pm. Appointments may be arranged T: outside these hours if necessary