

ACLEI performs an important oversight role in relation to the integrity of Australian Government law enforcement agencies. Those agencies currently are AFP, Home Affairs, ACIC, AUSTRAC and parts of the Department of Agriculture, Water and the Environment. From 1 January, we will also have jurisdiction in relation to staff members of ATO, ACCC, ASIC and APRA.

We undertake our role through 4 key activities:

- We receive and assess notifications and referrals of alleged corrupt conduct by members of law enforcement agencies
- We conduct investigations into serious and systemic corrupt conduct
- We support our partner law enforcement agencies to conduct their own investigations
- We prevent corruption through engagement, support and identification of vulnerabilities.

We typically conduct our investigations in the same way as other law enforcement agencies, collating evidence and testing it to see whether we have sufficient evidence to put a brief to the CDPP to consider prosecution. We have the full range of law enforcement powers, including covert powers, at our disposal to conduct our investigations, with the addition of a hearing power. I also have the power to make findings of corruption. These findings are made on the balance of probabilities and I make these findings through my reports on investigations.

In the nearly 10 months that I have been Integrity Commissioner, I have finalised and provided 8 reports and 1 supplementary report on our investigations to the Attorney General, as required by our Act. As a result, I have so far made 7 findings of corruption in relation to staff members of law enforcement agencies. I currently have 2 further reports drafted and proceeding through procedural fairness steps prior to finalisation. I propose making 2 further corruption findings in relation to those 2 matters.

We currently have 8 defendants before the courts and have had 5 defendants convicted of criminal offences so far this financial year. We also have 8 further briefs of evidence with the CDPP for assessment.

We have achieved all of this with a current head count of 54 staff.

We have a big few months ahead of us, bringing the four new agencies into our jurisdiction. We have been working closely with those 4 agencies to support this transition go as smoothly as possible.

I note that the Committee has indicated that they would like to ask questions in relation to ACLEI's investigation named Operation Tardis, which relates to part of the procurement in the Cape Class Patrol Boat Project. I provide the following information noting that the investigation is ongoing. There will, therefore, be limits to the information I can share with you today.

There has been media reporting that this investigation has been discontinued. This is not correct. At no time have I reconsidered how this matter would be dealt with under the LEIC Act. It remains an ongoing investigation.

I will mention at the outset that in relation to the media reporting on 22 October, given the information contained in the article, I formed the view that an offence against section 207 of the LEIC Act may have been committed by a former or current ACLEI staff member. I referred this matter to the AFP Commissioner on 22 October for consideration of whether a criminal investigation should be undertaken. If it becomes apparent that the information was provided by a current ACLEI staff member, I will refer the matter to the Attorney-General as an ACLEI corruption issue as required by the LEIC Act.

The issue being investigated in Operation Tardis relates to the making of two payments as part of the procurement in the Cape Class Patrol Boat Project. The payments were made in December 2015 and July 2016.

There have been reports in the media of a change in investigative strategy. This relates to the strategy for obtaining information from 4 potential witnesses. The circumstances around my decision to seek information from those witnesses via requests for information and interviews is as follows.

As part of the incoming Integrity Commissioner brief that I received when I commenced the role on 10 February 2020, I was provided with a written briefing note by counsel assisting in relation to the operation. The briefing note included a brief analysis of the investigation so far that indicated that while no direct evidence of corruption had been identified, material did suggest issues of administration.

The briefing indicated counsel's view that a final series of hearings would be required. This was in addition to the 20 private hearings that were undertaken in 2019.

The brief named 10 people to be included in those hearings, however also indicated the hearings could include "others", who were not named.

At this point, no formal decision had been taken to pursue this course of action and no summons had been issued or served on these people to attend hearings.

On 21 February 2020, I travelled to Sydney to meet with counsel assisting to discuss the operation. At that meeting, I proposed the following next steps:

- I suggested that 4 of the individuals could be dealt with through a request for information or interview rather than private hearing. These were people who were not implicated in the corruption issue and from whom we were seeking contextual information. There was no information to suggest that they would not comply with our request or would be untruthful. I proposed that these interviews would be conducted by counsel assisting.
- I agreed to the possibility of hearings being held in relation to one group of individuals. I asked that counsel provide me with a list who they were proposing to

hold hearings with, including information to deal with the various tests in the LEIC Act so that I could make a decision under the LEIC Act and those hearings could be progressed.

- That after these steps had been taken, the final two individuals would be considered.

I sent an email to counsel assisting on 24 February reiterating this course of action.

Counsel assisting and I then worked together on this course, including counsel assisting drafting material and reviewing letters which were sent to witnesses.

On 19 March 2020, counsel assisting sent a draft advice to me, which was unsolicited, concerning the proposal of dealing with the 4 witnesses through interviews or requests for information. By this stage, counsel assisting had already provided supporting material for this process to go ahead and reviewed letters which had gone to the witnesses request their involvement.

On 23 March 2020, I responded to counsel assisting, disagreeing with their advice. In particular I noted that asking questions of witnesses is an investigation method that law enforcement officers use every day. I also noted that my investigators are skilled in being able to conduct interviews and would provide assistance to counsel assisting, if that was needed. I asked counsel assisting to consider whether they felt able to carry out my instructions to them.

That same day, counsel assisting advised me that they would return the brief.

On 9 April, I wrote to both counsel assisting to formally conclude their appointments as counsel assisting.

Since that time, the investigation has continued. We have been provided with the information that we requested. In some instances we have found that people who were proposed for private hearings had no knowledge of the events being investigated and so we were able to deal with them very quickly, through normal investigative tools, without having to use coercive powers.

While I would have preferred the continuity of counsel assisting remaining involved in this investigation, counsel assisting indicated that they would return the brief and I respect their decision to do so.

While this has been portrayed in the media as the difference between advancing a tough investigation strategy or a weak investigation strategy, it is not the case that dealing with all potential witnesses through private hearings is a strong strategy. Investigations and witnesses need to be considered on a case by case basis to determine the best investigative tool to use. That is what is now occurring in this investigation.