

Chapter 2

Strategy and performance

2.1 ACLEI's fundamental strategic purpose is to 'make it more difficult for corruption in law enforcement agencies to occur or to remain undetected.'¹ ACLEI pursues this purpose through the performance of its functions under the LEIC Act.² The annual report states that an effective law enforcement integrity framework would be visible in the following ways:

- the national response to corruption-enabled border crime is more effective;
- law enforcement anti-corruption arrangements are strengthened;
- ACLEI reinforces its investigative capabilities and operational partnerships;
- law enforcement and integrity agencies across jurisdictions share information and work together with greater confidence; and
- legal and policy settings remain matched to changing corruption risks and threats.³

Factors affecting performance in 2015–16

2.2 The annual report notes five main factors that have affected ACLEI's ability to deliver outcomes in 2015–16:

- the expansion of its jurisdiction over the Department of Immigration and Border Protection (DIBP);
- a large increase in its staffing levels;
- the diversion of resources required to conclude major investigations;
- the relocation of its headquarters in Canberra; and
- its strategic decision to pursue a more proactive approach to identifying and disseminating information that indicates corruption.⁴

2.3 ACLEI's jurisdiction was expanded by the *Customs and Other Legislation Amendment (Australian Border Force) Act 2015*. This Act brought the entirety of DIBP within ACLEI's jurisdiction from 1 July 2015. The annual report states that 69 per cent of all notifications arose from the inclusion of DIBP in ACLEI's

1 ACLEI, *Annual Report of the Integrity Commissioner 2015–16*, p. 4.

2 The functions of the Integrity Commissioner are listed in section 15 of the LEIC Act.

3 ACLEI, *Annual Report of the Integrity Commissioner 2015–16*, p. 7.

4 ACLEI, *Annual report statistics corrections*, p. 3, https://www.aclei.gov.au/sites/g/files/net846/f/aclei_2015-16_areport_corrections.pdf (accessed 29 September 2017).

jurisdiction.⁵ ACLEI's budget and staffing levels were increased to meet the increased demands of this expanded jurisdiction; however, as outlined in the discussion of resourcing and key performance indicator (KPI) five below, this expansion has presented its own challenges.

2.4 Corruption issues associated with the 'improper movement of licit and illicit goods across the border' remain ACLEI's main workload.⁶ ACLEI prioritised 16 investigations during 2015–16 and the annual report explains that the resolution of such investigations typically involve 'a great degree of coordination across all ACLEI's operational, corporate and policy areas, as well as additional resources provided by State police and the AFP'.⁷ While these periods last, they 'significantly affect ACLEI's ability to progress other work' and also 'involve the commitment of future resources—potentially spanning several years' for such matters as 'prosecutions and related legal actions, post-charge hearings, disseminations of intelligence and analyses, and preparation of reports'.⁸

2.5 During 2015–16 ACLEI worked to relocate its Canberra staff from its original premises to a new location, a process that was completed in July 2016 and 'afforded the opportunity to reduce leasing costs, accommodate all ACT-based personnel on a single floor, and better manage the risk of physical harm to ACLEI's staff'.⁹ This process involved moving staff to temporary accommodation for two months and 'caused some minor disruption—for instance, in finalising some 'section 66' reports'.¹⁰

2.6 The annual report also notes that in 2015–16 ACLEI began to 'reposition the use of its resources to identify new leads and to generate a broader range of more useful products', a shift described as a pivot to a more proactive ACLEI.¹¹ To this end ACLEI is focusing on making greater use of the information contained in the criminal intelligence records of state policing agencies in particular.

2.7 ACLEI is also seeking 'better articulation and alignment between its strategic intelligence, investigations and policy programs'.¹² This will result in ACLEI providing 'more regular assessments of vulnerabilities seen in border operating environments', with the longer term aim to 'harden corruption targets, inform risk-based decisions relating to border-crime counter-measures, and bring greater efficiency and effectiveness to the collection of intelligence about the indications of

5 ACLEI, *Annual report statistics corrections*, 23 June 2017, p. 3.

6 ACLEI, *Annual Report of the Integrity Commissioner 2015–16*, p. 32.

7 ACLEI, *Annual Report of the Integrity Commissioner 2015–16*, p. 33.

8 ACLEI, *Annual Report of the Integrity Commissioner 2015–16*, p. 33.

9 ACLEI, *Annual Report of the Integrity Commissioner 2015–16*, p. 33.

10 ACLEI, *Annual Report of the Integrity Commissioner 2015–16*, p. 33.

11 ACLEI, *Annual Report of the Integrity Commissioner 2015–16*, p. 33.

12 ACLEI, *Annual Report of the Integrity Commissioner 2015–16*, p. 33.

corruption.¹³ The annual report notes that moving in this new direction will inevitably require adjustments both within ACLEI and within external partners.¹⁴

2.8 The Integrity Commissioner made the following comments on ACLEI's move to adopt a more proactive approach in 2015–16:

An example of this, as detailed in the annual report, is our use of human source intelligence. This entails the recruitment of witnesses who may be able to inform our understanding of practices in higher risk areas of agencies, particularly their susceptibility to criminality. This method gives us an additional tool to use in decision making about what cases we should pursue and how best to investigate. It is also a model that is a better fit for our environment.

ACLEI needs to be able to give the highest level of security to potential witnesses so as to ensure their safety and gain their confidence. Without that protective framework, it would be very difficult to give proper assurances that would encourage whistleblowers and other informants to come forward. While our capability remains modest at present, it is already adding significant value and is one area that I would like to expand. The pivot to a more proactive ACLEI in 2015-16 also laid the foundations for the operationalisation of our corruption prevention practice, and that continues to provide valuable insights for the agencies.¹⁵

Resourcing

2.9 The annual report notes that the total financial resources available to ACLEI in 2015–16 was \$11.702 million, which represented an increase over the previous year and continued a long-term trend of ACLEI receiving increased funding in each of the last five budgets. This increase in financial resources 'mirrors the growth in ACLEI's responsibilities and jurisdiction'.¹⁶

2.10 ACLEI recorded an operating surplus of \$1.025 million in 2015–16, which it attributes primarily to lower than expected employee expenses. ACLEI's budgeted maximum average staffing level in 2015–16 was 52. While ACLEI's staffing level grew by more than a third in 2015–16—increasing from 29 to 40 ongoing or temporary employees, plus other casual and intermittent staff—its decision to stage recruitment processes throughout the year in an effort to ensure high-quality appointments were made that would not negatively affect agency culture, meant that the cap of 52 was not reached. The annual report explains this:

This variation followed ACLEI's use of a staged growth strategy to manage risk during its recent expansion...This situation will rectify in 2016–17, as ACLEI concludes further recruitment activity.¹⁷

13 ACLEI, *Annual Report of the Integrity Commissioner 2015–16*, p. 33.

14 ACLEI, *Annual Report of the Integrity Commissioner 2015–16*, p. 33.

15 Mr Michael Griffin AM, Integrity Commissioner, *Committee Hansard*, 11 July 2017, p. 2.

16 ACLEI, *Annual Report of the Integrity Commissioner 2015–16*, p. 31.

17 ACLEI, *Annual Report of the Integrity Commissioner 2015–16*, p. 31.

2.11 ACLEI provided the committee with further information on the difficulties it faces when attempting to expand its staffing levels:

During 2015–16, ACLEI's funded Average Staffing Level (ASL) increased from 38 to 52, with these increased resources to be primarily directed at fighting corruption enabled border crime. Additional specialist positions were established across intelligence and investigative activities, with the majority being recruited to Sydney. Generally, successful applicants for these specialist positions require specific qualifications and skills, usually demonstrated by 5–10 years' experience in law enforcement or regulatory environments. While positions are advertised in Sydney and Canberra to increase access to available recruitment pools, only very few candidates applying for these roles actually meet our requirements, necessitating a number of recruitment processes to be run over an extended period. ACLEI's recruitment strategies are based on hiring the right people and skills rather than filling roles in order to manage workload, and our high standards will not be compromised.

The use of secondments and temporary transfer arrangements with other law enforcement agencies are used to mitigate staff shortages to the extent possible, noting that these agencies also experience similar difficulties with employing staff. ACLEI's stringent Integrity Framework and operational security environment, mandates high-level Commonwealth Government security clearances as well as detailed pre-employment checks. While ACLEI has put in place streamlined administrative arrangements to avoid excessive delays with successful candidates commencing their employment, the high standards required do militate against short timeframes for recruitment.¹⁸

2.12 At the committee's public hearing on 11 July 2017, the Integrity Commissioner informed the committee that ACLEI had, by that date, increased its total staff numbers to 48.¹⁹

2.13 The annual report explains that ACLEI makes use of non-financial resources and notes that its staff in Sydney work from secure AFP premises, an arrangement that amounts to a notional saving for ACLEI of \$0.168 million. This accommodation arrangement expires on 30 June 2017.²⁰

2.14 The annual report also explains that ACLEI provides funds to other agencies to partly offset the cost of services provided to support LEIC Act investigations. The report states that '[t]hese arrangements help to minimise cost and management overheads, and deliver efficient distribution of high cost resources through shared service arrangements'.²¹ In 2015–16, ACLEI provided the following amounts under these arrangements:

18 ACLEI, Answers to questions on notice, 11 July 2017 (received 14 August 2017), pp 5–6.

19 Mr Michael Griffin AM, Integrity Commissioner, *Committee Hansard*, 11 July 2017, p. 4.

20 ACLEI, *Annual Report of the Integrity Commissioner 2015–16*, p. 31.

21 ACLEI, *Annual Report of the Integrity Commissioner 2015–16*, p. 31.

- \$1.426 million to the Australian Crime Commission (ACC)²² for physical surveillance support and related services;
- \$0.383 million to the AFP for technical support for operations; and
- \$0.325 million to the AFP for the offset of costs associated with two joint operations (in relation to corruption-enabled border crime).²³

Key performance indicators

2.15 The Attorney-General's Portfolio Budget Statements (PBS) contains the following summary statement of ACLEI's 'deliverables':

Working with strategic and jurisdictional partners, ACLEI delivers an effective, efficient, economical and ethical anti-corruption capability which addresses corruption risk and strengthens the law enforcement integrity system. When appropriate, the Integrity Commissioner uses statutory information-gathering powers to assist investigations.²⁴

2.16 The PBS then details five key performance indicators (KPIs) against which ACLEI's performance can be measured.²⁵ These five KPIs, and ACLEI's reported performance against each, are described below.

KPI One: the corruption notification and referral system is effective

2.17 ACLEI's performance under this KPI can be measured against the following criteria:

- 1.1 Law enforcement agencies notify ACLEI of corruption issues and related information in a timely way.
- 1.2 Other agencies or individuals provide information about corruption issues, risks and vulnerabilities to ACLEI.
- 1.3 Partner agencies indicate confidence in sharing information or intelligence with ACLEI.
- 1.4 ACLEI prioritises credible information about serious or systemic corruption.
- 1.5 ACLEI supports awareness-raising activities in agencies within the Integrity Commissioner's jurisdiction, including by participating in joint initiatives.²⁶

2.18 There are two methods by which ACLEI may receive information that assists it to detect corruption: notifications and referrals. The LEIC Act requires the heads of

22 Now known as the Australian Criminal Intelligence Commission (ACIC) (since 1 July 2016).

23 ACLEI, *Annual Report of the Integrity Commissioner 2015–16*, p. 31.

24 Commonwealth of Australia, *Attorney-General's Portfolio Budget Statements 2015–16: Budget Related Paper No. 1.2*, p. 98.

25 Commonwealth of Australia, *Attorney-General's Portfolio Budget Statements 2015–16: Budget Related Paper No. 1.2*, pp 98–99.

26 ACLEI, *Annual Report of the Integrity Commissioner 2015–16*, p. 25.

law enforcement agencies within ACLEI's jurisdiction to notify ACLEI of corruption issues related to their respective agencies.²⁷ The Secretary of the Department of Agriculture is also required to notify the Integrity Commissioner of corruption issues related to prescribed (cargo management) functions, as set out in the LEIC regulations.²⁸

2.19 The second method by which ACLEI may receive information that assists it in detecting corruption is through the referral mechanisms found in the LEIC Act. Under those mechanisms the minister, or a person other than the minister, may refer a corruption issue to the Integrity Commissioner.²⁹

2.20 In addition to receiving information by way of a notification or a referral, ACLEI is also able to undertake investigations on its own initiative.

2.21 ACLEI received 185 notifications from agencies within its jurisdiction in 2015–16. This represents a very substantial increase over previous reporting periods, with ACLEI receiving 71 such notifications in 2014–15, and 69 in 2013–14. The annual report notes that this figure was higher than expected and 'arose mainly from the newly extended DIBP jurisdiction (128 out of 185 – 69% of all notifications)'.³⁰ The report further states that notifications from other agencies remained stable with the exception of the AFP, which made 32 notifications in 2014–15 and 52 notifications in 2015–16.³¹

2.22 The annual report provides figures for total referrals to ACLEI as well as referrals from government agencies. In 2015–16, ACLEI received a total of 48 referrals, 39 of which came from government agencies.³² The annual report states that ACLEI has:

...continued to develop its contact network with State police agencies—including through the ACLEI/AFP Sydney Joint Taskforce—to uncover information that might indicate corruption in LEIC Act agencies. The trend over time of this reliable information source indicates increasing awareness of ACLEI's role and partner agency confidence.³³

27 *Law Enforcement Integrity Commissioner Act 2006*, s. 19.

28 During the reporting period, these provisions were contained in section 8 of the *Law Enforcement Integrity Commissioner Regulations 2006*. The provisions are now contained in section 7 of the *Law Enforcement Integrity Commissioner Regulations 2017*.

29 *Law Enforcement Integrity Commissioner Act 2006*, ss. 18 and 23.

30 ACLEI, *Annual Report of the Integrity Commissioner 2015–16*, p. 25 (see Corrections to statistics, <https://www.aclei.gov.au/sites/g/files/net846/f/annual-reports/2015-16/annual-report-2015-2016/corrections.html>).

31 ACLEI, *Annual Report of the Integrity Commissioner 2015–16*, p. 25 (see Corrections to statistics).

32 ACLEI, *Annual Report of the Integrity Commissioner 2015–16*, p. 25 (see Corrections to statistics).

33 ACLEI, *Annual Report of the Integrity Commissioner 2015–16*, p. 25.

2.23 ACLEI undertakes an assessment of notifications and referrals once received so as to prioritise credible information. ACLEI had a workload of 248 assessments in 2015–16, including assessments carried over from 2014–15, of which 190 were completed. ACLEI has a target of completing 75 per cent of its assessments within 90 days; however, in 2015–16, it completed 63 per cent within this time frame.³⁴

2.24 Section 17 of the LEIC Act allows the Integrity Commissioner to enter into agreements with the heads of law enforcement agencies with respect to what matters will be considered significant corruption issues. With respect to such agreements, the annual report states:

The efficiency of case handling is being improved by the introduction of agreements with agency heads under section 17 of the LEIC Act, to enable agencies to investigate less significant allegations of corrupt conduct themselves, while specifically drawing ACLEI's attention to any matters relating to identified strategic threats. An agreement with the AFP commenced in mid-2016, and one with DIBP is in contemplation.³⁵

2.25 The committee questioned the Integrity Commissioner about the use of such section 17 agreements and whether they might compromise the ability of ACLEI to monitor corruption in agencies within its jurisdiction. The Integrity Commissioner responded:

We had lengthy engagement with the AFP about the first section 17 agreement that we have reached with an agency. Coming up with a definition or a cut-off point is a relatively complex exercise, because whilst we want to repose some discretion in the agency, we want to ensure that matters of significance come to us. So we have settled on a method and will review that over the coming year, but if you are happy, we will prepare some statistics for you on notice as to what has happened since it has been in place.³⁶

2.26 In response to several questions on notice, ACLEI made the further observation that section 17 agreements do not remove the obligation of agency heads to notify the Integrity Commissioner of all conduct that constitutes a corruption issue and that the Integrity Commissioner therefore always retains the discretion to deal with corruption issues by the various means described in subsection 26(1) of the LEIC Act.³⁷ ACLEI also explained that '[w]hat constitutes a significant corruption issue within an agreement made with an agency within ACLEI's jurisdiction will vary based on a number of factors—including, but not limited to, the individual corruption risks and vulnerabilities affecting that agency and the maturity of that agency's internal integrity framework'.³⁸

34 ACLEI, *Annual Report of the Integrity Commissioner 2015–16*, p. 26 (see amended statistics).

35 ACLEI, *Annual Report of the Integrity Commissioner 2015–16*, p. 26.

36 *Committee Hansard*, 11 July 2017, p. 5.

37 ACLEI, Answers to questions on notice, 11 July 2017 (received 14 August 2017), p. 4.

38 ACLEI, Answers to questions on notice, 11 July 2017 (received 14 August 2017), p. 4.

2.27 When asked whether he was satisfied with the operation of the current section 17 agreement with the AFP, the Integrity Commissioner stated:

At the moment, yes. I would like to review the position after it has been in place for two years to be satisfied before I can give you that definitive confidence.³⁹

2.28 ACLEI provided the committee with greater detail on the nature of its section 17 agreement with the AFP on notice, stating that the agreement has regard to:

- the objects and provisions of the LEIC Act;
- whether the conduct is an isolated incident;
- whether the conduct is linked to a criminal entity;
- the position seniority and nature of the role occupied by the AFP staff member at the time of the conduct; and
- whether the conduct may have the effect of placing another person in danger or any harm.⁴⁰

2.29 The agreement also contains a number of examples to further clarify the types of conduct that may not be assessed as significant corruption issues. These examples include:

- an isolated incident of personal drug use by an AFP member where there is no apparent ongoing link between the AFP member's drug use and a known or suspected criminal entity; or
- an isolated incident of unauthorised access to the [Police Real-time Online Management Information System] to look for information which is not operationally relevant, for instance to look up AFP holdings for a family member or friend of the AFP member.⁴¹

Committee view

2.30 The committee notes the ongoing and significant increase in workload compared to earlier years, due to the expanded jurisdiction and the related increase in resourcing. The committee also notes ACLEI's introduction of section 17 agreements with key agencies as one measure to improve efficiencies in managing assessments. The committee will monitor the progress of the existing and proposed section 17 agreements with agencies and the impact of these agreements in the future.

KPI Two: ACLEI's investigations are conducted professionally and efficiently, and add value to the integrity system

2.31 ACLEI's performance under this KPI can be measured against the following criteria:

39 *Committee Hansard*, 11 July 2017, p. 5.

40 ACLEI, Answers to questions on notice, 11 July 2017 (received 14 August 2017), pp 4–5.

41 ACLEI, Answers to questions on notice, 11 July 2017 (received 14 August 2017), p. 5.

- 2.1 each investigation considers corruption risk and the broader impact on law enforcement;
- 2.2 operational resources are actively managed and targeted for maximum effect; and
- 2.3 risks relating to the operating context of law enforcement agencies are taken into account and, in appropriate circumstances, mitigation strategies are agreed with the agency concerned.⁴²

2.32 The annual report documents a considerable increase in ACLEI's investigation activities between 2014–15 and 2015–16. ACLEI commenced 76 investigations in 2015–16, up from 42 in 2014–15, and had a total of 144 investigations active during 2015–16, up from 75 in 2014–15. Six investigations were concluded in 2015–16.⁴³ In response to this increased workload, the Integrity Commissioner has established an Operations Governance Board to 'help direct the efficient, effective and ethical use of ACLEI's investigation and intelligence resources'.⁴⁴ This board consists of the Integrity Commissioner and the Executive Director Operations, with directors of the Operations Branch, General Counsel and other staff members acting as advisers (other staff members only act as advisers by invitation).⁴⁵

2.33 The Integrity Commissioner made the following observations about the extent to which ACLEI's expanded jurisdiction of DIBP contributed to its increased investigations workload in 2015–16:

...of the 144 investigations in progress during the year 2015-16, 61 related to the Department of Immigration and Border Protection, which is up from 37 the previous year, when it was only the Customs aspect of the department that were in jurisdiction. Part of that rise is attributable to new investigations related to assuring the integrity of the visa system. Noting the risks associated with mounting pressure on Australia's border controls, this issue will continue to be a significant strategic focus for both ACLEI and the department over the next two years.⁴⁶

2.34 In 2015–16, ACLEI prioritised 16 investigations relating to serious or systemic corrupt conduct or high-impact corruption issues. With respect to outcomes from its operational activities, ACLEI reported the following results:

- three prosecutions resulted in convictions, while another 10 remain before the courts;
- two final reports were provided to the Minister (relating to security of sensitive law enforcement information and conflicts of interest); and

42 ACLEI, *Annual Report of the Integrity Commissioner 2015–16*, p. 27.

43 ACLEI, *Annual Report of the Integrity Commissioner 2015–16*, p. 27.

44 ACLEI, *Annual Report of the Integrity Commissioner 2015–16*, p. 27.

45 ACLEI, *Annual Report of the Integrity Commissioner 2015–16*, p. 92.

46 *Committee Hansard*, 11 July 2017, p. 2.

- more than 100 disseminations of information were made—for example, to provide criminal intelligence, or to enable disciplinary action concerning serious breaches of duty.⁴⁷

2.35 As noted in the annual report, the 2015–16 peer review survey indicated 'overall confidence in ACLEI' but 'generated comments from some LEIC Act agencies about the need to strengthen management of operational risks associated with notified corruption issues or ACLEI investigations.'⁴⁸ ACLEI explained that the concerns of LEIC Act agencies centred on the heightened risks that exist during the length of time that elapses between when a notification is made to ACLEI regarding a corruption matter and when ACLEI advises the agency concerned of the course of action it intends to take: 'In particular, some agencies expressed a strong interest in having ACLEI enhance the timeliness of this process and increase the communication flows about such matters to partner agency senior executives'.⁴⁹

2.36 ACLEI stated that it has taken a number of actions which should address these concerns. With respect to improved communication, ACLEI now provides vulnerability assessments to these LEIC Act agencies and also holds monthly meetings with their respective integrity and professional standards areas, during which concerns such as those described above can be raised and addressed. Nevertheless, ACLEI cautioned that 'due to the operational security requirements of ACLEI investigations, there are still situations in which ACLEI is unable to provide information to a jurisdictional partner in relation to a corruption issue'.⁵⁰

Committee view

2.37 The committee notes the outcomes of the peer review reported by ACLEI and the steps it is taking to address concerns raised by partner agencies. The committee commends ACLEI for using a more proactive approach to improve communication and engagement with partner agencies, and urges ACLEI to ensure appropriate ongoing engagement and communication in relation to notifications.

KPI Three: ACLEI monitors corruption investigations conducted by law enforcement agencies

2.38 ACLEI's performance under this KPI can be measured against the following criteria:

- 3.1 all agency corruption investigation reports provided to ACLEI for review are assessed for intelligence value and completeness; and
- 3.2 ACLEI liaises regularly with the agencies' professional standards units about the progress of agency investigations.⁵¹

47 ACLEI, *Annual Report of the Integrity Commissioner 2015–16*, p. 27.

48 ACLEI, *Annual Report of the Integrity Commissioner 2015–16*, p. 27.

49 ACLEI, Answers to questions on notice, 11 July 2017 (received 14 August 2017), p. 5.

50 ACLEI, Answers to questions on notice, 11 July 2017 (received 14 August 2017), p. 5.

51 ACLEI, *Annual Report of the Integrity Commissioner 2015–16*, p. 28.

2.39 In 2015–16, 131 LEIC Act corruption issues were investigated by agencies other than ACLEI, including internal investigations. This number has not changed significantly from the previous reporting period.⁵² The annual report notes that:

Almost half of the 275 corruption issues under investigation in 2015–16 were conducted as internal investigations by LEIC Act agencies, which—unless reconsidered and discontinued with the agreement of ACLEI—will result in a "section 66" report to the Integrity Commissioner.⁵³

2.40 Section 66 of the LEIC Act requires agencies to prepare a report once a corruption investigation is completed, detailing findings, evidence, and actions taken or proposed to be taken, and to provide a copy of the report to the Integrity Commissioner. ACLEI reviewed 14 such reports in 2015–16 and 'found no cause to comment on the process or outcome'.⁵⁴ ACLEI received a further 29 reports for which reviews were not concluded in 2015–16.⁵⁵

2.41 As discussed under KPI two, ACLEI expects the number of corruption issues dealt with through internal investigations to increase, both as a result of the introduction of section 17 agreements and as a result of agencies strengthening their detection methods.⁵⁶ The annual report states that: 'Such changes will increase the importance of ACLEI's case liaison and review functions'.⁵⁷

Committee view

2.42 The committee notes ACLEI's prediction that internal investigations by partner agencies will increase in coming years, and the impact on aspects of its work and operations. As mentioned in relation to KPI two, the committee will continue to monitor ACLEI's development and implementation of section 17 agreements and other relevant factors relating to ongoing changes in the division of work between ACLEI and partner agencies.

KPI Four: ACLEI insights contribute to accountability and anti-corruption policy development

2.43 ACLEI's performance under this KPI can be measured against the following criteria:

- 4.1 when warranted, the Integrity Commissioner makes recommendations for improvement in corruption prevention or detection measures;
- 4.2 submissions that relate to corruption prevention or enhancing integrity arrangements are made to government or in other relevant forums;

52 ACLEI, *Annual Report of the Integrity Commissioner 2015–16*, p. 28.

53 ACLEI, *Annual Report of the Integrity Commissioner 2015–16*, p. 28.

54 ACLEI, *Annual Report of the Integrity Commissioner 2015–16*, p. 28.

55 ACLEI, *Annual Report of the Integrity Commissioner 2015–16*, p. 28.

56 ACLEI, *Annual Report of the Integrity Commissioner 2015–16*, p. 28.

57 ACLEI, *Annual Report of the Integrity Commissioner 2015–16*, p. 28.

- 4.3 targeted presentations about integrity are made to diverse audiences; and
- 4.4 the Integrity Commissioner's Annual Report or other publications contain analysis of patterns and trends in law enforcement corruption.⁵⁸

2.44 The annual report discusses a number of activities undertaken by the Integrity Commissioner and by ACLEI relevant to this KPI. The Integrity Commissioner discussed with LEIC Act agency heads specific corruption vulnerabilities observed in operations and how they may be addressed. ACLEI made three public submissions to Commonwealth and state parliamentary inquiries, and provided policy comments to government initiatives relevant to corruption risk control, including providing information to inform the then Australian Crime Commission's analyses of organised crime threats: *Organised Crime Threat Assessment 2016* and *The costs of serious and organised crime in Australia 2013–14*.⁵⁹

2.45 ACLEI also published a series of corruption prevention pages on its website, which are intended to make ACLEI's anti-corruption knowledge available to a wide audience. The pages include a corruption prevention toolkit, a series of case studies, which have been cited in five state, Commonwealth or international publications, and discussion of key concepts.⁶⁰

2.46 Finally, the Integrity Commissioner or senior ACLEI staff made ten presentations in 2015–16 to domestic and international audiences, including to the Serious and Organised Crime Coordination Committee, a meeting of the ACC examiners, and the Australian Public Service Commission.⁶¹ These presentations focused on corruption-enabled border crime; integrity leadership and culture; integrity as an organisational asset; and integrity capacity building.

Committee view

2.47 The committee notes ACLEI's ongoing provision of insights and recommendations via submissions to parliamentary and government reviews and inquiries. The committee also notes ACLEI's strategic direction towards a more proactive approach, which includes greater outreach to partner and other agencies to raise awareness about integrity issues.

KPI Five: ACLEI's governance and risk management controls are effective and take account of its operational role

2.48 ACLEI's performance under this KPI can be measured against the following criteria:

58 ACLEI, *Annual Report of the Integrity Commissioner 2015–16*, p. 29.

59 ACLEI, *Annual Report of the Integrity Commissioner 2015–16*, p. 29.

60 ACLEI, *Annual Report of the Integrity Commissioner 2015–16*, p. 29; see ACLEI, *Corruption prevention*, <https://www.aclei.gov.au/corruption-prevention> (accessed 22 September 2017).

61 ACLEI, *Annual Report of the Integrity Commissioner 2015–16*, p. 29.

- 5.1 Systems are in place to ensure ACLEI officers act ethically, comply with legislative requirements and adhere to standards set by the Integrity Commissioner
- 5.2 Regular reviews and audits indicate effective governance, risk management and integrity.⁶²

2.49 The annual report states that ACLEI's Internal Governance Board receives monthly reports on risk, governance and integrity and that its Assistant Director Professional Standards 'receives and assesses declarations made under ACLEI's integrity policy, maintains ACLEI's information security processes, and conducts internal audits of information-handling and access to external databases'.⁶³

2.50 No material breaches arose in the reporting period. However, one special investigation was undertaken into an anonymous report raising a concern that:

...ACLEI may have, in conjunction with an agency within the LEIC Act jurisdiction, acted inappropriately in supporting a staff member from that agency for an important external learning opportunity. The staff member was recruited to ACLEI approximately two years later.⁶⁴

2.51 As required by the LEIC Act, the Integrity Commissioner notified the Minister for Justice of this report.⁶⁵ The minister subsequently appointed Ms Mary Brennan to investigate the matter. Following her investigation, Ms Brennan determined that 'no corrupt conduct had occurred' and that 'all parties had acted reasonably and appropriately in relation to the learning opportunity and that it had been open to ACLEI to recruit the staff member'.⁶⁶

2.52 ACLEI's internal audit program focused on 'risks associated with ACLEI's rapid expansion, fraud and corruption controls, compliance with legislation, and finance systems integrity', and found that, overall, risk management systems and governance practices were appropriate to ACLEI's functions.⁶⁷

2.53 In addition, the Integrity Commissioner commissioned an independent assessment of ACLEI's integrity culture, which reported that: 'Integrity is demonstrated throughout the agency and leadership is committed to ethical practices. Employees are comfortable reporting unethical behaviour and believe that quality of work is encouraged.'⁶⁸

62 ACLEI, *Annual Report of the Integrity Commissioner 2015–16*, p. 30.

63 ACLEI, *Annual Report of the Integrity Commissioner 2015–16*, p. 30.

64 ACLEI, *Annual Report of the Integrity Commissioner 2015–16*, p. 95.

65 Part 12 of the LEIC Act addresses how ACLEI corruption issues are to be dealt with, including notification of the minister and the appointment of a special investigator.

66 ACLEI, *Annual Report of the Integrity Commissioner 2015–16*, p. 95.

67 ACLEI, *Annual Report of the Integrity Commissioner 2015–16*, p. 30.

68 ACLEI, *Annual Report of the Integrity Commissioner 2015–16*, p. 30.

2.54 The annual report notes that 'the effects of rapid growth across ACLEI's Canberra and Sydney sites, having regard to maintaining common professional standards and a shared integrity culture' was a governance challenge in 2015–16 and would continue to be so in 2016–17.⁶⁹ The report also notes the role of the newly created Operations Governance Board, discussed under KPI Two, in strengthening ACLEI's governance framework and assisting with directing the 'efficient, effective, economical and ethical use of ACLEI's investigation and intelligence resources, having regard to risk'.⁷⁰

2.55 ACLEI provided the following further information on steps it has taken to address the governance and integrity risks posed by its rapidly increasing staffing levels:

An independent audit of the potential risks associated with ACLEI's rapid expansion was conducted by an external provider in mid-2015, with a number of recommendations subsequently being implemented by ACLEI. These measures included strategies to maintain and extend ACLEI's operational security culture. Strategies have been put in place to further strengthen ACLEI's professional standards and integrity arrangements and, in particular, ensure an appropriate workplace culture was established and maintained in ACLEI's Sydney operations. Accordingly, ACLEI has expanded its professional standards resourcing, increased the visibility of Senior Management and key corporate roles, and provided greater opportunities for temporary staff re-location and interaction between Sydney and Canberra operations staff.⁷¹

Committee view

2.56 The committee commends ACLEI on its acknowledgement of the potential integrity risk posed by the significant internal and jurisdiction changes it has been experiencing over the reporting period, and its efforts to monitor and address issues in an attempt to minimise these. The committee will, as with other KPIs, continue to monitor ACLEI's progress in this area.

69 ACLEI, *Annual Report of the Integrity Commissioner 2015–16*, p. 30.

70 ACLEI, *Annual Report of the Integrity Commissioner 2015–16*, p. 30.

71 ACLEI, Answers to questions on notice, 11 July 2017 (received 14 August 2017), p. 6.