



**Office of the  
Director of Public Prosecutions  
for the State of Western Australia**

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**2012/2013 Annual Report**



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### Office hours

8:30 am - 5:00 pm week days.

An after-hours answering machine can take your recorded message if the office is not attended.

## Publications

The following publications are available from the ODPP:

### General information

Annual Report to Parliament for each financial year since 1992/1993  
Workforce & Diversity Plan 2012- 2017  
Disability Access and Inclusion Plan 2007 - 2012  
Statement of Prosecution Policy and Guidelines 2005

### Brochures

About the ODPP  
Information for Victims of Crime  
Witness Information

## Further Information

For any further information on the operations of the Office of the Director of Public Prosecutions or for copies of any of the above publications please visit our website at [www.dpp.wa.gov.au](http://www.dpp.wa.gov.au) or contact us via any means outlined above.

This report can be made available in alternative formats on request.

## Glossary of Terms

<b>Accused</b>	The person alleged in a prosecution notice or indictment to have committed an offence.
<b>Bench warrant</b>	A written authorisation (arrest warrant) issued by a Judicial Officer for the arrest of a person who fails to appear in Court.
<b>Brief out</b>	The process whereby the ODPP contracts external counsel to attend a hearing on behalf of the ODPP. Most brief out counsel are independent, self-employed barristers.
<b>Committal</b>	The process whereby a case is forwarded from the Magistrates Court to the District or Supreme Court.
<b>Extradition</b>	The process of retrieving an accused who has left the State to return to WA to answer charges.
<b>Fast Track</b>	Also known as an expedited committal occurs when the accused pleads guilty at the earliest opportunity in the Magistrates Court and is committed to the District or Supreme Court for sentence.
<b>Hung jury</b>	A jury which is unable to reach a verdict. The matter may be re-tried at another time before another jury.
<b>Indictment</b>	The written charge of an indictable offence presented in the District or Supreme Court so that the person is tried by that court.
<b>Mistrial</b>	A trial which is aborted by an order of a judge because of some legal or procedural irregularity. The matter may need to be re-tried at a later date.
<b>Prosecution notice</b>	A formal document setting out the charge against the accused and used to start a prosecution case in the Magistrates Court. Usually the notice is issued by the Police.
<b>Sentence</b>	The penalty imposed by the court for an offence.
<b>Summons</b>	A document advising a witness of the time, date and location of a trial and requiring the witness to attend and give evidence.
<b>Trial</b>	A court hearing where factual and legal issues are examined before a Judge and jury (or in some cases, a Judge alone) to determine an accused person's guilt or innocence.

## Statement of Compliance

In accordance with section 61 of the *Financial Management Act 2006* and section 32 of the *Director of Public Prosecutions Act 1991*, I hereby submit for the information of the Attorney General and presentation to Parliament, the Report of the Office of the Director of Public Prosecutions for the period ending 30 June 2013.

The report has been prepared in accordance with the provisions of the *Financial Management Act 2006*.

In accordance with section 31(1) of the *Public Sector Management Act 1994*, I also report that there has been compliance with the Public Sector Standards in Human Resource Management and the Code of Ethics.

**Joseph McGrath SC**  
Director of Public Prosecutions  
Chief Executive Officer  
Accountable Authority

# Part 1: Overview

## Executive Summary: From the Director

This is my fourth annual report having been appointed Director in February 2010. I continue to head an Office that is staffed by excellent officers and prosecutors.

At the heart of the ODPP are the people, both in the prosecution teams and the corporate services team, who work tirelessly as one team to provide that professional and effective prosecution service.

Therefore, throughout the year the ODPP has continued to have a first class training programme with a diversity of courses. This year the ODPP held a Mental Health Month. The aim was to provide guidance on wellbeing and to give access to activities and providers concerned with mental health. Given the pressures of legal practice it is important that the ODPP encourages staff to take time to pause and to consider their own well being and the well being of their colleagues at work. The training, coupled with extensive work being undertaken on the harnessing of the legal knowledge base, will assist in ensuring that the ODPP team is a first class prosecution service.

The ODPP has now comprehensively redeveloped the intranet with the result that improves staff access to research tools. It is now hoped that the new intranet will become the means by which knowledge resources will be managed within in the ODPP. The ODPP is meeting the challenge of the decommissioning of Shared Services by implementing new Human Resources/Payroll and Finance Systems. A successful transition should occur in the first half of 2013/2014 due to the commitment of the Workforce Development and Finance Teams.

I noted last year that the Confiscations Team of the ODPP paid \$7.52 million into the Confiscations Proceeds Account under the *Criminal Property Confiscation Act 2000*. This was an increase on the amount paid into the fund from 2011. This year has seen a further increase in the amount paid into the account being \$9.36 million. This figure exceeds the average annual figure based on amounts paid into the Account since 2008.

Since the commencement of that confiscation legislation in January 2000 over \$71 million has been paid into the Confiscations Proceeds Account. This reflects the dedication and hard work of the ODPP Confiscations Team. Under the Act the Attorney General can make grants from the Account for specified purposes. These may include funding the development and delivery of programs to prevent or reduce drug related activity and the abuse of prohibited drugs and to provide support services and assistance to victims.

The work levels continue to increase for the ODPP. In 2012/2013 the ODPP handled 2014 matters that were committed to the Supreme or District Court. In respect to matters where the ODPP was required to file an indictment it was filed within 90 days in respect to 83.4% of all matters. The target is 85%.

Lengthy and complex trials are particularly demanding on the resources of the ODPP. The challenge this year has been to manage the extraordinary increase in homicide matters. In 2010, the ODPP received 45 new homicide cases and in 2011/2012 there was a further 42 new cases. In 2012/2013, a further 59 new homicide cases were received which represents an increase of 40.5%.

In the Supreme and District Courts the ODPP prosecuted 1996 criminal cases. Regarding all cases in the Supreme and District Courts, both at trial and sentencing, the overall conviction rate was 92.1%. The Children's Court maintained its heavy workload with 2620 cases being received.

The conviction rate after trial in the Supreme and District Courts remained high with the ODPP securing convictions after trial in 64.6% of cases. This far exceeds the KPI target of at least 50 % for convictions after trial. The conviction rate after trial in 2010 was 58%. The improvement has been achieved in a three year period through the implementation of early and effective case management and by the ODPP exercising the prosecutorial discretion appropriately and thoroughly preparing matters for trial.

The ODPP established a case to answer in the Courts at trial in 99.5 % of matters. This figure demonstrates that ODPP prosecutors are well trained lawyers diligently preparing for trials and exercising the prosecutorial discretion appropriately.

The Court of Appeal work continues to grow expeditiously in Western Australia. I noted in last year's Annual Report that there was a significant increase of 26.6% in the overall number of appeals managed by the ODPP during 2010/2011. In 2011/2012, there was another dramatic increase of 25.6% in the number of Court of Appeal cases managed by the ODPP. That historical high continued in 2012/2013 and is now accepted by the Courts and profession as the permanent position.

Last year I noted that the ODPP appeals team is working to ensure that focused attention is given to the preparation of appeals. The initiative has been very successful. The appeals team has lifted the burden from very busy trial lawyers to complete submissions in between (and often during) appearing in trials. I stated that my aim over the next two years was to consolidate the strong appeals team.

The success of the Appeals Team is reflected in the high standard of the appeal submissions and the fact that in relation to the 212 concluded appeals initiated by the accused, only 26 (12.3%) appeals were allowed, while 129 (60.8%) were dismissed and 57 (26.9%) were discontinued.

The growth in the ODPP work under *Dangerous Sexual Offenders Act 2006* continues to put pressure on the ODPP resources. The legislation aims to ensure offenders who are a serious risk to the safety of the community are not released from prison or are subjected to strict supervision orders if released. By 2013, the number of offenders subject to ongoing orders has reached 37.

Unlike prosecutions the DSO matters do not end with the granting of the order rather a great deal of work continues with ongoing reviews being required under the legislation. The importance of ODPP appeals work and the DSO practice was acknowledged by the Government by the extension of funding to the ODPP.

The ODPP continues to achieve a workplace of diversity. The ODPP has an *Equal Employment Opportunity Management Plan 2010-2013* which includes specific targets and strategies to promote gender equity in the ODPP. Currently, 56% of ODPP legal staff are female. Significantly, of the prosecutor positions regarded as most senior – that is positions at Senior State Prosecutor Class3/Level 6LG or above – 46% are currently held by women lawyers. This is a very positive situation and reflects well on the ODPP's commitment to attracting, retaining, and promoting women lawyers.



I extend my congratulations to Ms Janelle Scutt, Senior State Prosecutor, who was appointed a Magistrate. The appointment was a richly deserved recognition of Janelle's ability and her outstanding service as a lawyer. Whilst the appointment was a loss to the ODPP the community continues to be served by Janelle.

I also extend my congratulations to Ms Clare Cullen who was awarded Young Lawyer of the Year in the practice of Criminal Law. The award is recognition of Clare's standing in the profession and also to all members of the ODPP Team of which Clare is a part.

I wish to take this opportunity to thank all staff members for their outstanding work and contribution to the ODPP. I am grateful to be able to work alongside dedicated staff.

## Mission Statement

### Mission

Our mission is to provide the people of Western Australia with a fair and just criminal prosecution service.

### Vision

Our vision is to provide the highest quality prosecution service for the people of Western Australia.

### Values

We are committed to applying the following core values to achieve our vision:

- Justice
- Excellence
- Accountability
- Respect
- Independence
- Integrity
- Leadership

### Goals

Achieving the following goals is recognised as being fundamental to achieving our mission:

- To effectively manage criminal prosecutions
- To provide an effective service to victims and witnesses
- To effectively manage criminal confiscations
- To be a high performing organisation
- To deliver strong corporate governance

## Operational Structure

The position of Director of Public Prosecutions for the State of Western Australia was created in February 1992 following the enactment of the *Director of Public Prosecutions Act 1991*.

The Director, Mr Joe McGrath SC, reports to the WA Attorney General, the Hon. Michael Mischin MLC.

The position of Deputy Director of Public Prosecutions was created in 2010. Mr Bruno Fiannaca SC holds this appointment.

### Consultant State Prosecutors

Reporting to the Deputy Director of Public Prosecutions, these are the most senior prosecutors in the Office and are allocated the conduct of the most complex legal matters. The five Consultant State Prosecutors are authorised to approve substantive discontinuances of whole cases and the negotiation of charges. They provide support and advice to the legal practice teams as well as professional leadership across the ODPP.

By agreement with the Commissioner of Police, one of the Consultant State Prosecutors works on site with the Police Prosecutions Division, Perth providing direct and high-level advice on charges and managing some of the more complex matters in the Magistrates Court jurisdiction.

### Legal Practice Teams

The ODPP's legal practice is team-based reflecting the various types of legal work undertaken by the ODPP. The legal practice area is headed by the Director Legal Services.

Three indictable prosecution teams manage the bulk of the ODPP's indictable work, while smaller and more specialised legal practice teams manage other areas of the ODPP's legal work.

### Indictable Prosecution Teams

These three teams, each headed by a Practice Manager, are responsible for all indictable prosecutions in the Supreme and District Courts both in the metropolitan area and all regional areas of the State. Each team comprises a number of State Prosecutors and supporting paralegal, clerical and secretarial staff. The prosecutors within each team are divided into four work groups, each of which is headed by a Work Group Co-ordinator – a Senior State Prosecutor – who manages the matters assigned to the work group, signs indictments for State prosecutors within the work group and ensures junior prosecutors are appropriately mentored and guided.

## **Stirling Gardens Magistrates Court Team**

In October 2007 the Stirling Gardens Magistrates Court was created to assist with the case management of matters likely to be committed to the Supreme Court. The Stirling Gardens Magistrates Court Team negotiates pleas of guilty to a considerable proportion of robbery charges listed in the Supreme Court. All homicide cases and those involving a fatality continue to be managed by senior prosecutors within the ODPP.

## **Children's Court Team**

Headed by a Practice Manager, this team is responsible for all prosecutions before the President of the Children's Court and all prosecutions before a Magistrate of the Children's Court sitting in Perth. The team is located on site at the Children's Court.

## **Appeals Team**

The Appeals Team was expanded in 2011/2012. Headed by a Consultant State Prosecutor and comprising prosecutors and support staff, the team manages all aspects of the ODPP's appellate practice, particularly all appeals brought by an accused or the State in the Court of Appeal.

## **Confiscations Team**

The Confiscations Team, headed by a Practice Manager, plays a unique role in the Office. Acting as solicitors and counsel in what is essentially civil litigation, the team manages a number of matters including bringing confiscation proceedings pursuant to the *Criminal Property Confiscation Act 2000*.

## **Legal Policy & Projects**

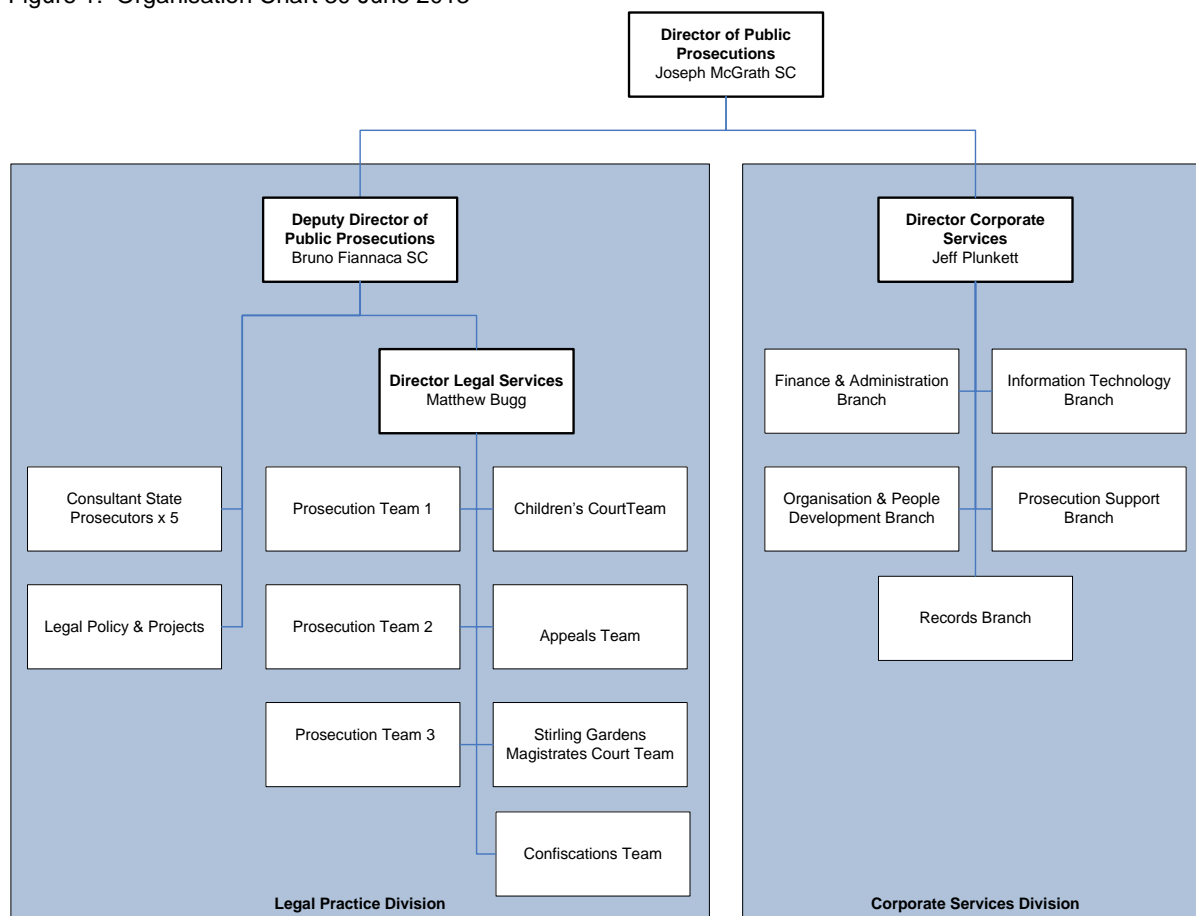
A legal policy and projects lawyer is responsible for co-ordinating legal policy development within the office, monitoring legislative developments, and co-ordinating, reviewing or preparing legislative reform proposals or submissions on behalf of the Director, including providing advice to the Attorney General and external bodies on the operation of the criminal law.

## **Corporate Services**

Headed by the Director Corporate Services, this team is responsible for the delivery of a range of corporate support services to the wider ODPP and for ensuring the ODPP meets its corporate responsibilities as a public sector agency. Services include financial management; human resource management; records and information management; information technology; business improvement as well as facilities and administration services. The team includes a prosecution support branch which plays an important role in the allocation of cases to the prosecution teams and the co-ordination of all court appearances by ODPP prosecutors.

# Organisation Chart

Figure 1: Organisation Chart 30 June 2013



# Performance Management Framework

The work of the ODPP as a public sector agency is guided by the following performance management framework.

## GOVERNMENT GOAL

**Better Services:** To enhance the quality of life and wellbeing of all people throughout Western Australia through the provision of high quality, accessible services.

## AGENCY LEVEL GOVERNMENT DESIRED OUTCOME

To provide the people of Western Australia with a fair and just criminal prosecution service.

### KEY EFFECTIVENESS INDICATORS

### Measurement Parameters

#### Service 1 – Criminal Prosecutions

1. Early advice to Court on charges. (Target 85%)	Percentage of new cases committed to the District and Supreme Courts where an indictment is filed within 90 days of the date of committal.
2. Establishing a case to answer. (Target 98%)	Percentage of trials that proceed where the outcome is determined by a jury or judge alone because the State demonstrated a case to answer. Where the State does not demonstrate a case to answer the Judge directs an acquittal.
3. Convictions after trial. (Target 50%)	Percentage of trial outcomes resulting in a conviction against the accused for one or more of the charges indicted.

#### Service 2 – Confiscation of Assets

4. Timely lodgement of Declarations of Confiscation in relation to drug trafficker matters. (Target 60%)	Percentage of applications for a Declaration of Confiscation filed within four months of the drug trafficker declaration.
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### KEY EFFICIENCY INDICATORS

### Measurement Parameters

#### Service 1 – Criminal Prosecutions

1. Cost per prosecution.	The raw average cost per matter, expressed as the total cost of service of criminal prosecutions divided by the number of new committals received.
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#### Service 2 – Confiscation of Assets

2. Ratio of cost to return. (Target 25%)	Calculated using the total cost of service of confiscation of assets divided by the payments made to the Confiscation Proceeds account for the same year, expressed as a percentage.
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### Service 1 Criminal Prosecutions

The ODPP is responsible for the prosecution of all accused people charged with indictable State offences in Western Australia's superior courts. To undertake this work, State Prosecutors employed by the ODPP have the carriage of these matters and appear in the courts of criminal jurisdiction across the State. The ODPP appears primarily in the District and Supreme Courts in both metropolitan and regional centres. However, cases are also conducted in the Perth Magistrates Court, the Stirling Gardens Magistrates Court, the Children's Court, the Court of Appeal and the High Court of Australia.

#### Perth Magistrates Court

Criminal proceedings brought against an accused person start in the Magistrates Court. After an investigation, the Western Australia Police may file a Prosecution Notice with the court and bring the accused before the court either by arrest or by issuing a summons.

Generally, the Police are responsible for the conduct of any charge on an indictable offence while it remains in the Magistrates Court. An exception to this arrangement was introduced in early 1997, where the ODPP became responsible for indictable offences in the Perth Magistrates Court before committal to a higher court.

The committal process was amended in 2004 with the introduction of the *Criminal Law Amendment Act* which created a number of either-way offences. The Act allows for a greater number of indictable offences to be dealt with summarily by a Magistrate, reducing the number of cases committed to a higher court for resolution.

Committals for trial or sentence are the main form of notification to the ODPP of cases proceeding to the District or Supreme Courts for prosecution and are generated from the 29 regional and metropolitan branches of the Magistrates Court. Receipt of a committal from the Magistrates Court is the initial source of data used to calculate the ODPP's workload and other key statistics.

#### Stirling Gardens Magistrates Court

The Stirling Gardens Magistrates Court was established in the Supreme Court building in October 2007. This Court deals with indictable charges which would ordinarily be committed to the Supreme Court. These charges include armed robberies, criminal damage by fire and homicides.

The Stirling Gardens Magistrates Court is focussed on early pleas resolution. The ODPP's Stirling Gardens Magistrates Court Team was established to expedite the committal and hearing of cases and has proven to be very effective in reducing the number of matters that proceed to trial in the Supreme Court.

## District and Supreme Courts

The District and Supreme Courts are the main jurisdictions in which the ODPP operates. After investigations by the police and the collation of evidence from the investigation, the ODPP is able to assess the merits of a prosecution and usually files an indictment which formalises the charges against the accused in either the District or Supreme Court.

The progress of a case for a District or Supreme Court prosecution generally follows one of two paths – the case will be resolved either by a plea of guilty or by trial. If an accused pleads guilty in the Magistrates Court he or she can be committed to the District or Supreme Court and be sentenced by a Judge. Where an accused pleads not guilty to the charge, the case is remanded to further hearings where any legal, evidentiary or bail issues are determined until the case is ready to proceed to trial. Most trials proceed before a Judge and a Jury, although in some special circumstances a trial may be held before a Judge alone.

The trial process requires the ODPP to present the evidence against the accused fairly and allows the accused to defend the charges brought against them. Not all listed trial cases are resolved through a trial as a number of accused will plead guilty before, or on the day of, the trial. More rarely, after further consideration by the ODPP and sometimes further police investigations, some cases may be discontinued by the ODPP.

## Children's Court

The Children's Court comprises two divisions which deal with charges against accused aged under 18 years at the date of the offence. The most serious charges are dealt with before the President of the Children's Court. Other charges are heard before Children's Court Magistrates.

In 2003 the ODPP took over the conduct of all matters before the President of the Children's Court and subsequently in 2006 the ODPP took responsibility for the prosecution of all criminal matters listed in the Perth Children's Court before Magistrates.

All accused initially appear before a Magistrate where a decision is made whether or not to send a particular accused before the President.

A 2012 review of the case load of matters prosecuted before the President of the Children's Court revealed that of the matters remanded for trial before the President, approximately 59% involved offences of a sexual nature and of those, around 65% involved complainants under the age of 13.

### ***A typical Jury trial in the District Court, Perth...***

Where the accused pleads not guilty to the charges stated in the indictment, the matter will need to go to trial.

The ODPP prosecutor, the accused and their counsel appear at a trial listing hearing where pre-trial legal issues and the availability of prosecution and defence witnesses will be discussed. The Court will then list the matter for trial, usually within 3 months.

In preparation for the trial the ODPP prosecutor will further review the case, ensuring that there continue to be reasonable prospects of conviction. The prosecutor will also endeavour to speak with the investigating police officers, any victims of crime and the key prosecution witnesses.

Trials are generally presided over by a Judge, with the Jury determining whether the accused is guilty or not guilty of the offences charged. The average length of a District Court trial is 3 or 4 days.

The role of the ODPP prosecutor at the trial is to fairly present all of the relevant and available evidence to assist the Jury to make a sound decision. It is not the role of the ODPP to pursue a conviction at all costs.

If the accused is found guilty the trial Judge will impose a sentence. If found not guilty, the accused is discharged.

The process from the ODPP's initial receipt of the case to the Jury's verdict generally takes around 6 to 9 months.



## Appeals

Three types of appeal are managed by the ODPP:

### Single Judge Appeal

Single Judge Appeals are appeals against the decision of a Magistrate made in the Magistrates Court. The majority of Single Judge Appeals are commenced by an accused against the conviction or sentence imposed. In limited circumstances the ODPP may file an appeal against a sentence or an acquittal ordered by a Magistrate.

### Court of Appeal

The Court of Appeal is the first avenue of appeal against decisions made in the District, Children's or Supreme Courts. Leave to appeal can be sought by either the State of Western Australia or the accused. An appeal can be filed against the sentence (these may be filed by both the State and the accused) or the conviction (these may be filed by the accused). More rarely, an appeal against a judge directed acquittal may be filed by the State. An appeal may also arise on a question of law referred to the Court of Appeal by the District or Supreme Court, or by the Attorney General, or, in certain circumstances, against an acquittal by jury.

### High Court Appeal

The High Court of Australia is the final court of appeal to which only a very few criminal cases proceed. A decision of the Court of Appeal can only be appealed when the High Court grants an application for special leave to appeal. Most appeals to the High Court are heard in Canberra, although video links are also regularly used.

### ***A typical appeal by an Accused against the severity of their sentence...***

An accused person has the right to appeal against the severity of the sentence imposed by a Judge of the Supreme or District Court.

The accused, usually through their lawyer, must lodge an application for Leave to Appeal with the Court of Appeal, which is a special court constituted within the Supreme Court of WA. The application, which generally must be lodged within 21 days of the sentence, sets out the grounds of appeal.

If the Court of Appeal determines that the appeal has merit, leave will be granted and the appeal can then proceed to hearing. The accused at this time becomes known as the Appellant.

The role of the ODPP, as the Respondent and on behalf of the State, is to assist the Court of Appeal by drafting and filing comprehensive legal submissions and appearing as counsel for the State at the hearing of the appeal.

After hearing legal arguments from counsel for the Appellant and the Respondent the Court of Appeal (usually consisting of three Judges of the Supreme Court) will either allow or dismiss the appeal. If the appeal is allowed, the Court of Appeal may reduce the sentence originally imposed. If the appeal is dismissed, the original sentence will stand.

The written judgments (decisions) of Court of Appeal are very important in establishing sentencing precedents for other courts to follow. The judgments are publically available on the Supreme Court's website.

The appeal process from the time of lodging the application for Leave to Appeal to the delivery of the Court's judgment may take around 8 months.

## **Service 2    Confiscation of Assets**

The *Criminal Property Confiscation Act 2000* enables the police or the Director of Public Prosecutions to apply to freeze the assets of people outlined in the categories below. The Act also provides for the confiscation of property acquired from criminal activity, property used for criminal activity and the property of a drug trafficker.

The *Criminal Property Confiscation Act 2000* targets property which is owned (including property controlled or given away) by:

- Someone whose wealth has not been lawfully acquired.
- Someone whose property was acquired, directly or indirectly, through criminal activity.
- Someone who made criminal use of property they did not own.
- A declared drug trafficker.

The Act also targets property that is:

- Used or intended to be used in the commission of an offence.
- Derived, either directly or indirectly, from the commission of an offence.

## **Part 2    Agency Performance and Significant Issues**

### **Criminal Prosecutions**

At the heart of the ODPP's legal practice is the prosecution of criminal cases on indictment in the Supreme and District Courts.

A criminal case may involve more than one accused person. A criminal case may also involve more than one charge, with many cases involving an accused person facing a number of charges. Some criminal cases will involve multiple accused, each on multiple charges. Some cases may be resolved quite quickly through an early plea of guilty while others will take some years to resolve if there is a lengthy trial or an appeal. This is the nature of prosecutions' work. These circumstances add a degree of difficulty to both case management and the reporting of prosecution case workloads and outcomes.

The following notes provide some insight into the activities undertaken by the ODPP in 2012/2013 in prosecuting criminal cases on behalf of the State. The notes begin with the pre-committal stage in the Magistrates Court and move through to committal and in the majority of cases, disposition in the Supreme or District Court.

#### **Perth Magistrates Court**

The ODPP takes over the prosecution of charges of indictable offences when they reach the disclosure committal hearing stage of proceedings in the Perth Magistrates Court.

The ODPP's involvement at this early stage in the prosecution process enables careful and independent scrutiny of cases prior to committal and ensures that cases proceed on the correct charges and in the appropriate jurisdiction. Due to geographical and resourcing issues this service cannot be extended to pre-committal matters in regional courts.

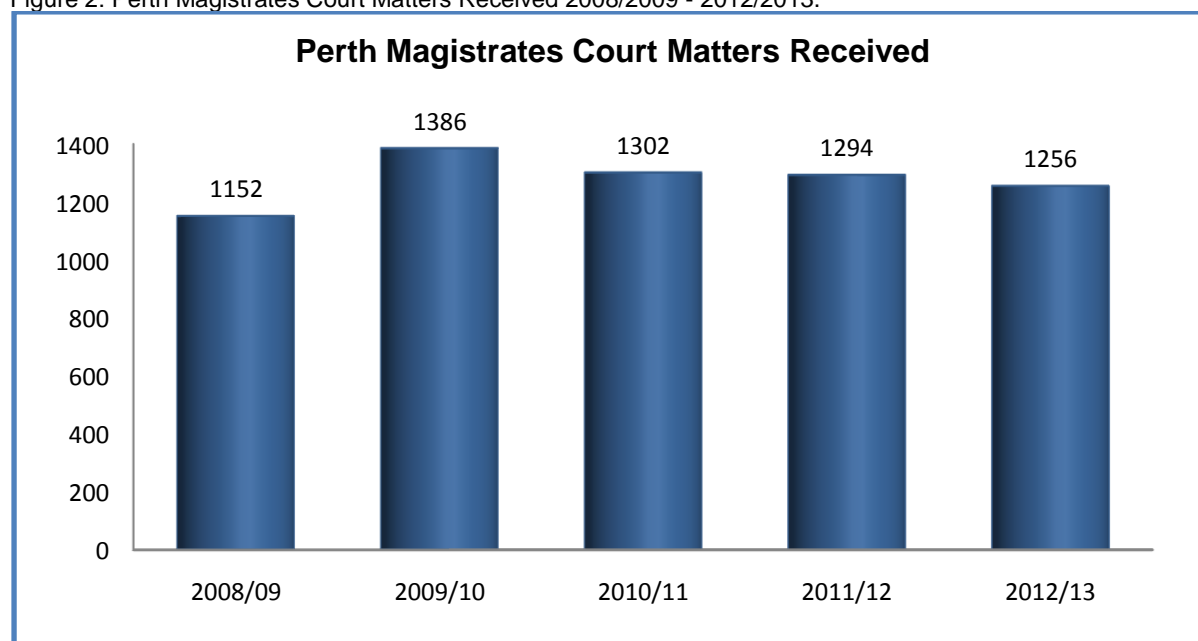
In 2012/2013 the ODPP received 1,256 criminal cases in the Perth Magistrates Court, marginally less than the previous year. The following graph illustrates that the number of cases managed by the ODPP in this Court in recent years has been relatively stable. The sharp increase in 2009/2010 was due to a change in process whereby matters originally dealt with in outer metropolitan Magistrates Courts were centralised to the Perth Magistrates Court and placed under ODPP management.

During 2012/2013 the ODPP was highly active in the Perth Magistrates Court, appearing on more than 2,500 separate disclosure committal hearings.

During 2012/2013 the ODPP was instrumental in ensuring that 201 cases, for varying reasons, were dealt with in the Magistrates Court and not committed to the District Court. This delivered savings to the State and the accused and ensured that these matters were more effectively and expeditiously resolved at the appropriate court level.

In addition to the above, 485 cases were committed to the District Court for sentence following a plea of guilty in the Magistrates Court and a further 486 cases were committed for trial in the District Court following a plea of not guilty.

Figure 2: Perth Magistrates Court Matters Received 2008/2009 - 2012/2013.



## Stirling Gardens Magistrates Court

This specially convened Magistrates Court deals only with criminal charges which would ordinarily be committed to the Supreme Court. The ODPP's intervention at this early stage ensures that these serious cases are carefully scrutinised before committal.

In 2012/2013 the number of cases commencing in the Stirling Gardens Magistrates Court increased by 21%, with a significant increase in homicide cases. Of the 247 cases which were concluded in the Stirling Gardens Magistrates Court phase in 2012/2013, 26 were either dealt with directly within that Court or were referred to the Perth Magistrates Court for determination. The ODPP's early involvement ensured that these matters were appropriately resolved in the Magistrates Court jurisdiction without the additional cost to the State and the accused in having the matters committed to the Supreme Court.

A further 31 matters were committed to the District Court for sentence or trial, rather than to the Supreme Court and 189 matters were committed to the Supreme Court for sentence following a plea of guilty (141 matters) or for trial (48 matters) where the accused entered a plea of not guilty.

Table 3: Stirling Gardens Magistrates Court Outcomes 2008/2009 - 2012/2013.

STIRLING GARDENS CASES	2008/09	2009/10	2010/11	2011/12	2012/13
Cases concluded in SGMC	21	28	20	16	17
Cases remanded to Magistrates Court	21	23	19	5	9
<b>Concluded cases</b>	<b>42</b>	<b>51</b>	<b>39</b>	<b>21</b>	<b>26</b>
Cases Committed to District Court	17	15	31	17	31
Cases Committed to Supreme Court	143	116	136	165	189
<b>Committed cases</b>	<b>160</b>	<b>131</b>	<b>167</b>	<b>182</b>	<b>221</b>
<b>TOTAL CASES</b>	<b>202</b>	<b>182</b>	<b>206</b>	<b>203</b>	<b>247</b>

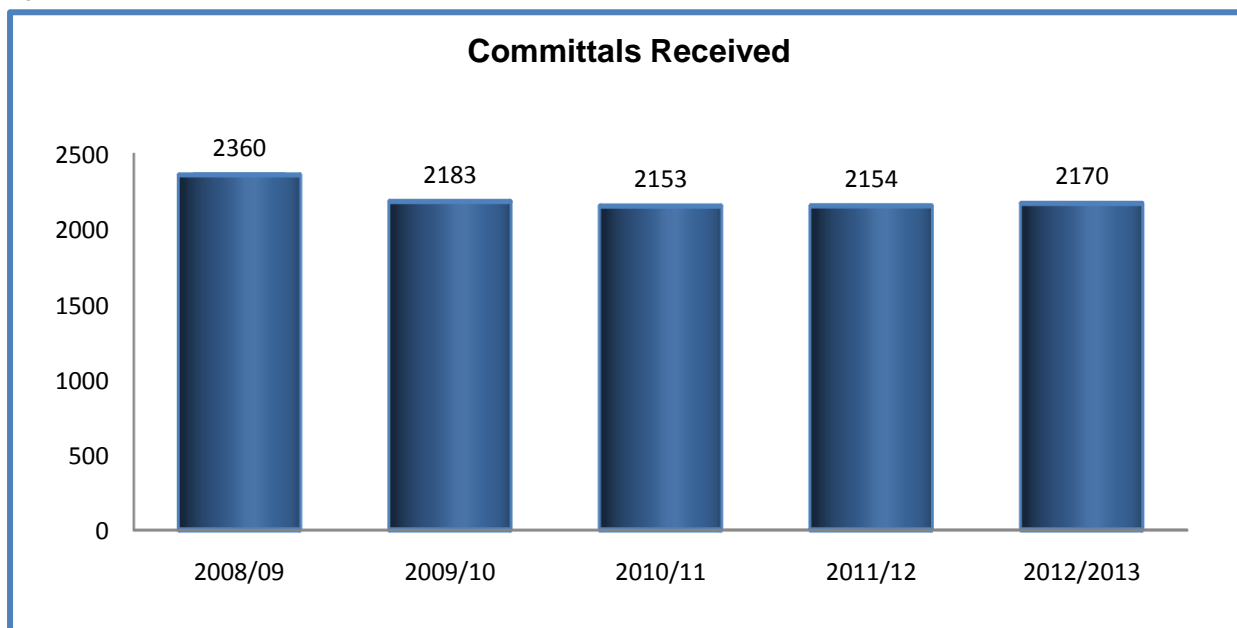
## District and Supreme Courts

### Committals

One measure of the workload of the ODPP is the number of cases committed to the District or Supreme Court for trial or sentence.

The following graph shows that the number of committal cases received by the ODPP has remained reasonably constant over the past five years. By its work in the Perth Magistrates Court and the Stirling Gardens Magistrates Court the ODPP is involved in many of these cases at the pre-committal stage.

Figure 4: District and Supreme Court Committals 2008/2009 - 2012/2013



Committals may come from prosecutions commenced by WA Police in either metropolitan or regional Magistrates Courts. The broad source areas in 2012/2013 were:

- Metropolitan courts: 1660 (76.5%)
- Regional courts: 510 (23.5%)

A committal may involve more than one accused and more than one offence against each accused. The 2,170 committal cases received by the ODPP in 2012/2013 involved 2,317 accused people charged with over 7,500 individual offences. The ODPP is required to review each one of those offences.

## Committals – Offence Types

The broad breakdown of offences covered in the committals received during 2012/2013 was:

Table 5: District and Supreme Court Offences by Type 2012/2013.

BROAD OFFENCE TYPE	NUMBER	%
Arson	16	0.2%
Assaults (including GBH)	1053	13.9%
Dishonesty (including stealing, fraud)	2097	27.7%
Drug Offences	1245	16.5%
Homicide and Manslaughter	74	1.0%
Firearm Offences	134	1.8%
Property Offences (including burglary, damage)	1025	13.6%
Public Disorder	165	2.2%
Robbery	212	2.8%
Sex Offences	1530	20.3%
<b>TOTAL</b>	<b>7,551</b>	<b>100.0%</b>

## Trials Listings and Outcomes– District and Supreme Courts

While a significant proportion of criminal cases are resolved with the accused pleading guilty and being sentenced, in many cases the accused will exercise their right to plead not guilty, thereby requiring the State to prove its case at trial.

Trials listed for hearing in the District and Supreme Courts consume a significant proportion of the ODPP's resources as the pre-trial preparation process is intensive for State Prosecutors and support staff.

The following table shows that the number of trials listed in the District and Supreme Courts has been steadily declining over the past five years. That trend continued in 2012/2013 with 814 trials listed, this being down by 50 (or -5.8%) on the previous year.

Given the significant cost to the criminal justice system associated with each criminal trial, this downward trend in the number of listed trials represents a good outcome for the State. To a significant extent this outcome is attributable to the ODPP's strategies of early intervention and thorough case management.

A significant number of matters listed for trial will not proceed to trial. The reasons for trials not proceeding are varied and include the accused pleading guilty prior to the trial, the prosecution discontinuing the matter, court resources not being available or issues arising from the unavailability of witnesses or the accused. These are common themes in all jurisdictions across Australia.

Fifty per cent of listed trials did not proceed in 2012/2013, a similar outcome to 2011/2012. The main reasons for trials not proceeding were the accused pleading guilty before the trial

(45.0%); upon an application by either the State or defence (30.2%) and the unavailability of court facilities, witnesses or the accused (13.3%).

The cancellation of a trial will not adversely affect court listings if the court is given sufficient notice to permit it to reschedule other matters.

Consistent with the decrease in the number of trials listed in 2012/2013, the number of cases actually proceeding to trial in the District and Supreme Courts also decreased – down by 22 trials (or -5.1%) on the previous year. This was also consistent with a longer term trend of declining trial numbers over the past five years. Given the significant resources required for a criminal trial to proceed in the superior courts, a decrease in trial numbers benefits most stakeholders in the criminal justice system.

The ODPP remains committed to initiatives that avoid, where appropriate, a case proceeding to trial and working with the wider criminal justice system toward achieving those outcomes.

In 2012/2013 the ODPP prosecuted 407 trials, with 373 of these trials delivering either a conviction or an acquittal. Over 64% of accused people put on trial were convicted of one or more of the offences brought against them. This conviction rate reflects very sound ODPP pre-trial assessment and trial advocacy.

Table 6: District and Supreme Courts Trial outcomes 2008/2009 to 2012/2013.

TRIALS	2008/09	2009/10	2010/11	2011/12	2012/13
Trials listed	1125	987	842	864	814
Trials Proceeding	482	438	391	429	407
Percentage of trials proceeding	43%	44%	46%	49%	50%
Convictions	270	233	223	270	241
Acquittals	169	168	145	119	132
Hung jury, mistrial or other	43	37	23	40	34
CONVICTION RATE AFTER TRIAL	61.5%	58.1%	60.6%	69.4%	64.6%

## Trial Durations – District and Supreme Courts

Criminal trials prosecuted by the ODPP vary considerably in length, depending on a range of factors including the nature, number and complexity of the charges brought against the accused, the number of co-accused, the nature of the evidence and the number of State and defence witnesses called to give evidence.

In 2012/2013 the average duration of trials prosecuted by the ODPP was 3.8 days. This was up slightly from the 3.7 day average experienced in the previous year. The longest trial involved 29 court sitting days.

## **Trial Examples – District and Supreme Courts**

Lengthy and complex criminal trials are particularly demanding on the resources of the ODPP and the wider criminal justice system. Complex trials involve not only substantial amounts of time spent in court, but also require the assembling of teams of prosecutors and support staff to undertake significant pre-trial preparation work.

In 2012/2013 the ODPP was required to manage a number of lengthy and complex trials in the Supreme and District Courts, examples of which included:

The accused was charged with four counts of possessing child pornography and appeared in the first of what proved to be two District Court trials in October 2012. This trial took 10 court sitting days, with the State relying on the evidence of 10 witnesses. At the conclusion of the trial the jury was unable to reach a unanimous verdict and therefore the outcome was a hung jury.

The second trial was held in February 2013 and proceeded for 16 sitting days with the State calling 14 witnesses. At the conclusion of this trial the jury found the accused guilty of all four counts.

The ODPP conducted a trial in the Supreme Court involving two accused each charged with murder. The trial took 20 sitting days with the State naming 50 witnesses to give evidence. At the conclusion of the trial the jury found both accused guilty.



## Overall Disposition of Cases – District and Supreme Courts

During 2012/2013, 1,996 criminal cases prosecuted by the ODPP were finalised. For the reasons mentioned earlier in this report, these cases will not necessarily correspond with the new cases received during the reporting year. The broad outcomes of the concluded cases were:

Table 7: District and Supreme Courts Disposition of Cases 2012/2013.

DISPOSITION OF CASES	NO. OF CASES	%
Sentenced	1520	76.1
Acquitted	130	6.5
Discontinued	269	13.5
Remitted to the Magistrates Court	77	3.9
<b>TOTAL</b>	<b>1996</b>	<b>100.0%</b>

## Overall Conviction Rate – District and Supreme Courts

The ODPP's overall conviction rate in 2012/2013, taking into account convictions recorded following an accused person's plea of guilty or conviction after trial, and excluding matters discontinued or remitted to the Magistrates Court, was 92.1%.

# Children's Court

## Cases Before Magistrates and the President

During 2012/2013 the ODPP Children's Court team managed over 2,600 new cases before the Magistrates. This continued a downward trend over the past five years. The more serious criminal charges brought against children are heard before the President of the Children's Court. The number and types of cases received by the ODPP for prosecution in the President's Court varies from year to year and depends on offences originally charged by the WA Police. The table below shows that the number of cases received by the ODPP for prosecution before the President has also fallen in the past two years.

Table 8: Children's Court New Cases 2008/2009 - 2012/2013.

CASES RECEIVED	2008/09	2009/10	2010/11	2011/12	2012/13
Cases Before Magistrates*	3,770	3,649	3,488	2,979	2,620
Cases Before The President	215	252	263	192	164

*\*Note: Magistrates' data provided by the Perth Children's Court. Cases include matters brought before the court on bench warrants and breach actions.*

## Trials Before The President

When an accused pleads not guilty to a serious offence the case will proceed to a trial before the President of the Court. Generally, similar processes apply as to trials in the District or Supreme Courts, with the notable difference that there is no jury involvement.

In 2012/2013 there was a decrease in both the number of trials listed before the President (down 22 or -34.4%) and the number of trials proceeding (down 13 or -39.4%). This decline reflects the decrease in the number of serious charges being referred to the ODPP by the WA Police. Of the trials that did proceed, the ODPP recorded a conviction rate of 80%.

Table 9: Children's Court President Trial Outcomes 2008/2009 - 2012/2013.

TRIALS	2008/09	2009/10	2010/11	2011/12	2012/13
Trials Listed	70	51	47	64	42
Trials Not Proceeding	64	41	28	31	22
Trials Proceeding	6	10	19	33	20
Percentage of Trials Proceeding	8%	20%	40%	51%	48%
Convictions	4	5	11	24	16
Acquittals	2	5	8	9	4
CONVICTION RATE AFTER TRIAL	66.6%	50.0%	57.8%	72.7%	80.0%

## APPEALS

In response to significant increases in the number of Court of Appeal cases being initiated in Western Australia, in 2011/2012 the ODPP's Appeals Team was expanded to take on the management of all appellate work within the ODPP. The key goal of this restructure was to better manage this critical and growing part of the ODPP's legal practice and to provide improved assistance to the Court of Appeal. A flow-on benefit was to relieve busy trial team prosecutors, as much as possible, from having to manage appeal files and thus allow them to concentrate on conducting prosecutions.

The expansion of the Appeals Team was made possible through additional 6.0 FTE and associated salary funds being made available by the Government during the 2011/2012 budget round.

The number of new Court of Appeal cases (which represent the largest portion of the ODPP's appellate practice) commenced in 2012/2013 remained near the high levels experienced in 2011/2012. There was a decrease in the number of single Judge appeals in 2012/2013, while the number of High Court appeals increased.

### Single Judge Appeals

Single Judge appeals arise from cases prosecuted in the Magistrates Court where the offence is one that could have been dealt with on indictment. These matters are generally prosecuted in the Magistrates Court by the WA Police, with the ODPP taking responsibility for any appeals.

The number of new appeals lodged in 2012/2013 decreased from the high levels sustained in 2010/2011 and 2011/2012, however remained at a level comparable to the number of appeals commenced in 2008/2009 and 2009/2010.

Table 10: Single Judge Appeal Cases Commenced 2008/2009 - 2012/2013.

SINGLE JUDGE APPEALS		2008/09	2009/10	2010/11	2011/12	2012/13
STATE	Acquittal	0	0	0	0	0
	Sentence	0	1	0	0	0
	Other	4	0	0	0	2
	<b>Total</b>	<b>4</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>2</b>
ACCUSED	Conviction	15	12	24	23	17
	Sentence	21	26	23	26	17
	Other	1	1	4	8	3
	<b>Total</b>	<b>37</b>	<b>39</b>	<b>51</b>	<b>57</b>	<b>37</b>
<b>TOTAL APPEALS</b>		<b>41</b>	<b>40</b>	<b>51</b>	<b>57</b>	<b>39</b>

During 2012/2103, 43 Single Judge appeals involving the ODPP were finalised. In relation to the 42 concluded appeals which were lodged by accused, 24 (57.1%) were allowed, 17 (40.5%) were dismissed and one was discontinued. The State was successful in the one appeal initiated by the ODPP which was determined during 2012/2013.

## Court of Appeal

Court of Appeal cases arise from criminal cases prosecuted by the ODPP in the District or Supreme Courts. The majority of appeals are lodged against the sentence imposed.

The table below highlights that the substantial increase in the number of new appeals commenced during 2011/2012 was sustained in 2012/2013. This resulted in significant workload pressures on the ODPP. The table also confirms that the vast majority, of appeals (over 90%) are initiated by an accused.

Table 11: Court of Appeal Cases Commenced 2008/2009 - 2012/2013.

COURT OF APPEAL		2008/09	2009/10	2010/11	2011/12	2012/13
STATE	Acquittal	0	1	0	0	0
	Sentence	9	11	6	14	15
	Other	1	3	2	1	3
	<b>Total</b>	<b>10</b>	<b>15</b>	<b>8</b>	<b>15</b>	<b>18</b>
ACCUSED	Conviction	60	53	60	78	76
	Sentence	91	72	113	140	131
	Other	5	14	14	12	13
	<b>Total</b>	<b>156</b>	<b>139</b>	<b>187</b>	<b>230</b>	<b>220</b>
<b>TOTAL APPEALS</b>		<b>166</b>	<b>154</b>	<b>195</b>	<b>245</b>	<b>238</b>

During 2012/2013, 224 Court of Appeal cases involving the ODPP were concluded.

In relation to the 212 concluded appeals lodged by accused, only 26 (12.3%) appeals were successful, while 129 (60.8%) were dismissed and 57 (26.9%) were discontinued.

In relation to the 12 concluded appeals initiated by the ODPP on behalf of the State, seven appeals (58.3%) were successful, while only two (16.7%) were dismissed. Three (25.0%) State appeals were discontinued.

## High Court Appeals

High Court appeals involving the ODPP arise from appeals initiated against decisions made in the WA Court of Appeal where one of the parties, but invariably the accused, applies for leave to appeal.

The table below shows a significant increase in the number of High Court appeal cases lodged by accused in 2012/2013.

The State, through the ODPP, has not initiated any High Court appeals during this five year period.

Table 12: High Court Appeals Commenced 2008/2009 - 2012/2013.

HIGH COURT	2008/09	2009/10	2010/11	2011/12	2012/13
Accused Appeals	3	10	14	10	16

## EXTRADITIONS

Pursuant to s14 of the *Director of Public Prosecutions Act 1991* the ODPP receives a number of applications from the WA Police each year requesting that action be initiated to secure an accused's extradition to Western Australia. Extraditions may be sought when an accused person leaves Western Australia before they have been charged with an offence, after a charge has been laid but before the matter is finally dealt with, or in some cases, when a convicted person has escaped from legal custody.

Since February 2010 requests for the extradition of prisoners who are subject to a Return to Prison Warrant issued pursuant to the *Sentence Administration Act 2003* have been determined by the WA Police. Previously these matters were submitted to the ODPP for consideration.

In 2012/2013, 22 applications were finalised by the ODPP. Of these, 14 were approved, three declined and five were withdrawn. Twenty seven applications were under consideration as at 30 June 2013.

Table 13: Approved Extraditions 2008/2009-2012/2013

REQUESTS APPROVED	2008/09	2009/10	2010/11	2011/12	2012/13
TOTAL	28	45	22	18	14

## DANGEROUS SEXUAL OFFENDERS

The *Dangerous Sexual Offenders Act 2006* allows applications to be made to the Supreme Court with respect to serious sexual offenders who are at, or near, the end of their sentence. Applications may be made for the continued detention or ongoing supervision of an offender who may otherwise continue to present a serious danger to the community. The first applications were made by the ODPP in 2006.

### Ongoing Management of Earlier Applications and Orders

At the start of 2012/2013, 14 offenders were the subject of continuing detention orders (CDO) under the Act, while 18 further offenders were the subject of supervision orders (SO). There were also four applications previously filed by the ODPP still to be determined.

Of the 14 offenders already subject to a CDO, 12 were required to have their detention reviewed in 2012/2013. In eight cases detention was continued, in three cases a supervision order was made, while one review was part-heard.

Of the three offenders released to supervision during the period, one was returned to a continuing detention order following the ODPP's application under Part 2 Division 4, alleging contravention of the supervision order.

Of the 18 offenders on supervision orders at the start of 2012/2013, two offenders were at that time in custody. The first remains in custody serving a sentence for a non-sexual offence committed while on supervision. The second was on remand with respect to an alleged offence committed prior to the finalisation of the original proceedings. He was sentenced in September 2012 and released again to supervision, the sentence imposed having been served during the extensive period of remand. Of the remaining 16 supervisees at the start of the period, 14 remained in the community on supervision orders at the end of the reporting period, with one being returned to a continuing detention order following the ODPP's application alleging contravention of the supervision order. The five year supervision order of another expired without incident.

Since March 2011, section 40A of the Act has provided an offence provision for a contravention of a supervision order. Summary proceedings can be commenced in the Magistrates Court for minor contraventions, while the Supreme Court can impose a sentence for a more serious contravention. The previous provisions provided only for amendment of the order, or detention only where risk was subsequently elevated.

In 2012/2013 a number of section 40A prosecutions were successfully concluded, with ten supervisees receiving penalties, either in the Magistrates Court (of suspended imprisonment, orders or fines) or in the Supreme Court (in conjunction with detention orders) of immediate imprisonment or fines.

### Part-Heard and New Applications 2012/2013

Of the four new applications for orders pending at the start of 2012/2013, three resulted in continuing detention orders and one resulted in a supervision order.

During 2012/2013 the ODPP made five new applications under the Act. Only two of these had been determined by the end of the reporting period – both resulting in continuing detention orders. Of the remaining three, one was part-heard with the offender in interim

detention, while the other two were pending final hearings with interim detention orders to take effect upon the expiry of the offenders' sentences.

## Appeals

No appeals arising under the Act were decided in 2012/2013. An appeal challenging the validity of the 2011 amendments, filed in 2011/2012, was part-heard at the end of the reporting period. An appeal filed by an offender who had been returned to custody following a contravention was yet to be heard.

## Future Management of Matters

The number of offenders subject to a CDO or SO is growing cumulatively each year, placing ever increasing resourcing strains on the ODPP. At the end of the reporting period 37 offenders were either detained under CDOs (18 offenders) or at large in the community subject to supervision orders (19 offenders). This represents over a ten-fold increase from the three offenders subject to orders at the end of 2006/2007.

Table 14: *Dangerous Sexual Offenders Act* applications 2006/2007-2012/2013.

APPLICATIONS	2006/07	2007/08	2008/09	2009/10	2010/11	2011/12	2012/13
New Applications	13	4	8	5	9	4	5
Applications Pending	9	3	5	2	2	4	3
Offenders Subject to Ongoing Orders	3	12	16	24	30	32	37

## Legislative Developments

Substantial amendments to the provisions relating to supervision orders, to provide for the mandatory GPS monitoring of existing and future supervisees, were made with effect from 1 February 2013. These amendments, for which the ODPP was not the instructing agency, are predicted to result in a greater number of offenders being released to supervision, and to increase the number of contravention allegations, both having impacts on future resources.

The ODPP continues to work co-operatively with the Department of Corrective Services and the Sex Offender Management Squad of the WA Police in carrying out functions under the Act.

# CONFISCATION OF ASSETS

## Freezing Notices and Freezing Orders

Freezing Notices and Freezing Orders are used to prevent property from being disposed of while a criminal investigation or prosecution is being carried out or until the conclusion of confiscation proceedings. The WA Police may apply under the *Criminal Property Confiscation Act 2000* (the Act) for a Freezing Notice from a Magistrate or Justice of the Peace and the Director of Public Prosecutions may apply for a Freezing Order from the court. The table below shows that the number of notices and orders obtained each year since 2008/2009 has remained relatively constant.

Table 15: Freezing Notices and Freezing Orders Obtained 2008/2009-2012/2013.

NOTICES & ORDERS OBTAINED	2008/09	2009/10	2010/11	2011/12	2012/13
Notices	263	231	218	247	249
Orders	17	13	3	14	12
<b>TOTAL</b>	<b>280</b>	<b>244</b>	<b>221</b>	<b>261</b>	<b>261</b>

## Objections to Freezing Notices and Freezing Orders

Individuals who claim an interest in property frozen under a notice or order may object to the confiscation of that property. Generally objections must be lodged within 28 days and the person objecting must establish that the property was not crime derived, not used for criminal activity, or was not the property of the person subject to the investigation or prosecution. The majority of objections are made by third parties (such as a mortgagee, a spouse or a person with a beneficial interest) who claim an interest in the property. A single Freezing Notice or Order may give rise to a number of objections by a variety of parties.

During 2012/2013 266 objections were received. The table below illustrates the number and outcome of objections lodged annually. Due to the timing of matters coming before the courts, objections lodged in one financial year may not be determined until a subsequent year.

Table 16: Objections to Freezing Notices and Freezing Orders received and finalised 2008/2009 2012/2013.

OBJECTIONS	2008/09	2009/10	2010/11	2011/12	2012/13
Received	261	251	243	308	266
Dismissed	110	126	109	74	84
Successful	109	147	132	131	107
No Determination	16	18	10	54	35
<b>FINALISED</b>	<b>235</b>	<b>291</b>	<b>251</b>	<b>259</b>	<b>226</b>



## Declared Drug Traffickers

A significant proportion of confiscated property arises from the conviction of an accused person for a serious drug related offence and the subsequent declaration that the person is a drug trafficker.

Upon a declaration that a convicted person is a drug trafficker, all property relating to that person is forfeited to the State. In 2012/2013, 61 people were declared to be drug traffickers with \$5.77 million being paid into the Confiscation Proceeds Account (the Account) from the property of declared drug traffickers.

The table below illustrates that there are significant fluctuations in both the number of declarations made and the amounts paid to the Account in any given year. This is due to a range of factors including offender arrest rates, the nature and value of property seized and the prevailing economic climate. Given the time lag in selling forfeited property there will not be a direct link between the number of declarations made in the relevant year and the amount of monies realised.

Table 17: Drug Trafficker Declarations and Payments to Confiscation Proceeds Account 2008/2009-2012/2013.

DRUG TRAFFICKERS	2008/09	2009/10	2010/11	2011/12	2012/13
DECLARATIONS MADE	120	110	82	64	61
AMOUNT RECOVERED	\$6.07m	\$10.05m	\$5.19m	\$5.23m	\$5.77m

## Crime Used and Crime Derived Property

Where property is frozen on crime used or crime derived grounds and any objections are resolved, the ODPP may apply to the court for a Declaration of Confiscation, which in essence means that the property is forfeited to the State. This area of proceeds of crime work contributes the second greatest quantum of payments to the Account.

Table 18: Crime Used/Crime Derived and Payments to Confiscations Proceeds Account 2008/2009-2012/2013.

CRIME USED or CRIME DERIVED	2008/09	2009/10	2010/11	2011/12	2012/13
DECLARATIONS MADE	20	34	55	40	66
AMOUNT RECOVERED	\$1.24m	\$3.21m	\$1.54m	\$1.54m	\$2.99m

## Other Confiscations Proceedings

The ODPP initiates a range of other proceeds of crime actions with the aim of deterring people from using property they do not own in illegal activities or to deprive people of the benefits of illegal activities. These proceedings include Crime Used Property Substitution applications, Unexplained Wealth applications and Criminal Benefits applications.

The following table illustrates the number of applications and declarations made in the above proceedings and the amounts these have realised into the Account.

Table 19: Other Confiscation Proceedings 2008/2009-2012-2013.

OTHER CONFISCATIONS PROCEEDINGS		2008/09	2009/10	2010/11	2011/12	2012/13
CRIME USED SUBSTITUTION	APPLICATION	3	4	1	0	0
	DECLARATION	0	1	0	2	1
UNEXPLAINED WEALTH	APPLICATION	5	3	0	0	1
	DECLARATION	2	1	4	0	2
CRIMINAL BENEFITS	APPLICATION	1	0	1	0	0
	DECLARATION	1	1	0	1	0
AMOUNT RECOVERED		\$0.52m	\$0.18m	\$0.60m	\$0.75m	\$0.6m

## Overview of Payments to the Confiscation Proceeds Account

Since the commencement of the Act in January 2001 over \$71 million has been stripped from people engaged in criminal activities and has been paid into the Account.

The table below shows the total amounts derived annually from all confiscation actions taken by the ODPP and paid into the Account in the five years since 2008/2009.

Under the Act the Attorney General can make grants from the Account for specified purposes. The Department of the Attorney General administers a community grants program on behalf of the Attorney, seeking and assessing applications from eligible organisations. Grants may include funding the development and delivery of programs to prevent or reduce drug-related criminal activity and the abuse of prohibited drugs and to provide support services and assistance to victims of crime.

In addition to the payments made into the Account during 2012/2013 the ODPP also managed a number of matters under the *Misuse of Drugs Act 1981* which resulted in revenue of \$90,170 being paid into the State's Consolidated Fund.

Table 20: Payments to Confiscations Proceeds Account 2008/2009-2012/2013.

YEAR	2008/09	2009/10	2010/11	2011/12	2012/13
AMOUNT	\$7.83m	\$13.43m	\$7.33m	\$7.52m	\$9.36m

## Legislative Changes

There were several legislative changes during the year which are relevant to the work of the ODPP. Principal changes included:

- On 1 August 2012 the [Electronic Transactions Act 2011](#) commenced providing a regulatory framework in Western Australia for electronic transactions and communications.
- New provisions of the [Road Traffic Act 1974](#) commenced on 1 August 2012 introducing on the spot disqualification for driving with blood alcohol levels in excess of 0.08 or failing to provide a breath, blood or urine sample when required to do so.
- On 26 September 2012 the [Criminal Appeals Amendment \(Double Jeopardy\) Act 2012](#) commenced. Under the new legislation people acquitted of serious offences can face a retrial if fresh and compelling evidence comes to light. This only applies to the most serious offences under WA law – where the penalty is life imprisonment or imprisonment for 14 years or more. The Act stipulates that Police may not start investigating an acquitted person without the permission of senior legal officers such as the Attorney General or the Director of Public Prosecutions.
- On 21 November 2012 the [Evidence and Public Interest Disclosure Amendment Act 2012](#) commenced allowing journalists to be protected from revealing their sources before the courts, the Corruption and Crime Commission and other legal entities. The protection under the Act, however, does not extend to parliamentary proceedings.
- On 29 November 2012 the [Classification \(Publications, Films and Computer Games\) Enforcement Amendment Act 2012](#) commenced and introduced an R 18+ classification for computer games. The amendments restrict the demonstration, display, sale, supply and advertising of R 18+ computer games and make it illegal to allow children access to adults-only computer games. These amendments mirror Commonwealth amendments that came into effect on 1 January 2013.
- Amendments to the [Road Traffic Act 1974](#) commenced on 12 December 2012 creating mandatory minimum penalties for offences committed when evading pursuit by police. The amendments also give police better legal protections against prosecution for offences committed while they are engaged in pursuits or other forms of emergency driving.
- On 15 December 2012 the [Criminal Law Amendment \(Out of Control Gatherings\) Act 2012](#) commenced and created a new offence for a person who organises a gathering, or is the parent of a child who organises a gathering, that becomes out of control. The amendments also give greater powers to Police to shut down out of control gatherings (parties).
- On 20 December 2012 the [Sentencing Amendment Act 2012](#) commenced and sets a maximum discount of 25 % for a plea of guilty. The amendments require Courts to openly state the percentage discount they grant in recognition of a plea of guilty. The cap on the discount does not prevent the court from reducing the head sentence by reason of other legitimate mitigating factors.
- The [Courts Legislation Amendment Act 2012](#) commenced on 30 January 2013 to allow a Registrar to be able to deal with many preliminary aspects of a criminal court case, short of making findings that are reserved to a judicial officer. The amendments also make it clear that the District Court (and Court of Appeal) can extend time to appeal against decisions of the Magistrate's Court (and District Court respectively).

- On 30 January 2013 additional amendments to the [Misuse of Drugs Act 1981](#) commenced regarding drug paraphernalia offences. Amendments to the [Spent Convictions Act 1988](#) also came into effect at the same time to prescribe that a person must only wait three years before a conviction can be spent, or before they can apply to have a conviction spent, in relation to a drug paraphernalia offence section 7B(6) of the *Misuse of Drugs Act 1981*.
- On 1 February 2013 the [Dangerous Sexual Offenders Amendment Act 2012](#) commenced to impose curfew requirements on certain dangerous sexual offenders and to allow electronic monitoring of certain offenders.
- On 23 February 2013 amendments to the [Community Protection \(Offender Reporting\) Act 2004](#) commenced to increase penalties for offences of failing to comply with a protection order or reporting obligations, or providing false or misleading information; require that passwords accompany a reportable offender's email address or use of the internet; require reportable offenders to present their passports to police so that international travel can be monitored; require a reportable offender to notify police of any change in details regarding regular unsupervised contact with a child; require a reportable offender to provide details of any premises a reportable offender frequents for seven or more consecutive or non-consecutive days per year where children generally reside and include offences under sections 204A, 332 and 343 of the [Criminal Code](#) as 'reportable offences'.
- The [Criminal Investigation \(Covert Powers\) Act 2012](#) commenced on 1 March 2013 to provide statutory covert powers to the Western Australian Police, the Department of Fisheries and the Australian Crime Commission, and statutory protection for law enforcement operative's identity in Court. Amendments were also made to the [Witness Protection \(Western Australia\) Act 1996](#) to provide additional statutory protection to civilian witnesses in the State witness protection program.
- On 16 March 2013 amendments to the [Criminal Procedure Rules 2005](#) commenced to provide a Registrar with jurisdiction to find a person guilty or not guilty of an offence, to discharge an accused from a charge, to consent to the discontinuance of a charge where the accused does not consent, to stay a prosecution, to set aside a committal, and to find a person guilty of contempt of court. Amendments also allow a Registrar to refer a matter to a judge and outline appeals from decisions of a Registrar.

## Law Reform

The ODPP is regularly invited to make submissions and contribute to legislative reform. In this regard, in 2012/2013 the Office made submissions to:

- The Commonwealth Attorney General's review of counter-terrorism legislation.
- WorkSafe WA in relation to their public consultation regarding model Work Health and Safety regulations for Western Australia.
- The Western Australian Attorney General recommending an amendment to section 428 (possessing stolen or unlawfully obtained property) of the *Criminal Code* to make it an 'either-way' offence.
- The Mental Health Commission regarding public consultation on the *Mental Health Bill 2012* (second version – Green Bill).

The ODPP also regularly liaised with the Department of the Attorney General on policy, proposed legislation and Bills, including being consulted about:

- A draft Cabinet submission regarding amendments to the criminal law relating to unlawful acts causing harm to unborn children.
- Draft drafting instructions in relation to parental responsibility orders and treating serious juvenile offenders as adults.
- The possible introduction of a new criminal negligence offence for swimming pool deaths blamed on faulty gates and unfinished fences.
- A Cabinet submission to amend the *Dangerous Sexual Offenders Act 2006*.
- A review of domestic violence laws and in particular whether section 281 of the *Criminal Code* should be excluded in situations of family and domestic violence which result in the victim's death.
- A review of the services to victims of crime in Western Australia.
- The statutory review of sections 297 and 318 of the *Criminal Code* and prosecutions against public officers in prescribed circumstances.

## Inter Agency Co-operation

In 2012/2013 the ODPP assisted a number of other agencies with enquiries relating to criminal prosecutions and processes in Western Australia. These included:

- Providing information to the Director of Public Prosecutions South Australia, the Northern Territory Department of Justice and the Queensland Department of Justice and Attorney-General regarding Western Australia's 'one punch' homicide legislation under section 281 of the *Criminal Code*.
- Providing a copy of the Western Australian policy 'Evidence of Children and Special Witnesses – Guidelines for the use of closed-circuit TV' to the Director of Public Prosecutions South Australia.
- Providing details relating to the use of interpreters in criminal trials in Western Australia to the New Zealand Crown Solicitor.
- Liaising with the Western Australian Department of Infrastructure and Transport regarding prosecution of Australia's maritime transport security legislation.
- Providing information regarding summary prosecutions and appeals in Western Australia to the School of Law, La Trobe University, Victoria.
- Assisting the 20<sup>th</sup> anniversary review of the Gender Bias Taskforce Report assessment of the implementation of recommendations contained in Chapter 1 of the Report.
- Providing details of Western Australian policy and practice regarding child exploitation material to the Director of Public Prosecutions, Northern Territory.
- Assisting the Supreme Court of New South Wales with their enquiries about indictments in Western Australia.
- Assisting the Commonwealth Defence Abuse Response Taskforce with information regarding applicable Western Australian (historical) criminal law.
- Assisting the Western Australian Department for Communities with information to be included in a Sexual Assault Resource Booklet.
- Assisting Irish law reformers with information regarding the disclosure of counselling material in sexual offence trials in Western Australia pursuant to sections 19A-19M of the *Evidence Act 1906 (WA)*.

## Inter Agency Committees

During 2012/2013 the ODPP actively participated in a range of external committees principally established to promote improvements to the criminal justice system in Western Australia:

Committee	Purpose	ODPP Representative
Strategic Criminal Justice Forum	Consider high level strategic issues and formulate and implement policies and plans to meet the strategic goals of the criminal justice system.	Joe McGrath SC Director Bruno Fiannaca SC Deputy Director
Forensic Psychology Consultation Committee	Consider training to be provided for psychologists to become forensic psychologists.	Bruno Fiannaca SC Deputy Director
Children's Court of WA Interagency Committee	Facilitate communication and issue resolution among Court stakeholders.	Sean Stocks Team Manager
Confiscation Proceeds Account Committee	Provide advice to the Attorney General on the allocation of grants from confiscated funds.	Fiona Humphries Confiscations Lawyer
Drug Court Strategic Management Group	Oversee the strategic direction of the Drug Court.	Genevieve Cleary State Prosecutor
Drug Court Operational Committee	Resolve issues on the day-to-day operations of the Drug Court.	Genevieve Cleary State Prosecutor
Victims of Crime Reference Group	Advise Government on the needs and issues for victims of crime and to make recommendations to improve the criminal justice system.	Linda Keane State Prosecutor
Child Witness Committee	Deal with issues arising from children giving evidence in WA courts.	Amanda Burrows Senior State Prosecutor
Magistrates Court Liaison Committee	Facilitate communication and issue resolution between Magistrates Court stakeholders.	Brent Meertens Consultant State Prosecutor Ian Flynn Manager Committals
ODPP, VSS and CWS Liaison Committee	Improve services to witnesses and victims and crime and enhance inter-agency communication.	Julian Williams Manager Prosecution. Support Anthea Chambers Project Officer
PathWest/WAPOL/ODPP Joint Consultative Committee	Facilitate communication and issue resolution between the agencies in areas of mutual interest.	Matthew Bugg Director Legal Services Linda Petrusa Consultant State Prosecutor Justin Whalley Senior State Prosecutor
Sexual Assault Services Advisory Group	Improve processes for victims of crime and enhance inter-agency communication in sexual assault matters.	Amanda Burrows Senior State Prosecutor
State Witness Protection Committee	Consider applications for witnesses to be admitted to State Witness Protection Plans.	James Mactaggart Senior State Prosecutor
Interagency Cross Justice Working Group	Facilitate the alignment of IT systems and the sharing or exchange of information electronically and foster associated business improvements across justice agencies (WA Police, DCS, DotAG etc.).	Jeff Plunkett Director Corporate Services
Data Quality Working Group	Improve the exchange of information and data quality between justice agencies.	Julian Williams Manager Prosecution Support George Nastos Manager IT
Suitor's Fund Act Working Party	Review the <i>Suitors' Fund Act 1964</i> .	David Davidson State Prosecutor

## Law Society Committees

Throughout 2012/2013 a number of lawyers from the ODPP contributed positively to the Law Society of Western Australia through membership of a number of committees:

Committee	ODPP Representative
Ethics Committee	Joe McGrath SC Director
Taxation Committee	Fiona Humphries Confiscations Lawyer
Criminal Law Committee	David Davidson State Prosecutor (Convenor) Genevieve Cleary State Prosecutor
Commercial and Corporate Committee	David Davidson State Prosecutor
Mental Health and Wellbeing Committee	David Davidson State Prosecutor (Deputy Convenor)
In-house and Government Lawyers Committee	David Davidson State Prosecutor
Costs Committee	David Davidson State Prosecutor
Courts Committee	David Davidson State Prosecutor
Young Lawyers Committee	Kim Jennings State Prosecutor

## Legal Practice Board Committees

Committee	ODPP Representative
Legal Practice Board	Joe McGrath SC, Director Bruno Fiannaca SC, Deputy Director Robert Wilson, Senior State Prosecutor
Admissions and Registrations Committee	Joe McGrath SC, Director Robert Wilson, Senior State Prosecutor
Professional Affairs Committee	Bruno Fiannaca SC, Deputy Director



## **Business Improvement Projects**

The following are examples of some of a range of business improvement initiatives addressed by the ODPP during 2012/2013.

### **Revision of Human Resource Policies and Procedures**

During 2012/2013 a number of human resource policies and procedures were reviewed and updated.

While the number of grievances lodged by ODPP staff members has traditionally been very low, a more contemporary internal Grievance Policy was developed and associated training delivered for managers and staff members. The new policy aims to create an environment where grievances can be raised and dealt with informally and at the earliest possible opportunity so that grievances are resolved amicably and not escalated to formal grievances.

Comprehensive induction procedures were developed and rolled-out to ensure that all newly appointed ODPP staff members can quickly settle into the ODPP.

Substantial work was undertaken on the development of a new Performance Development System for the ODPP. The new system, which will be finalised and progressively rolled-out during 2013/2014, will have the flexibility to cater for the diverse range and level of positions in the ODPP.

Recognising the need to better manage leave from both the employer and staff member perspective, the ODPP developed a new Leave Management Policy. The new Policy also recognises the financial impact that significant leave accumulations can have on the State's financial position and provides practical strategies to address that issue.

### **Paralegal, Clerical and Secretarial Review**

Late in 2011/2012 the Director commissioned a review of the structure and roles of staff members employed to support prosecutors in the management of prosecutions. The review, which is being conducted internally, aims to improve productivity and the standard of support to prosecutors, standardise processes, promote accountability and provide an improved career path for support staff. While the review has taken longer to conclude than was anticipated, it will be finalised in 2013/2014.

### **Information Technology Support Team**

The ODPP concluded appointments to an expanded IT Support Team and in doing so gave practical recognition to the increasing impact of technology on the criminal justice system and the work of the ODPP. Improved IT support services were delivered within the ODPP at no net cost to government through the rationalisation of existing corporate support positions.

To meet business continuity requirements and to provide greater flexibility in environment configuration and administration, the ODPP server infrastructure was substantially virtualised during 2012/2013.

## **Transcription Contract**

The ODPP worked closely with the Department of the Attorney General and the Department of Finance to deliver a new contract for the transcription of evidentiary materials such as records of interview with an accused and crime scene recordings. The new contract was awarded to Auscript in May 2013. The ODPP looks forward to a mutually beneficial working relationship with Auscript over the coming years. To complement the new contract, the ODPP revised its internal policies and procedures in relation to transcribing evidentiary materials.

## **Strategic Asset Plan**

The ODPP worked co-operatively with the Department of Treasury to develop a ten year Strategic Asset Plan for the replacement of essential office equipment such as personal computers, laptops, servers, telephones, multifunction devices and other equipment critical to the delivery of prosecution services. The plan was approved by Government as part of the 2013/2014 budget round and will be progressively implemented.

## **External Complaints Policy and Procedures**

In May 2013 the ODPP adopted a revised Complaints Policy to ensure the effective management of any complaints that might be lodged by members of the community. Fortunately, as at the date of this report, the revised policy and procedures had not needed to be tested.

## **Decommissioning of the Office of Shared Services**

During 2012/2013 the ODPP worked in close co-operation with the Office of Shared Services (OSS) to plan the transition of human resources, personnel and payroll services and financial transaction services from the OSS to the ODPP. The ODPP also engaged with other agencies transitioning from the OSS to share experiences, and in some cases, resources.

The high degree of co-operation between the ODPP and OSS should ensure the smooth transfer of these responsibilities in November 2013. The ODPP is also looking forward to welcoming some OSS staff members who will be joining the ODPP during 2013/2014 to fill important new HR and finance roles.

## **Improved Justice Information Exchange**

The Courts' extensive Integrated Courts Management System (ICMS) project provides the potential for committal outcomes and other court data to be made available to the ODPP electronically. In 2012/2013 the ODPP worked with the Courts on this project which should enable the electronic exchange of case information between the Magistrates Court and the ODPP. This will facilitate improved delivery times of committal papers to the ODPP, especially from regional courts. This is the first stage of a longer term project to streamline processes and improve the electronic exchange of information among criminal justice agencies.

## Part 3 Disclosures and Legal Compliance

### Ministerial Directives

No directives were made by the Attorney General during 2012/2013.

### Other Financial Disclosures

#### Brief Out Expenditure

The workload demands on the ODPP are such that on occasions it needs to brief some court work to private barristers. The number of cases briefed in any year is dependent on a number of factors, principally court listings and the availability of in-house ODPP prosecutors.

The following table illustrates the consistency in the number and cost of cases briefed to private barristers since 2008/2009.

Table 21: Brief out expenditure 2008/2009-2012/2013.

BRIEF OUT EXPENDITURE	2008/09	2009/10	2010/11	2011/12	2012/2013
Matters Briefed	268	259	232	219	238
Average Cost Per Brief	\$4,123	\$5,538	\$5,338	\$6,489	\$6,026
<b>TOTAL COST</b>	<b>\$1,104,831</b>	<b>\$1,413,298</b>	<b>\$1,238,325</b>	<b>\$1,421,093</b>	<b>\$1,434,229</b>

*Note: The above data does not include payments made to the Office of the Director of Public Prosecutions, New South Wales for the prosecution and appeal of the matter The State of WA -v- L.P. Rayney.*

#### Ex Gratia Payments

No ex gratia payments were made during 2012/2013.

## Employment Statistics

The ODPP's approved Full Time Equivalent (FTE) staffing ceiling for 2012/2013 was 232.0. The average actual FTE usage over the course of the year was 232.3. As at 30 June 2013 the ODPP employed 252 paid staff members.

The following table provides a breakdown of staff between legal and non-legal staff and by gender as compared to the preceding financial year.

Table 22: Employment Statistics 2011/2012 & 2012/2013.

	2011-2012			2012-2013			
Classification Level	Gender		Total	Gender		Total	Salary Range (Per Annum)
	Female	Male		Female	Male		
Legal Staff							
Articled Clerk	4	0	4	4	0	4	\$62,894 -\$68,287
L1LG	3	1	4	4	0	4	\$78,314 - \$87,663
L2LG	16	6	22	13	4	17	\$84,805-\$102,060
L3LG	13	7	20	13	9	22	\$112,907-\$121,013
L4LG	11	12	23	12	11	23	\$127,877 - \$151,659
L5LG	11	13	24	11	14	25	\$166,405
L6LG	11	9	20	9	10	19	\$176,644 - \$198,603
L7LG	0	1	1	0	1	1	\$217,848
CSP	2	3	5	3	2	5	\$262,028-\$314,433
DLS	0	1	1	0	1	1	\$314,433
Deputy DPP	0	1	1	0	1	1	\$370,781
DPP	0	1	1	0	1	1	\$461,845
Legal Staff Total	71	55	126	69	54	123	
Non Legal Staff							
L1	4	2	6	3	2	5	\$22,111 - \$53,150
L2	33	17	50	33	14	47	\$54,814 - \$59,523
L3	28	9	37	32	10	42	\$62,894 - \$68,287
L4	15	3	18	13	4	17	\$67,933 - \$71,794
L5	3	3	6	4	3	7	\$78,782 - \$87,070
L6	2	2	4	1	4	5	\$87,939 - \$97,378
L7	2	2	4	1	3	4	\$107,200-\$114,897
L8	1	0	1	1	0	1	\$121,625 - \$132,105
L9	0	1	1	0	1	1	\$139,589 - \$150,081
Non Legal Staff Total	88	39	127	88	41	129	
TOTAL	159	94	253	157	95	252	

## Governance Disclosures

No disclosures are required under Treasurer's Instruction 903(14) for 2012/2013.

## Public Interest Disclosures

The ODPP did not receive any matters under the *Public Interest Disclosure Act* in 2012/2013, nor were any matters carried over from the previous financial year. The ODPP *Public Interest Disclosure Internal Procedures* and supporting information and documentation are maintained on the ODPP's internal Intranet.

## Other Legal Requirements

### Advertising

The *Electoral Act 1907* requires public sector agencies to publish in their annual report a statement detailing all expenditure incurred by, or on behalf of, the agency during the relevant reporting period in relation to advertising agencies, market research organisations, polling organisations, direct mail organisations and media advertising agencies.

Other than expenditure associated with advertising staff positions, the ODPP did not incur any expenditure in the above areas in 2012/2013.

### Disability Access and Inclusion Plan

The ODPP continues to implement priority strategies identified in the ODPP Disability Access and Inclusion Plan (DAIP) 2007-2012. Achievements in 2012/2013 included:

- Ongoing implementation, monitoring and reviewing of the DAIP.
- Conducting two disability awareness workshops attended by 24 staff members, bringing the total number of participants to 252.

### Public Sector Standards and Ethical Codes

The ODPP received one claim for a breach of the Public Sector Standards in 2012/2013. The claim was against the Employment Standard. After consideration of the issues the Public Sector Commissioner determined there was no breach of the standard and the claim was dismissed.

Significant action taken to monitor and ensure compliance in this area included training for selection panel members and the implementation of an improved induction process where information is provided to new employees on the Public Sector standards and ethical codes, and the consequences of non-compliance.

During 2012/2013 the ODPP Code of Conduct was reviewed, with a revised and more contemporary Code due to be released in 2013/2014. In the meantime, the current Code of Conduct and supporting information is maintained on the ODPP's intranet and is readily available to all staff members.

## Records Management Framework

The effective management of documents and case materials is fundamental to the ODPP achieving its vision of providing the highest quality prosecution service to the people of Western Australia. The ODPP is therefore committed to achieving best practice in records management and adopts recording keeping practices consistent with the *State Records Act 2000*.

The ODPP's Record Keeping Plan was approved by the State Records Commission in April 2011 and is valid for a period of five years. The ODPP's Retention and Disposal Schedule, approved in June 2010, also remains contemporary.

The ODPP continues to provide record keeping awareness training to all staff members through an on-line training tool and other information available on the ODPP's intranet. An induction program includes record keeping awareness and training specifically tailored to the role of each new staff member joining the ODPP. Improvements in records keeping training have resulted in a greater awareness of records management issues across the ODPP.

The ODPP continues to explore ways to improve its practices to capture, manage and secure documents electronically through its Justware Case Management System and its electronic document records management system, TRIM. Ongoing staff training in the use of Justware and TRIM is designed to improve effectiveness in electronic records management.

The effective and efficient management of the growing number of case materials in electronic format is undoubtedly a significant challenge for all criminal justice agencies. The ODPP will continue to work with other justice agencies on initiatives in this critical area.

## Government Policy Requirements

### Substantive Equality

The Public Sector Commissioner's Circular 23 of 2009 provides that all departments represented on the Strategic Management Council are required to report on their progress in implementing the Policy Framework for Substantive Equality. The ODPP is not represented on the Strategic Management Council and therefore is not required to report on this initiative. However, the ODPP is aware of the intent of the policy framework and when developing and reviewing policies and procedures is cognisant of meeting the diverse needs of the people of Western Australia.

### Occupational Safety, Health and Injury Management

The ODPP is committed to providing and maintaining a safe and healthy workplace that is free of work related injuries and diseases.

The incidence of workplace injury at the ODPP is very low, however, in the event that an injury occurs the ODPP is committed to ensuring that the matter is managed compassionately, quickly and effectively so that the injured staff member can remain at work or return to work at the earliest appropriate time.

The ODPP has documented this commitment in the ODPP Occupational Safety and Health Policy, the ODPP Injury Management Policy and the ODPP Injury Management Procedures. The ODPP also complies with the Occupational Safety and Health in the Western Australian Public Sector Code of Practice 2007.

The ODPP's operational management structure is based on a number of management, policy and operational committees. All staff are able to raise OSH issues with these committees. The committees address OSH issues and take the views of staff into account as the need arises.

The ODPP complies with the *Workers' Compensation and Injury Management Act 1981*. Comprehensive return to work plans have been developed for employees who require them.

The ODPP carries out regular internal reviews to ensure compliance with all requisite safety and health regulations. All incidents are thoroughly investigated by the ODPP Safety and Health Officer. However, due to the low number and disparate nature of the incidents over recent years no discernible patterns have been identified to warrant any significant changes to work practices.

The ODPP's performance against the 2012/2013 annual targets was:

Table 23: Occupational Health and Safety Statistics.2012/2013

INDICATOR	TARGET 2012/2013	ACTUAL
Number of fatalities.	Zero	Zero
Lost time injury/diseases (LTI/D) incidence rate.	Zero or 10 % reduction on the previous 3 years	Zero
Lost time injury severity rate.	Zero or 10 % improvement on the previous 3years	Zero
Percentage of injured workers returned to work within (i) 13 weeks and (ii) 26 weeks.	Greater than or equal to 80% return to work within 26 weeks	No relevant incidents
Percentage of managers trained in occupational safety, health and injury management responsibilities.	Greater than or equal to 80%	Zero*

*\*Note: The ODPP will be delivering Occupational Safety and Health training and Injury Management training to managers in 2013/2014.*

## Investing in People

The ODPP is committed to the professional development of its staff and continues to deliver on this commitment through the Workforce Development Team in combination with an in-house Training and Professional Development Committee and its two subcommittees – the Legal Training Subcommittee and the Legal Support Training subcommittee.

During 2012/2013 the ODPP delivered a comprehensive Continuing Professional Development (CPD) program which is available to all staff. A series of in-house sessions were delivered by a ODPP prosecutors, supplemented by a range of external speakers including:

- Members of the Judiciary.
- The WA Law Society.
- The Commonwealth Attorney General's Department.
- The Legal Practice Board.
- Forensic Analysis Co-ordination Team.
- WA Police.
- Academics from the University of WA and Curtin University.

The ODPP also built on reciprocal arrangements with the State Solicitor's Office, the Australian Securities and Investments Commission (ASIC), the Commonwealth ODPP and the WA Police whereby each agency extended invitations to relevant presentations they delivered.

The extensive range of internal CPD sessions, combined with the ODPP's funding of some external courses, ensured that all ODPP legal staff members had the opportunity to meet their professional development obligations under the ODPP's Continuing Professional Development Arrangements 2011-2016.

Some of the other key development opportunities during the year included:

- Events, seminars and initiatives focussing on mental health and wellbeing.
- A three day Sexual Offence Advocacy Course featuring a mix of information and practical advocacy exercises.
- A two day Advanced Cross Examination program delivered by the Australian Advocacy Institute.

2012/2013 also saw a strong focus placed on developing the leadership capabilities of ODPP staff members. The Office ran a 3½ day program for staff in supervisory and mid-level managerial positions and also launched a comprehensive six part leadership development program for 32 staff members in senior leadership roles. The leadership program, developed in conjunction with Dr Ron Cacioppe of Integral Development, will continue into 2013/2014.

The following table provides examples of the range of professional development and training activities supported by the ODPP in 2012/2013, and the number of staff who participated.



Table 24: Staff Training and Development 2012/2013.

ACTIVITY	TOTAL STAFF ATTENDANCE
Continuing Professional Development Seminars (40 internal seminars)	602 (Averaging 15 participants per seminar)
External CPD Seminars – Notre Dame University, Legal Aid WA and the WA Law Society	35
Advocacy Training Courses for Legal Staff	66
Conferences	7
GESB Seminars	15
International Women's Day Event	60
Articled Clerk Training	4
Leadership Development Program	32
Information Technology Training Sessions	20
First Aid and RiskCover Courses	2
Disability Awareness Workshops	27
Cross Cultural Awareness Sessions	27
HR Information Sessions	53
Mental Health First Aid Course	19

# Part 4 Key Performance Indicators and Financial Statements

## Independent Auditor's Report



### Auditor General

#### INDEPENDENT AUDITOR'S REPORT

To the Parliament of Western Australia

#### OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS

##### Report on the Financial Statements

I have audited the accounts and financial statements of the Office of the Director of Public Prosecutions.

The financial statements 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, Schedule of Income and Expenses by Service, Schedule of Assets and Liabilities by Service, and Summary of Consolidated Account Appropriations and Income Estimates for the year then ended, and Notes comprising a summary of significant accounting policies and other explanatory information, including Administered transactions and balances.

##### *Director's Responsibility for the Financial Statements*

The Director is responsible for keeping proper accounts, and the preparation and fair presentation of the financial statements in accordance with Australian Accounting Standards and the Treasurer's Instructions, and for such internal control as the Director determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

##### *Auditor's Responsibility*

As required by the Auditor General Act 2006, my responsibility is to express an opinion on the financial statements based on my audit. The audit was conducted in accordance with Australian Auditing Standards. Those Standards require compliance with relevant ethical requirements relating to audit engagements and that the audit be planned and performed 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 and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances. An audit also includes evaluating the appropriateness of the 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 that the audit evidence obtained is sufficient and appropriate to provide a basis for my audit opinion.

### ***Opinion***

In my opinion, the financial statements are based on proper accounts and present fairly, in all material respects, the financial position of the Office of the Director of Public Prosecutions at 30 June 2013 and its financial performance and cash flows for the year then ended. They are in accordance with Australian Accounting Standards and the Treasurer's Instructions.

### **Report on Controls**

I have audited the controls exercised by the Office of the Director of Public Prosecutions during the year ended 30 June 2013.

Controls exercised by the Office of the Director of Public Prosecutions are those policies and procedures established by the Director to ensure that the receipt, expenditure and investment of money, the acquisition and disposal of property, and the incurring of liabilities have been in accordance with legislative provisions.

#### ***Director's Responsibility for Controls***

The Director is responsible for maintaining an adequate system of internal control to ensure that the receipt, expenditure and investment of money, the acquisition and disposal of public and other property, and the incurring of liabilities are in accordance with the Financial Management Act 2006 and the Treasurer's Instructions, and other relevant written law.

#### ***Auditor's Responsibility***

As required by the Auditor General Act 2006, my responsibility is to express an opinion on the controls exercised by the Office of the Director of Public Prosecutions based on my audit conducted in accordance with Australian Auditing and Assurance Standards.

An audit involves performing procedures to obtain audit evidence about the adequacy of controls to ensure that the Office complies with the legislative provisions. The procedures selected depend on the auditor's judgement and include an evaluation of the design and implementation of relevant controls.

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

### ***Opinion***

In my opinion, the controls exercised by the Office of the Director of Public Prosecutions are sufficiently adequate to provide reasonable assurance that the receipt, expenditure and investment of money, the acquisition and disposal of property, and the incurring of liabilities have been in accordance with legislative provisions during the year ended 30 June 2013.

### **Report on the Key Performance Indicators**

I have audited the key performance indicators of the Office of the Director of Public Prosecutions for the year ended 30 June 2013.

The key performance indicators are the key effectiveness indicators and the key efficiency indicators that provide information on outcome achievement and service provision.

#### ***Director's Responsibility for the Key Performance Indicators***

The Director is responsible for the preparation and fair presentation of the key performance indicators in accordance with the Financial Management Act 2006 and the Treasurer's Instructions and for such controls as the Director determines necessary to ensure that the key performance indicators fairly represent indicated performance.

#### ***Auditor's Responsibility***

As required by the Auditor General Act 2006, my responsibility is to express an opinion on the key performance indicators based on my audit conducted in accordance with Australian Auditing and Assurance Standards.

An audit involves performing procedures to obtain audit evidence about the key performance indicators. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the key performance indicators. In making these risk assessments the auditor considers internal control relevant to the Director's preparation and fair presentation of the key performance indicators in order to design audit procedures that are appropriate in the circumstances. An audit also includes evaluating the relevance and appropriateness of the key performance indicators for measuring the extent of outcome achievement and service provision.

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

### **Opinion**

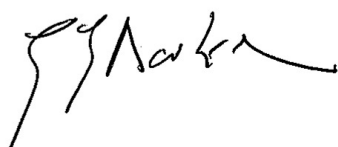
In my opinion, the key performance indicators of the Office of the Director of Public Prosecutions are relevant and appropriate to assist users to assess the Office's performance and fairly represent indicated performance for the year ended 30 June 2013.

### **Independence**

In conducting this audit, I have complied with the independence requirements of the Auditor General Act 2006 and Australian Auditing and Assurance Standards, and other relevant ethical requirements.

### **Matters Relating to the Electronic Publication of the Audited Financial Statements and Key Performance Indicators**

This auditor's report relates to the financial statements and key performance indicators of the Office of the Director of Public Prosecutions for the year ended 30 June 2013 included on the Office's website. The Office's management is responsible for the integrity of the Office's website. This audit does not provide assurance on the integrity of the Office's website. The auditor's report refers only to the financial statements and key performance indicators described above. It does not provide an opinion on any other information which may have been hyperlinked to/from these financial statements or key performance indicators. If users of the financial statements and key performance indicators are concerned with the inherent risks arising from publication on a website, they are advised to refer to the hard copy of the audited financial statements and key performance indicators to confirm the information contained in this website version of the financial statements and key performance indicators.



GLEN CLARKE  
DEPUTY AUDITOR GENERAL  
Delegate of the Auditor General for Western Australia  
Perth, Western Australia  
18 September 2013

# Certification of Key Performance Indicators



DIRECTOR OF PUBLIC PROSECUTIONS  
for WESTERN AUSTRALIA

## Certification of Key Performance Indicators

I hereby certify that the performance indicators are based on proper records, are relevant and appropriate for assisting users to assess the Office of the Director of Public Prosecutions' performance, and fairly represent the performance of the Office of Public Prosecutions for the financial year ending 30 June 2013.

A handwritten signature in black ink, appearing to read 'Joseph McGrath SC', with a stylized flourish at the end.

Joseph McGrath SC

Accountable Authority

Date: 16 SEPTEMBER 2013



# Key Performance Indicators

## INTRODUCTION

The core work of the Office of the Director of Public Prosecutions (ODPP) is to prosecute serious criminal offences in the Supreme Court, District Court, and before the Children's Court. The ODPP also appears if any matters proceed to appeal. In addition, the ODPP initiates confiscations actions pursuant to the *Criminal Property Confiscation Act 2000* and the *Misuse of Drugs Act 1981*, and also manages committal proceedings in the Perth Magistrates Court.

Assessing the work of a prosecuting service is inherently difficult. Offices of Director of Public Prosecutions in all jurisdictions play a critical role in their respective criminal justice systems and as such they do not operate in isolation. The performance of any ODPP is always influenced by a range of external factors, including the activities of other criminal justice agencies – principally the Courts and Police Services.

A challenge for all Offices of Director of Public Prosecutions is to develop a set of meaningful indicators that will reflect the key activities over which an ODPP has complete, or at least substantial, control.

The following notes may assist readers with the context of the WA ODPP's key performance indicators.

## ODPP MISSION

The ODPP's mission is to provide the people of Western Australia with a fair and just criminal prosecution service.

## ODPP OUTPUTS

### Output 1 – Criminal Prosecutions

This is the ODPP's principal output and represents its core work. The key outcome under this output is to provide a fair and just criminal prosecution service for the State of Western Australia.

Criminal offences prosecuted by the ODPP are to be principally found in the *Criminal Code* and the *Misuse of Drugs Act 1981* which together cover virtually the full range of offences dealt with by the District Court and Supreme Court on indictment.

An indictment is the formal document advising the court and the accused of the charges laid and without it the case cannot proceed through the court.

The work of prosecuting is carried out by State Prosecutors who are responsible to the Director of Public Prosecutions. They have the task of analysing briefs of evidence which have been prepared by the investigating police, assessing the accuracy of the charges and the evidence and determining whether the prosecution ought to proceed, and if so, the precise charges to be brought. Once the indictment is presented to the relevant court, State Prosecutors represent the State in court on every appearance by an accused, whether it is a proceeding for bail, plea, trial, sentence, or appeal.

Representing the State in criminal proceedings places obligations on State Prosecutors to adhere to legal principles and published guidelines issued under Section 24 of the *Director of Public Prosecutions Act 1991*. To prosecute fairly is to prosecute according to law and in accordance with the DPP's published *Statement of Prosecution Policy and Guidelines* which consolidates the relevant legal principles. Those principles are fundamental to our criminal justice system, are of universal application and govern matters on which the State is accountable to victims of crime, witnesses, accused persons, the court and the broader public interest.

While the ODPP must be accountable as a public sector agency, the paramount duty of State Prosecutors in every case is to the court and the administration of criminal justice.

## **Output 2 – Confiscation of Assets**

The role of the ODPP under this output is to confiscate and liquidate property acquired as a result of criminal activity, property used for criminal activity and the property of a declared drug trafficker. Much of this work is conducted in close co-operation with the Western Australian Police under the *Criminal Property Confiscation Act 2000*.

## **GOVERNMENT GOAL**

Greater focus on achieving results in key service delivery areas for the benefit of all Western Australians.

## **DESIRED OUTCOME**

That the people of Western Australia are provided with a fair and just criminal prosecution service.

## Key Effectiveness Indicators

### Effectiveness Indicator No 1: Early Advice to Court on Charges

#### Relationship to Desired Outcome

The timely resolution of cases contributes significantly to fair and just outcomes for all stakeholders in the criminal justice system. A case cannot progress in the Supreme or District Court until the charges in indictment have been lodged. Therefore the timely lodgement of the indictment by the ODPP is a key factor in achieving a fair and just outcome.

#### Performance Outcome 2012/2013

In 2012/2013, 2014 matters were committed to the Supreme or District Court. Following case reviews, 62 matters were returned to the Magistrates Court to be dealt with summarily. A further 147 matters were wholly discontinued, so that no charges remained against the accused. Of the remaining 1805 matters committed to the District and Supreme Court and where an indictment was due during this reporting period, in 1506 cases (or 83.4 %) the indictment was filed with the court within 90 days of the date of committal.

Year	Indictment Filed Within 90 days of Committal
2012/2013	83.4 %
2011/2012	81.8 %
2010/2011	79.0 %
2009/2010	69.0 %

KPI Target 2012/2013	KPI Result 2012/2013
85 %	83.4 %

#### Explanation for any variation between the target and actual performance

The target was substantially met.

For the Perth sittings of the Supreme and District Courts the proportion of indictments filed within 90 days exceeded the target, with an outcome of 88.8%. However, for prosecutions commenced in regional Magistrates Courts, where there may be a delay in the ODPP receiving the case papers, the target is more difficult to attain. Regional matters accounted for approximately a quarter of all cases where an indictment was due in 2012/2013 and a lower proportion of indictments (67.1%) were filed within 90 days of the date of committal.



## Effectiveness Indicator No 2: Establishing a Case to Answer

### Relationship to Desired Outcome

It is fundamental to the provision of a fair and just prosecution service that the State should be able to establish a *prima facie* case against an accused person. Although small in number, each instance of failure to establish a case, as measured by the termination of proceedings by a judge due to no case to answer, is an event which warrants scrutiny both internally and externally.

### Performance Outcome 2012/2013

There were two Judge directed acquittals in the reporting year out of a total of 407 trials that proceeded, resulting in 99.5% of matters having a case to answer.

Year	Establishing a Case to Answer
2012/2013	99.5 %
2011/2012	100.0 %
2010/2011	99.8 %
2009/2010	99.9 %
2008/2009	99.3 %

KPI Target 2012/2013	KPI Result 2012/2013
98 %	99.5 %

### Explanation for any variation between the target and actual performance

The target was exceeded, reflecting the extremely thorough and consistent approach of the ODPP in appropriately assessing matters prior to trial.

## Effectiveness Indicator No 3: Convictions after Trial

### Relationship to Desired Outcome

For cases contested at trial, it is the role of the ODPP to fairly and effectively present the evidence in the case to the court and the jury. It is not the role of the ODPP to secure a conviction at any cost, but monitoring and measuring the percentage of convictions after trial does assist with assessing the fairness of the decision to prosecute.

### Performance Outcome 2012/2013

In 2012/2013 407 trials proceeded before a jury or a Judge alone in the District and Supreme Court. Of these, 22 (or 5.4%) resulted in a hung jury and 12 (or 2.9%) resulted in a mistrial. Therefore 373 trials delivered either a conviction or acquittal. Of these, 241 (or 64.6%) resulted in a conviction being recorded against the accused for one or more of the charges listed in the indictment.

Year	Convictions After Trial
2012/2013	64.6 %
2011/2012	69.4 %
2010/2011	60.6 %
2009/2010	58.1 %
2008/2009	61.8 %

KPI Target 2012/2013	KPI Result 2012/2013
50 %	64.6 %

### Explanation for any variation between the target and actual performance

The target was exceeded in 2012/2013, again reflecting the extremely thorough and consistent approach of the ODPP in properly assessing matters prior to trial and in effectively preparing and prosecuting trials.

## Effectiveness Indicator No 4: Timely Lodgement of Applications for Confiscation in relation to Declared Drug Trafficker Matters

### Relationship to Desired Outcome

The timely resolution of a confiscations case contributes significantly to fair and just outcomes for all stakeholders including the community, innocent third parties and declared drug traffickers. A number of confiscation cases relate to drug traffickers and such cases cannot progress to a conclusion until an application for a Declaration of Confiscation is filed with a court by the ODPP.

### Performance Outcome 2012/2013

This is the second reporting period for the newly established KPI, with the ODPP retrospectively capturing comparative data from previous financial years. That data is included in the table below.

In 2012/2013, 44 declarations for confiscations were filed. Of these, 31 (70.5%) were filed within four months of the drug trafficker declaration.

Year	Application for a Declaration of Confiscation Filed Within 4 months of the Drug Trafficker Declaration
2012/2013	70.5 %
2011/2012	28.6 %
2010/2011	50.0 %
2009/2010	37.0 %
2008/2009	30.8 %

KPI Target 2012/2013	KPI Result 2012/2013
60 %	70.5 %

### Explanation for any variation between the target and actual performance

The ODPP exceeded the target and in doing so significantly improved its performance in 2012/2013.

During 2011/2012 a concerted effort was made to clear a backlog of historical matters. As a consequence a significant number of applications was filed outside the four month target period. The situation stabilised in 2012/2013, with the majority of matters under active file management being more current cases.

## Key Efficiency Indicators

### Efficiency Indicator No 1: Cost per Prosecution

#### Relationship to Desired Outcome

Criminal prosecutions vary greatly in the type of offence, complexity and length. Some matters may be concluded within a short time upon an early plea of guilty. Others requiring a trial and perhaps an appeal may not be concluded for a number of years and can be very demanding of resources. Further, as a Consolidated Fund agency with no capacity to levy fees or charges for its services the ODPP has no need to maintain a comprehensive matter costing system. Given these factors, it is difficult to provide an accurate and meaningful cost per prosecution. The figure below has been determined by dividing the number of new committals into the ODPP's total cost of services for criminal prosecutions.

#### Performance Outcome 2012/2013

The ODPP's total cost of service for criminal prosecutions in 2012/2013 was \$37.02 million. A total of 2474 new prosecution cases was received by the ODPP during the reporting year, therefore, and with the qualifications outlined above, the average cost per criminal prosecution in 2012/2013 was \$14,964.

Year	Cost Per Prosecution
2012/2013	\$14,964
2011/2012	\$16,294
2010/2011	\$16,021
2009/2010	\$14,525
2008/2009	\$12,890

KPI Target 2012/2013	KPI Result 2012/2013
\$16,343	\$14,964

#### Explanation for any variation between the target and actual performance

The target as published in the 2012/2013 Budget Paper No. 2 was bettered due to the ODPP managing a greater number of new cases (up 12.3%) in 2012/2013 while at the same time containing cost of service increases to 3.4%.

## Efficiency Indicator No 2: Ratio of Cost to Return

### Relationship to Desired Outcome

Confiscation proceedings vary greatly as to the type of application, the nature and value of the property involved and the complexity and length of time required to resolve them. Some proceedings can be dealt with relatively quickly, such as where there is no objection to the application for confiscation. Some proceedings are by virtue of the underlying factual matrix or by virtue of the type of application, complex in nature. Proceedings may also take considerable time to be resolved, especially where the criminal charges must be completed first, including the trial and appeal processes, which can take a number of years and, accordingly, can be very demanding of resources.

### Performance Outcome 2012/2013

In 2012/2013, the ODPP Confiscations team managed a variety of matters that delivered payments of \$9.36 million to the Confiscations Proceeds Account. The total cost of service for the confiscations function in the reporting year was \$3.13 million. The ratio of cost to return was 33.4%.

Year	Cost as a Percentage of Return
2012/2013	33.4 %
2011/2012	40.5 %
2010/2011	40.6 %
2009/2010	24.6 %
2008/2009	40.1 %

KPI Target 2012/2013	KPI Result 2012/2013
25 %	33.4 %

### Explanation for any variation between the target and actual performance

The target was not met in 2012/2013.

There was a significant improvement from the 2011/2012 outcome, largely due an increase in payments made into the Confiscation Proceeds Account – \$9.36 million in 2012/2013 compared to \$7.42 million in the previous year.

# Certification of Financial Statements



DIRECTOR OF PUBLIC PROSECUTIONS  
for WESTERN AUSTRALIA

## Certification of Financial Statements for the year ended 30 June 2013

The accompanying financial statements of the Office of the Director of Public Prosecutions have been prepared in compliance with the provisions of the Financial Management Act 2006 from proper accounts and records to present fairly the financial transactions for the financial year ending 30 June 2013 and the financial position as at 30 June 2013.

At the date of signing we are not aware of any circumstances which would render any particulars included in the financial statements misleading or inaccurate.

Handwritten signature of Hardip Bhabra in black ink.

Hardip Bhabra  
Chief Finance Officer

Date: 16 September 2013

Handwritten signature of Joseph McGrath SC in black ink.

Joseph McGrath SC  
Accountable Authority

Date: 16 SEPTEMBER 2013



# Financial Statements

## Statement of Comprehensive Income

For the year ending 30 June 2013

	Note	2013 \$	2012 \$
<b>COST OF SERVICES</b>			
<b>Expenses</b>			
Employee benefits expense	6	28,016,842	27,274,020
Supplies and services	7	4,787,628	4,400,503
Depreciation and amortisation expense	8	606,496	654,282
Accommodation expenses	9	3,025,658	3,249,007
Loss on disposal of non-current assets	10	-	366
Other expenses	11	3,713,573	3,355,629
<b>Total cost of services</b>		<b>40,150,197</b>	<b>38,933,807</b>
<b>Income</b>			
<i>Revenue</i>			
Other revenue	12	102,863	102,331
<b>Total Revenue</b>		<b>102,863</b>	<b>102,331</b>
<b>Total income other than income from State Government</b>		<b>102,863</b>	<b>102,331</b>
<b>NET COST OF SERVICES</b>		<b>40,047,334</b>	<b>38,831,476</b>
<b>Income from State Government</b>			
	13		
Service Appropriation		34,412,000	34,099,000
Contribution from Confiscation Proceeds Account		4,600,000	3,599,961
Grants and subsidies		-	-
Services received free of charge		1,165,181	704,164
<b>Total income from State Government</b>		<b>40,177,181</b>	<b>38,403,125</b>
<b>SURPLUS/(DEFICIT) FOR THE PERIOD</b>		<b>129,847</b>	<b>(428,351)</b>
<b>OTHER COMPREHENSIVE INCOME</b>			
		-	-
<b>TOTAL COMPREHENSIVE INCOME FOR THE PERIOD</b>		<b>129,847</b>	<b>(428,351)</b>

See also the 'Schedule of Income and Expenses by Service'.

The Statement of Comprehensive Income should be read in conjunction with the accompanying notes.

**Statement of Financial Position**  
**As at 30 June 2013**

	Note	2013	2012
		\$	\$
<b>ASSETS</b>			
Current Assets			
Cash and cash equivalents	24	1,833,663	1,075,481
Receivables	15	159,177	234,128
Amounts receivable for services	16	-	50,000
Other current assets	17	18,379	17,545
Total Current Assets		2,011,219	1,377,154
Non-Current Assets			
Restricted cash and cash equivalents	14,24	796,000	685,952
Amounts receivable for services	16	3,497,000	2,897,000
Property, plant and equipment	18	2,764,993	3,161,658
Intangible assets	19	269,797	429,724
Total Non-Current Assets		7,327,790	7,174,334
<b>TOTAL ASSETS</b>		<b>9,339,009</b>	<b>8,551,488</b>
<b>LIABILITIES</b>			
Current Liabilities			
Payables	21	1,260,306	1,386,725
Provisions	22	5,978,630	5,270,500
Total Current Liabilities		7,238,936	6,657,225
Non-Current Liabilities			
Provisions	22	1,668,869	1,757,907
Total Non-Current Liabilities		1,668,869	1,757,907
<b>TOTAL LIABILITIES</b>		<b>8,907,805</b>	<b>8,415,132</b>
<b>NET ASSETS</b>		<b>431,203</b>	<b>136,356</b>
<b>EQUITY</b>			
Contributed Equity	23	7,137,760	6,972,760
Accumulated surplus/(deficit)		(6,706,557)	(6,836,404)
<b>TOTAL EQUITY</b>		<b>431,203</b>	<b>136,356</b>

See also the 'Schedule of Assets and Liabilities by Service'.

The Statement of Financial Position should be read in conjunction with the accompanying notes.



**Statement of Changes in Equity**  
**For the year ending 30 June 2013**

	Note	Contributed Equity	Reserves	Accumulated surplus/(deficit)	Total Equity
<b>Balance at 1 July 2011</b>	23	6,972,760	-	(6,408,053)	564,707
Changes in accounting policy or correction of prior period errors		-	-	-	-
<b>Restated balance at 1 July 2011</b>		<b>6,972,760</b>	<b>-</b>	<b>(6,408,053)</b>	<b>564,707</b>
Surplus/(deficit)		-	-	(428,351)	(428,351)
Other comprehensive income					
Total comprehensive income for the period		-	-	(428,351)	(428,351)
Transactions with owners in their capacity as owners :					
Capital contributions		-	-	-	-
Other contributions by owners		-	-	-	-
Distributions to owners		-	-	-	-
Total		-	-	-	-
<b>Balance at 30 June 2012</b>		<b>6,972,760</b>	<b>-</b>	<b>(6,836,404)</b>	<b>136,356</b>
<b>Balance at 1 July 2012</b>		<b>6,972,760</b>	<b>-</b>	<b>(6,836,404)</b>	<b>136,356</b>
Surplus/(deficit)		-	-	129,847	129,847
Other comprehensive income		-	-	-	-
Total comprehensive income for the period:		-	-	129,847	129,847
Transactions with owners in their capacity as owners:					
Capital contributions		165,000	-	-	165,000
Other contributions by owners		-	-	-	-
Distributions to owners		-	-	-	-
Total		165,000	-	-	165,000
<b>Balance at 30 June 2013</b>		<b>7,137,760</b>	<b>-</b>	<b>(6,706,557)</b>	<b>431,203</b>

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

**Statement of Cash Flows**  
For the year ending 30 June 2013

	Note	2013 \$	2012 \$
<b>CASH FLOWS FROM STATE GOVERNMENT</b>			
Service appropriations		33,812,000	33,685,000
Contributions from Confiscation Proceeds Account		4,600,000	4,134,437
Grants and subsidies		165,000	-
Holding account drawdowns		50,000	50,000
<b>Net cash provided by State Government</b>		<u>38,627,000</u>	<u>37,869,437</u>
Utilised as follows:			
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>			
<b>Payments</b>			
Employee benefits		(27,294,699)	(26,298,690)
Supplies and services		(10,534,456)	(10,835,203)
GST payments on purchases		(1,039,323)	(1,032,361)
<b>Receipts</b>			
Receipts from services		206,928	29,861
GST receipts on sales		16,886	115,577
GST receipts from taxation authority		935,795	951,432
<b>Net cash provided by/(used in) operating activities</b>	24	<u>(37,708,868)</u>	<u>(37,069,384)</u>
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>			
<b>Payments</b>			
Purchase of non-current physical assets		(49,903)	(111,682)
<b>Net cash provided by/(used in) investing activities</b>		<u>(49,903)</u>	<u>(111,682)</u>
Net increase/(decrease) in cash and cash equivalents		868,230	688,371
Cash and cash equivalents at the beginning of the period		1,761,433	1,073,062
<b>CASH AND CASH EQUIVALENTS AT THE END OF THE PERIOD</b>	24	<u><u>2,629,663</u></u>	<u><u>1,761,433</u></u>

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

# Schedule of Income and Expense by Service

For the year ending 30 June 2013

	Criminal Prosecutions		Confiscation of Assets		Total	
	2013	2012	2013	2012	2013	2012
	\$	\$	\$	\$	\$	\$
<b>COST OF SERVICES</b>						
<u>Expenses</u>						
Employee benefit expense	25,817,139	25,201,239	2,199,703	2,072,781	28,016,842	27,274,020
Supplies and services	4,416,108	4,030,155	371,520	370,348	4,787,628	4,400,503
Depreciation and amortisation expense	559,440	607,912	47,056	46,370	606,496	654,282
Accommodation expenses	2,803,530	3,065,417	222,128	183,590	3,025,658	3,249,007
Loss on disposal of non-current assets	-	366	-	-	-	366
Other expenses	3,425,400	2,979,127	288,173	376,502	3,713,573	3,355,629
<b>Total cost of services</b>	<b>37,021,617</b>	<b>35,884,216</b>	<b>3,128,580</b>	<b>3,049,591</b>	<b>40,150,197</b>	<b>38,933,807</b>
<u>Income</u>						
Other revenue	99,662	99,101	3,201	3,230	102,863	102,331
<b>Total income other than income from State Government</b>	<b>99,662</b>	<b>99,101</b>	<b>3,201</b>	<b>3,230</b>	<b>102,863</b>	<b>102,331</b>
<b>NET COST OF SERVICES</b>	<b>36,921,955</b>	<b>35,785,115</b>	<b>3,125,379</b>	<b>3,046,361</b>	<b>40,047,334</b>	<b>38,831,476</b>
<b><u>Income from State Government</u></b>						
Service appropriation	34,412,000	34,099,000	-	-	34,412,000	34,099,000
Contribution from Confiscation Proceeds Account	1,400,000	1,000,000	3,200,000	2,599,961	4,600,000	3,599,961
Grants and subsidies	-	-	-	-	-	-
Services received free of charge	1,165,181	704,164	-	-	1,165,181	704,164
<b>Total income from State Government</b>	<b>36,977,181</b>	<b>35,803,164</b>	<b>3,200,000</b>	<b>2,599,961</b>	<b>40,177,181</b>	<b>38,403,125</b>
<b>SURPLUS/DEFICIT FOR THE PERIOD</b>	<b>55,226</b>	<b>18,049</b>	<b>74,621</b>	<b>(446,400)</b>	<b>129,847</b>	<b>(428,351)</b>

The Schedule of Income and Expenses by Service should be read in conjunction with the accompanying

notes.

## Schedule of Assets and Liabilities by Service

As at 30 June 2013

	Criminal Prosecutions		Confiscation of Assets		Total	
	2013	2012	2013	2012	2013	2012
	\$	\$	\$	\$	\$	\$
<u>Assets</u>						
Current assets	1,855,147	1,269,047	156,071	108,107	2,011,219	1,377,154
Non-current assets	6,759,154	6,611,149	568,636	563,185	7,327,790	7,174,334
<b>Total assets</b>	<b>8,614,302</b>	<b>7,880,197</b>	<b>724,707</b>	<b>671,292</b>	<b>9,339,009</b>	<b>8,551,488</b>
<u>Liabilities</u>						
Current liabilities	6,677,195	6,134,633	561,741	522,592	7,238,936	6,657,225
Non-current liabilities	1,539,365	1,619,911	129,504	137,996	1,668,869	1,757,907
<b>Total liabilities</b>	<b>8,216,559</b>	<b>7,754,544</b>	<b>691,245</b>	<b>660,588</b>	<b>8,907,805</b>	<b>8,415,132</b>
<b>NET ASSETS</b>	<b>397,742</b>	<b>125,652</b>	<b>33,461</b>	<b>10,704</b>	<b>431,203</b>	<b>136,356</b>

The Schedule of Assets and Liabilities by Service should be read in conjunction with the accompanying notes.

**Summary of Consolidated Account Appropriations and Income Estimates**  
**For the year ending 30 June 2013**

	<b>2013 Estimate \$</b>	<b>2013 Actual \$</b>	<b>Variance \$</b>	<b>2013 Actual \$</b>	<b>2012 Actual \$</b>	<b>Variance \$</b>
<u>Delivery Services</u>						
Item 53 Net amount appropriated to deliver services	31,050,000	31,344,000	294,000	31,344,000	31,168,000	176,000
Amount Authorised by Other Statutes						
- <i>Salaries and Allowances Act 1975</i>	3,026,000	3,068,000	42,000	3,068,000	2,931,000	137,000
<b>Total appropriations provided to deliver services</b>	<b>34,076,000</b>	<b>34,412,000</b>	<b>336,000</b>	<b>34,412,000</b>	<b>34,099,000</b>	<b>313,000</b>
<u>Capital</u>						
Capital appropriations	-	165,000	165,000	165,000	-	165,000
<u>Administered Transactions</u>						
Administered Grants and Transfer Payments	100,000	145,377	45,377	145,377	66,119	79,258
<b>Total Administered Transactions</b>						
<b>GRAND TOTAL</b>	<b>34,176,000</b>	<b>34,722,377</b>	<b>546,377</b>	<b>34,722,377</b>	<b>34,165,119</b>	<b>557,258</b>
<u>Details of Expenses by Services</u>						
Criminal Prosecutions	35,139,000	37,021,617	1,882,617	37,021,617	35,884,216	1,137,401
Confiscation of Assets	3,600,000	3,128,580	(471,420)	3,128,580	3,049,591	78,989
Contribution to Responsible Financial Management	(569,000)	-	569,000	-	-	-
Total Cost of Services	38,170,000	40,150,197	1,980,197	40,150,197	38,933,807	1,216,390
Less total income	(3,650,000)	(4,702,863)	(1,052,863)	(4,702,863)	(3,702,292)	(1,000,571)
Net Cost of Services	34,520,000	35,447,332	927,332	35,447,332	35,231,515	215,817
Adjustments	(444,000)	(1,035,332)	(591,332)	(1,035,332)	(1,132,515)	97,183
<b>Total appropriations provided to deliver services</b>	<b>34,076,000</b>	<b>34,412,000</b>	<b>336,000</b>	<b>34,412,000</b>	<b>34,099,000</b>	<b>313,000</b>
<u>Capital Expenditure</u>						
Purchase of non-current physical assets	50,000	49,903	(97)	49,903	111,682	(61,779)
Adjustments for other funding sources	(50,000)	115,097	165,097	115,097	(111,682)	226,779
<b>Capital appropriations</b>	<b>-</b>	<b>165,000</b>	<b>165,000</b>	<b>165,000</b>	<b>-</b>	<b>165,000</b>
<u>Details of Income Estimates</u>						
Income disclosed as Administered Income	100,000	145,377	45,377	145,377	66,119	79,258

Adjustments comprise movements in cash balances and other accrual items such as receivables, payables and superannuation.

Note 27 'Explanatory statement' provides details of any significant variations between estimates and actual results for 2013 and between the actual results for 2013 and 2012.

## **Note 1. Australian Accounting Standards**

### **General**

The Office's financial statements for the year ended 30 June 2013 have been prepared in accordance with Australian Accounting Standards. The term 'Australian Accounting Standards' includes Standards and Interpretations issued by the Australian Accounting Standard Board (AASB).

The Office has adopted any applicable new and revised Australian Accounting Standards from their operative dates.

### **Early adoption of standards**

The Office cannot early adopt an Australian Accounting Standard unless specifically permitted by TI 1101 Application of Australian Accounting Standards and Other Pronouncements. There has been no early adoption of Australian Accounting Standards that have been issued or amended (but not operative) by the Office for the annual reporting period ended 30 June 2013.

## **Note 2. Summary of significant accounting policies**

### **(a) General statement**

The Office is a not-for-profit entity reporting that prepares general purpose financial statements in accordance with Australian Accounting Standards, the Framework, Statements of Accounting Concepts and other authoritative pronouncements of the AASB as applied by the Treasurer's instructions. Several of these are modified by the Treasurer's instructions to vary application, disclosure, format and wording.

The *Financial Management Act* and the Treasurer's instructions impose legislative provisions that govern the preparation of financial statements and take precedence over Australian Accounting Standards, the Framework, Statements of Accounting Concepts and other authoritative pronouncements of the AASB.

Where modification is required and has had a material or significant financial effect upon the reported results, details of that modification and the resulting financial effect are disclosed in the notes to the financial statements.

### **(b) Basis of preparation**

The financial statements have been prepared on the accrual basis of accounting using the historical cost convention.

The accounting policies adopted in the preparation of the financial statements have been consistently applied throughout all periods presented unless otherwise stated.

The financial statements are presented in Australian dollars and all values are rounded to the nearest dollar.

Note 3 'Judgements made by management in applying accounting policies' discloses judgements that have been made in the process of applying the Office's accounting policies resulting in the most significant effect on amounts recognised in the financial statements.

Note 4 'Key sources of estimation uncertainty' discloses key assumptions made concerning the future, and other key sources of estimation uncertainty at the end of the reporting period, that have a significant risk of causing a material adjustment to the carrying amounts of assets and liabilities within the next financial year.

## (c) Reporting entity

The reporting entity comprises the Office and no other related bodies.

### Mission

The Office's mission is to provide the people of Western Australia with a fair and just criminal prosecution service.

The Office is funded by Parliamentary appropriations. The financial statements encompass all funds through which the Office controls resources to carry on its functions.

### Services

The Office provides the following services:

#### *Service 1: Criminal Prosecutions*

Comprises prosecutions against people accused of serious breaches of the State's criminal laws.

#### *Service 2: Confiscation of Assets*

Comprises proceedings to confiscate property acquired as a result of criminal activity, property used for criminal activity and property of declared drug traffickers.

The Office administers assets, liabilities, income and expenses on behalf of Government which are not controlled by, nor integral to the function of the Office. These administered balances and transactions are not recognised in the principal financial statements of the Office but schedules are prepared using the same basis as the financial statements and are presented at note 32 'Disclosure of administered expenses and income' and note 33 'Administered assets and liabilities'.

## (d) Contributed equity

AASB Interpretation 1038 *Contributions by Owners Made to Wholly-Owned Public Sector Entities* requires transfers in the nature of equity contributions, other than as a result of a restructure of administrative arrangements, to be designated by the Government (the owner) as contributions by owners (at the time of, or prior to transfer) before such transfers can be recognised as equity contributions. Capital appropriations have been designated as contributions by owners by T1 955 *Contributions by Owners made to Wholly Owned Public Sector Entities* and have been credited directly to Contributed equity.

## (e) Income

### Revenue recognition

Revenue is recognised and measured at the fair value of consideration received or receivable. Revenue is recognised for the major business activities as follows:

#### *Sale of goods*

Revenue is recognised from the sale of goods and disposal of other assets when the significant risks and rewards of ownership transfer to the purchaser and can be measured reliably.

#### *Provision of services*

Revenue is recognised by reference to the stage of completion of transactions.

#### *Interest*

Interest is recognised as the interest accrues.

#### *Service appropriations*

Service Appropriations are recognised as revenues at fair value in the period in which the Office gains control of the appropriated funds. The Office gains control of appropriated funds at the time those funds are deposited to the bank account or credited to the 'Amounts receivable for services' (holding account) held at Treasury.

### *Net Appropriation Determination*

The Treasurer may make a determination providing for prescribed receipts to be retained for services under the control of the Office. In accordance with the determination specified in the 2012-2013 Budget Statements, the Office retained \$102,863 in 2013 (\$102,331 in 2012) from the following:

- Executive vehicle scheme;
- Miscellaneous revenue.

### *Grants, donations, gifts and other non-reciprocal contributions*

Revenue is recognised at fair value when the Office obtains control over the assets comprising the contributions, usually when cash is received.

Other non-reciprocal contributions that are not contributions by owners are recognised at their fair value. Contributions of service are only recognised when a fair value can be reliably determined and the services would be purchased if not donated.

### Gains

Realised or unrealised gains are usually recognised on a net basis. These include gains arising on the disposal of non-current assets.

## **(f) Property, plant and equipment**

### Capitalisation/expensing of assets

Items of property, plant and equipment costing \$5,000 or more are recognised as assets and the cost of utilising assets is expensed (depreciated) over their useful lives. Items of property, plant and equipment costing less than \$5,000 are immediately expensed direct to the Statement of Comprehensive Income (*other than where they form part of a group of similar items which are significant in total*).

### Initial recognition and measurement

Property, plant and equipment are initially recognised at cost.

For items of property, plant and equipment acquired at no cost or for nominal cost, the cost is the fair value at the date of acquisition.

### Subsequent measurement

Subsequent to initial recognition as an asset, the historical cost model is used for plant and equipment. All items of property, plant and equipment are stated at historical cost less accumulated depreciation and accumulated impairment losses.

### Derecognition

Upon disposal or derecognition of an item of property, plant and equipment, any revaluation surplus relating to that asset is retained in the asset revaluation surplus.

### Depreciation

All non-current assets having a limited useful life are systematically depreciated over their estimated useful lives in a manner that reflects the consumption of their future economic benefits.

Depreciation is calculated using the straight line method, using rates which are reviewed annually. Estimated useful lives for each class of depreciable asset are:

Leasehold improvements 13 years  
Computer hardware 3 years  
Office equipment 5 years

## **(g) Intangible assets**

### Capitalisation/expensing of assets

Acquisitions of intangible assets costing \$5,000 or more and internally generated intangible assets costing \$50,000 or more are capitalised. The cost of utilising the assets is expensed (amortised) over their useful life. Costs incurred below these thresholds are immediately expensed directly to the Statement of Comprehensive Income.

Intangible assets are initially recognised at cost. For assets acquired at no cost or nominal cost, the cost is their fair value at the date of acquisition.



The cost model is applied for subsequent measurement requiring the asset to be carried at cost less any accumulated amortisation and accumulated impairment losses.

Amortisation for intangible assets with finite useful lives is calculated for the period of the expected benefit (estimated useful life which is reviewed annually) on the straight line basis. All intangible assets controlled by the Office have a finite useful life and zero residual value.

The expected useful lives for each class of intangible asset are:

Licenses 3 years

Computer software 3-5 years

#### Licenses

Licenses have a finite useful life and are carried at cost less accumulated amortisation and accumulated impairment losses.

#### Computer software

Software that is an integral part of the related hardware is recognised as plant and equipment. Software that is not an integral part of the related hardware is recognised as an intangible asset. Software costing less than \$5,000 is expensed in the year of acquisition.

### **(h) Impairment of assets**

Property, plant and equipment assets are tested for any indication of impairment at the end of each reporting period. Where there is an indication of impairment, the recoverable amount is estimated. Where the recoverable amount is less than the carrying amount, the asset is considered impaired and is written down to the recoverable amount and an impairment loss is recognised. When an asset measured at cost is written down to recoverable amount, an impairment loss is recognised in profit or loss. Where a previously revalued asset is written down to recoverable amount, the loss is recognised as a revaluation decrement in other comprehensive income. As the Office is a not-for-profit entity, unless an asset has been identified as a surplus asset, the recoverable amount is the higher of an asset's fair value less costs to sell and depreciated replacement cost.

The risk of impairment is generally limited to circumstances where an asset's depreciation is materially understated, where the replacement cost is falling or where there is a significant change in useful life. Each relevant class of assets is reviewed annually to verify that the accumulated depreciation/amortisation reflects the level of consumption or expiration of the asset's future economic benefits and to evaluate any impairment risk from falling replacement costs.

Intangible assets with an indefinite useful life and intangible assets not yet available for use are tested for impairment at the end of each reporting period irrespective of whether there is any indication of impairment.

The recoverable amount of assets identified as surplus assets is the higher of fair value less costs to sell and the present value of future cash flows expected to be derived from the asset. Surplus assets carried at fair value have no risk of material impairment where fair value is determined by reference to market-based evidence. Where fair value is determined by reference to the depreciated replacement cost, surplus assets are at risk of impairment and the recoverable amount is measured. Surplus assets at cost are tested for indications of impairment at the end of each reporting period.

### **(h) Leases**

The Office has not entered into any finance leases.

The Office holds operating leases for buildings and motor vehicles. Lease payments are expensed on a straight line basis over the lease term as this represents the pattern of benefits derived from the leased properties.

### **(i) Financial instruments**

In addition to cash, the Office has two categories of financial instrument:

- Receivables; and
- Financial liabilities measured at amortised cost.

Financial instruments have been disaggregated into the following classes:

- Financial Assets
  - Cash and cash equivalents

- Restricted cash and cash equivalents
- Receivables
- Amounts receivable for services
- Financial Liabilities
  - Payables

Initial recognition and measurement of financial instruments is at fair value which normally equates to the transaction cost or the face value. Subsequent measurement is at amortised cost using the effective interest method.

The fair value of short-term receivables and payables is the transaction cost or the face value because there is no interest rate applicable and subsequent measurement is not required as the effect of discounting is not material.

## **(j) Cash and cash equivalents**

For the purpose of the Statement of Cash Flows, cash and cash equivalent (and restricted cash and cash equivalent) assets comprise cash on hand and short-term deposits with original maturities of three months or less that are readily convertible to a known amount of cash and which are subject to insignificant risk of changes in value, and bank overdrafts.

## **(k) Accrued salaries**

Accrued salaries represent the amount due to staff but unpaid at the end of the financial year. Accrued salaries are generally settled within a fortnight of the financial year end. The Office considers the carrying amount of accrued salaries to be equivalent to its fair value.

The accrued salaries suspense account consists of amounts paid annually into a suspense account over a period of 10 financial years to largely meet the additional cash outflow in each eleventh year when 27 pay days occur instead of the normal 26. No interest is received on this account.

## **(l) Amounts receivable for services (holding account)**

The Office receives funding on an accrual basis. The appropriations are paid partly in cash and partly as an asset (holding account receivable). The accrued amount receivable is accessible on the emergence of the cash funding requirement to cover leave entitlements and asset replacement.

## **(m) Receivables**

Receivables are recognised at original invoice amount less an allowance for any uncollectible amounts (i.e. impairment). The collectability of receivables is reviewed on an ongoing basis and any receivables identified as uncollectible are written-off against the allowance account. The allowance for uncollectible amounts (doubtful debts) is raised when there is objective evidence that the Office will not be able to collect the debts. The carrying amount is equivalent to fair value as it is due for settlement within 30 days.

## **(n) Payables**

Payables are recognised at the amounts payable when the Office becomes obliged to make future payments as a result of a purchase of assets or services. The carrying amount is the equivalent to fair value, as settlement is generally within 30 days.

## **(o) Provisions**

Provisions are liabilities of uncertain timing or amount and are recognised where there is a present legal or constructive obligation as a result of a past event and when the outflow of resources embodying economic benefits is probable and a reliable estimate can be made of the amount of the obligation. Provisions are reviewed at the end of each reporting period.

### Provisions - employee benefits

All annual leave and long service leave provisions are in respect of employees' services up to the end of the reporting period.

### *Annual leave*

The liability for annual leave that is expected to be settled within 12 months after the end of the reporting period is recognised and measured at the undiscounted amounts expected to be paid when the liability is settled.

Annual leave that is not expected to be settled within 12 months after the end of the reporting period is recognised and measured at the present value of amounts expected to be paid when the liabilities are settled using the remuneration rate expected to apply at the time of settlement.

When assessing expected future payments consideration is given to expected future wage and salary levels including non-salary components such as employer superannuation contributions, as well as the experience of employee departures and periods of service. The expected future payments are discounted using market yields at the end of the reporting period on national government bonds with terms to maturity that match, as closely as possible, the estimated future cash outflows.

The provision for annual leave is classified as a current liability as the Office does not have an unconditional right to defer settlement of the liability for at least 12 months after the end of the reporting period.

### *Long service leave*

The liability for long service leave that is expected to be settled within 12 months after the end of the reporting period is recognised and measured at the undiscounted amounts expected to be paid when the liability is settled.

Long service leave that is not expected to be settled within 12 months after the end of the reporting period is recognised and measured at the present value of amounts expected to be paid when the liabilities are settled using the remuneration rate expected to apply at the time of settlement.

When assessing expected future payments consideration is given to expected future wage and salary levels including non-salary components such as employer superannuation contributions, as well as the experience of employee departures and periods of service. The expected future payments are discounted using market yields at the end of the reporting period on national government bonds with terms to maturity that match, as closely as possible, the estimated future cash outflows.

Unconditional long service leave provisions are classified as current liabilities as the Office does not have an unconditional right to defer settlement of the liability for at least 12 months after the end of the reporting period. Pre-conditional and conditional long service leave provisions are classified as non-current liabilities because the Office has an unconditional right to defer the settlement of the liability until the employee has completed the requisite years of service.

### *Purchased Leave*

The provision for purchased leave relates to Public Service employees who have entered into an agreement to self-fund up to an additional 10 weeks leave per calendar year. The provision recognises the value of salary set aside for employees and is measured at the nominal amounts expected to be paid when the liabilities are settled. The liability is measured on the same basis as annual leave.

### *Superannuation*

The Government Employees Superannuation Board (GESB) and the other funds administer public sector superannuation arrangements in Western Australia in accordance with legislative requirements. Eligibility criteria for membership in particular schemes for public sector employees varies according to commencement and implementation dates.

Eligible employees contribute to the Pension Scheme, a defined benefit pension scheme closed to new members since 1987, or the Gold State Superannuation Scheme (GSS), a defined benefit lump sum scheme closed to new members since 1995.

The GSS is a defined benefit scheme for the purposes of employees and whole-of-government reporting. However, it is a defined contribution plan for agency purposes because the concurrent contributions (defined contributions) made by the Office to GESB extinguishes the Office's obligations to the related superannuation liability.

The Office has no liabilities under the Pension Scheme or the GSS. The liabilities for the unfunded Pension Scheme and the unfunded GSS transfer benefits attributable to members who transferred from the Pension Scheme, are assumed by the Treasurer. All other GSS obligations are funded by concurrent contributions made by the Office to the GESB.

Employees commencing employment prior to 16 April 2007 who were not members of either the Pension Scheme or the GSS became non-contributory members of the West State Superannuation (WSS). Employees commencing employment on or after 16 April 2007 became members of the GESB Super Scheme (GESBS). From 30 March 2012, existing members of the WSS or GESBS and new employees became able to choose their preferred superannuation fund. The Office makes concurrent contributions to GESB or other funds on behalf of employees in compliance with the *Commonwealth Government's Superannuation Guarantee (Administration) Act 1992*. Contributions to these accumulation schemes extinguish the Office's liability for superannuation charges in respect of employees who are not members of the Pension Scheme or GSS.

The GESB makes all benefit payments in respect of the Pension and GSS, and is recouped from the Treasurer for the employer's share.

#### Provisions – other

##### *Employment on-costs*

Employment on-costs, including workers' compensation insurance, are not employee benefits and are recognised separately as liabilities and expenses when the employment to which they relate has occurred. Employment on-costs are included as part of 'Other expenses' and are not included as part of the Office's 'Employee benefits expense'. The related liability is included in 'Employment on-costs provision'.

### **(p) Superannuation expense**

The superannuation expense in the Statement of Comprehensive Income comprises of employer contributions paid to the GSS (concurrent contributions), the WSS, and the GESBS or other superannuation fund. The employer contribution paid to the GESB in respect of the GSS is paid back into the Consolidated Account by the GESB.

### **(q) Services received free of charge or for nominal cost**

Services received free of charge or for nominal cost that can be reliably measured are recognised as income at fair value. Where the resource received represents a service that the Office would otherwise pay for, a corresponding expense is recognised. Receipts of assets are recognised in the Statement of Financial Position.

Assets or services received from other State Government agencies are separately disclosed under Income from State Government in the Statement of Comprehensive Income.

### **(r) Comparative figures**

Comparative figures are, where appropriate, reclassified to be comparable with the figures presented in the current financial year.

## ***Note 3. Judgements made by management in applying accounting policies***

The preparation of financial statements requires management to make judgements about the application of accounting policies that have a significant effect on the amounts recognised in the financial statements. The Office evaluates these judgements regularly.

#### **Operating lease commitments**

The Office has entered into a commercial lease and has determined that the lessor retains substantially all the risks and rewards incidental to ownership. Accordingly, this lease has been classified as an operating lease.

## ***Note 4. Key sources of estimation uncertainty***

Key estimates and assumptions concerning the future are based on historical experience and various other factors that have a significant risk of causing a material adjustment to the carrying amount of assets and liabilities within the next financial year.

### **Long Service Leave**

Several estimations and assumptions used in calculating the Office's long service leave provision include expected future salary rates, discount rates, employee retention rates and expected future payments. Changes in these estimations and assumptions may impact on the carrying amount of the long service leave provision.

## ***Note 5. Disclosure of changes in accounting policy and estimates***

### **Initial application of an Australian Accounting Standard**

The Office has applied the following Australia Accounting Standards effective for annual reporting beginning on or after 1 July 2012 that impacted on the Office.

*AASB 2011-9      Amendments to Australian Accounting Standards – Presentation of Items of Other Comprehensive Income [AASB 1, 5, 7, 101, 112, 120, 121, 132, 133, 134, 1039 & 1049]*

This standard requires to group items presented in other comprehensive income on the basis of whether they are potentially reclassifiable to profit or loss subsequently (reclassification adjustments). There is no financial impact.

## Future impact of Australian Accounting Standards not yet operative

The Office cannot early adopt an Australian Accounting Standard unless specifically permitted by TI 1101 *Application of Australian Accounting Standards and Other Pronouncements*. Consequently, the Office has not applied early any following Australian Accounting Standards that have been issued that may impact the Office. Where applicable, the Office plans to apply these Australian Standards from their application date:

		<b>Operative for reporting periods beginning on/after</b>
AASB 9	<p><i>Financial Instruments</i></p> <p>This Standard supersedes AASB 139 <i>Financial Instruments: Recognition and Measurement</i>, introducing a number of changes to accounting treatments.</p> <p>AASB 2012-6 Amendments to Australian Accounting Standards – Mandatory Effective Date of AASB 9 and Transitional Disclosures amended the mandatory application date of this standard to 1 January 2015. The Office has not yet determined the application or the potential impact of the standard.</p>	1 Jan 2015
AASB 10	<p><i>Consolidated Financial Statements</i></p> <p>This Standard supersedes requirements under AASB 127 <i>Consolidated and Separate Financial Statements</i> and Int 112 <i>Consolidation – Special Purpose Entities</i>, introducing a number of changes to accounting treatments.</p> <p>Mandatory application for this Standard was deferred by one year for not-for-profit entities by AASB 2012-10 <i>Amendments to Australian Accounting Standards – Transition Guidance and Other Amendments</i>. The Office has not yet determined the application or the potential impact of the Standard.</p>	1 Jan 2014
AASB 11	<p><i>Joint Arrangements</i></p> <p>This Standard supersedes AASB 131 <i>Interests in Joint Ventures</i>, introducing a number of changes to accounting treatments.</p> <p>Mandatory application for this Standard was deferred by one year for not-for-profit entities by AASB 2012-10. The Office has not yet determined the application of the potential impact of the standard.</p>	1 Jan 2014
AASB 12	<p><i>Disclosure of Interests in Other Entities</i></p> <p>This Standard supersedes disclosure requirements under AASB 127 <i>Consolidated and Separate Financial Statements</i> and AASB 131 <i>Interests in Joint Ventures</i>.</p> <p>Mandatory application for this Standard was deferred by one year for not-for-profit entities by AASB 2012-10. The Office has not yet determined the application or the potential impact of the Standard.</p>	1 Jan 2014
AASB 13	<p><i>Fair Value Measurement</i></p> <p>This Standard defines fair value, sets out a framework for measuring fair value and requires disclosures about fair value measurements. The Office has liaised with the Western Australian Land Information Authority (Valuation Services) to ensure that sufficient information will be provided to meet the disclosure requirements of this standard. There is no financial impact.</p>	1 Jan 2013

AASB 119	<i>Employee Benefits</i>	1 Jan 2013
	<p>This Standard supersedes AASB 119 (October 2010), making changes to the recognition, presentation and disclosure requirements.</p> <p>The Office does not have any defined benefit plans, and therefore the financial impact will be limited to the effect of discounting annual leave and long service leave liabilities that were previously measured at the undiscounted amounts.</p>	
AASB 127	<i>Separate Financial Statements</i>	1 Jan 2014
	<p>This Standard supersedes requirements under AASB 127 <i>Consolidated and Separate Financial Statements</i>, introducing a number of changes to accounting treatments.</p> <p>Mandatory application for this Standard was deferred by one year for not-for-profit entities by AASB 2012-10. The Office has not yet determined the application or the potential impact of the Standard.</p>	
AASB 1053	<i>Application of Tiers of Australian Accounting Standards</i>	1 Jul 2013
	<p>This Standard establishes a differential financial reporting framework consisting of two tiers of reporting requirements for preparing general purpose financial statements. There is no financial impact.</p>	
AASB 1055	<i>Budgetary Reporting</i>	1 Jul 2014
	<p>This Standard specifies the nature of budgetary disclosures, the circumstances in which they are to be included in the general purpose financial statements of not-for-profit entities within the GGS. The Office will be required to disclose additional budgetary information and explanations of major variances between actual and budgeted amounts, though there is no financial impact.</p>	
AASB 2010-2	<i>Amendments to Australian Accounting Standards arising from Reduced Disclosure Requirements [AASB 1, 2, 3, 5, 7, 8, 101, 102, 107, 108, 110, 111, 112, 116, 117, 119, 121, 123, 124, 127, 128, 131, 133, 134, 136, 137, 138, 140, 141, 1050 &amp; 1052 and Int 2, 4, 5, 15, 17, 127, 129 &amp; 1052]</i>	1 Jul 2013
	<p>This Standard makes amendments to Australian Accounting Standards and Interpretations to introduce reduced disclosure requirements for certain types of entities. There is no financial impact.</p>	
AASB 2010-7	<i>Amendments to Australian Accounting Standards arising from AASB 9 (December 2010) [AASB 1, 3, 4, 5, 7, 101, 102, 108, 112, 118, 120, 121, 127, 128, 131, 132, 136, 137, 139, 1023 &amp; 1038 and Int 2, 5, 10, 12, 19 &amp; 127]</i>	1 Jan 2015
	<p>This Standard makes consequential amendments to other Australian Accounting Standards and Interpretations as a result of issuing AASB 9 in December 2010.</p> <p>AASB 2012-6 amended the mandatory application date of this Standard to 1 January 2015. The Office has not yet determined the application or potential impact of the Standard.</p>	
AASB 2011-2	<i>Amendments to Australian Accounting Standards arising from the Trans-Tasman Convergence Project – Reduced Disclosure Requirements [AASB 101 &amp; 1054]</i>	1 Jul 2013
	<p>This Standard removes disclosure requirements from other Standards and incorporates them in a single Standard to achieve convergence between Australian and New Zealand Accounting Standards for reduced disclosure reporting. There is no financial impact.</p>	



AASB 2011-6	<i>Amendments to Australian Accounting Standards – Extending Relief from Consolidation, the Equity Method and Proportionate Consolidation – Reduced Disclosure Requirements [AASB 127, 128 &amp; 131]</i>	1 Jul 2013
	This Standard extends the relief from consolidation, the equity method and proportionate consolidation by removing the requirement for the consolidated financial statements prepared by the ultimate or any intermediate parent entity to be IFRS compliant, provided that the parent entity, investor or venturer and the ultimate or intermediate parent entity comply with Australian Accounting Standards or Australian Accounting Standards – Reduced Disclosure Requirements. There is no financial impact.	
AASB 2011-7	<i>Amendments to Australian Accounting Standards arising from the Consolidation and Joint Arrangements Standards [AASB 1, 2, 3, 5, 7, 101, 107, 112, 118, 121, 124, 132, 133, 136, 138, 139, 1023 &amp; 1038 and Int 5, 9, 16 &amp; 17]</i>	1 Jan 2013
	This Standard gives effect to consequential changes arising from the issuance of AASB 10, AASB 11, AASB 127 <i>Separate Financial Statements</i> and AASB 128 <i>Investments in Associates and Joint Ventures</i> . For not-for-profit entities it applies to annual reporting periods beginning on or after 1 January 2014. The Office has not yet determined the application or the potential impact of the Standard.	
AASB 2011-8	<i>Amendments to Australian Accounting Standards arising from AASB 13 [AASB 1, 2, 3, 4, 5, 7, 9, 101, 102, 108, 110, 116, 117, 118, 119, 120, 121, 128, 131, 132, 133, 134, 136, 138, 139, 140, 141, 1004, 1023 &amp; 1038 and Int 2, 4, 12, 13, 14, 17, 19, 131 &amp; 132]</i>	1 Jan 2013
	This Standard replaces the existing definition and fair value guidance in other Australian Accounting Standards and Interpretations as the result of issuing AASB 13 in September 2011. There is no financial impact.	
AASB 2011-10	<i>Amendments to Australian Accounting Standards arising from AASB 119 (September 2011) [AASB 1, 8, 101, 124, 134, 1049 &amp; 2011-8 and Int 14]</i>	1 Jan 2013
	This Standard makes amendments to other Australian Accounting Standards and Interpretations as a result of issuing AASB 119 <i>Employee Benefits</i> in September 2011. The Office has not yet determined the application or the potential impact of the Standard.	
AASB 2011-11	<i>Amendments to AASB 119 (September 2011) arising from Reduced Disclosure Requirements</i>	1 Jan 2013
	This Standard gives effect to Australian Accounting Standards – Reduced Disclosure Requirements for AASB 119 (September 2011). There is no financial impact.	
AASB 2012-1	<i>Amendments to Australian Accounting Standards - Fair Value Measurement - Reduced Disclosure Requirements [AASB 3, 7, 13, 140 &amp; 141]</i>	1 Jul 2013
	This Standard establishes and amends reduced disclosure requirements for additional and amended disclosures arising from AASB 13 and the consequential amendments implemented through AASB 2011-8. There is no financial impact.	
AASB 2012-2	<i>Amendments to Australian Accounting Standards – Disclosures – Offsetting Financial Assets and Financial Liabilities [AASB 7 &amp; 132]</i>	1 Jan 2013
	This Standard amends the required disclosures in AASB 7 to include information that will enable users of an entity's financial statements to evaluate the effect or potential effect of netting arrangements, including rights of set-off associated with the entity's recognised financial assets and recognised financial liabilities, on the entity's financial position. There is no financial impact.	



AASB 2012-3	<i>Amendments to Australian Accounting Standards – Offsetting Financial Assets and Financial Liabilities [AASB 132]</i>	1 Jan 2014
	This Standard adds application guidance to AASB 132 to address inconsistencies identified in applying some of the offsetting criteria, including clarifying the meaning of “currently has a legally enforceable right of set-off” and that some gross settlement systems may be considered equivalent to net settlement. There is no financial impact.	
AASB 2012-5	<i>Amendments to Australian Accounting Standards arising from Annual Improvements 2009-11 Cycle [AASB 1, 101, 116, 132 &amp; 134 and Int 2]</i>	1 Jan 2013
	This Standard makes amendments to the Australian Accounting Standards and Interpretations as a consequence of the annual improvements process. There is no financial impact.	
AASB 2012-6	<i>Amendments to Australian Accounting Standards – Mandatory Effective Date of AASB 9 and Transition Disclosures [AASB 9, 2009-11, 2010-7, 2011-7 &amp; 2011-8]</i>	1 Jan 2013
	<i>This Standard amends the mandatory effective date of AASB 9 Financial Instruments to 1 January 2015. Further amendments are also made to consequential amendments arising from AASB 9 that will now apply from 1 January 2015 and to consequential amendments arising out of the Standards that will still apply from 1 January 2013. There is no financial impact.</i>	
AASB 2012-7	<i>Amendments to Australian Accounting Standards arising from Reduced Disclosure Requirements [AASB 7, 12, 101 &amp; 127]</i>	1 Jul 2013
	<i>This Standard adds to or amends the Australian Accounting Standards to provide further information regarding the differential reporting framework and the two tiers of reporting requirements for preparing general financial statement. There is no financial impact.</i>	
AASB 2012-10	<i>Amendments to Australian Accounting Standards – Transition Guidance and Other Amendments [AASB 1, 5, 7, 8, 10, 11, 12, 13, 101, 102, 108, 112, 118, 119, 127, 128, 132, 133, 134, 137, 1023, 1038, 1039, 1049, &amp; 2011-7 and Int 12]</i>	1 Jan 2013
	<i>This Standard makes amendments to AASB 10 and related Standards to revise the transition guidance relevant to the initial application of those Standards, and to clarify the circumstances in which adjustments to an entity's previous accounting for its involvement with other entities are required and the timing of such adjustments.</i>	
	<i>The Standard was issued in December 2012. The Office has not yet determined the application or the potential impact of the Standard.</i>	
AASB 2012-11	<i>Amendments to Australian Accounting Standards – Reduced Disclosure Requirements and Other Amendments [AASB 1, 2, 8, 10, 107, 128, 133, 134 &amp; 2011-4]</i>	1 Jul 2013
	<i>This Standard makes various editorial corrections to Australian Accounting Standards – Reduced Disclosure Requirements (Tier 2). These corrections ensure that the Standards reflect decisions of the AASB regarding the Tier 2 requirements.</i>	
	<i>This Standard also extends the relief from consolidation and the equity method (in the new Consolidation and Joint Arrangements Standards) to entities complying with Australian Accounting Standards – Reduced Disclosure Requirements. There is no financial impact.</i>	

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