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ICAC 20th Anniversary

For more than 20 years the Independent Commission Against Corruption (ICAC) has worked hard to maintain the integrity and accountability of the public sector in NSW. As a result, research has shown the high regard the public holds for the ICAC and its work.

The role and objectives of the ICAC

The ICAC began in 1989 following the introduction of the *Independent Commission Against Corruption Act 1988*.

The principal objectives of the ICAC include:

- To investigate and expose corrupt conduct involving or affecting public authorities or officials.
- To make recommendations and report on corrupt conduct.
- To educate members of the NSW community, public authorities and officials about preventing corruption and its detrimental implications.

One role of the Commission is to monitor developments in the public sector environment and provide appropriate and knowledgeable advice to help the public sector identify, manage and prevent corruption risks.

The ongoing work of the ICAC includes:

- delivering services which are useful, practical, strategically targeted and appropriate;
- responding to needs in a way which maximises the impact of ICAC activities and makes the best use of resources;
- performing duties impartially and with integrity;
- meeting the standards of ethical behaviour and accountability that the ICAC promotes in its dealings with other government organisations; and
- considering the impact of the work on organisations and individuals.

While reporting to the NSW Parliament, the ICAC continues to operate effectively and independently. The primary concern is the protection of the public interest and the prevention of breaches of the public trust.

As the first organisation of its kind in Australia, the ICAC initiated processes and procedures to investigate and prevent corruption which are now benchmarked both nationally and overseas.

20 years of achievements

Since its inception, the ICAC has received more than 35,500 complaints and reports of corruption, made more than 740 corruption prevention recommendations and conducted more than 280 formal investigations.

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From left: Commissioners of the ICAC over 20 years; Irene Moss AO, The Hon Jerrold Cripps QC, Ian Temby QC and The Hon Barry O'Keefe AM, QC.

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Corruption Matters is also available to download from the ICAC website www.icac.nsw.gov.au

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Commissioner's Editorial



This year the ICAC is celebrating 20 years of fighting and preventing corruption in NSW. The Commission has continued to work tirelessly over the past two decades, investigating corruption and undertaking major research, education and training programs to minimise its occurrence, often in conjunction with state and local government agencies and other stakeholders.

I cannot emphasise enough how important recognising and managing corruption risks is to any organisation. The Commission's many investigations, over the years, have resulted in many reforms to the NSW public sector, such as changes to electoral funding and tightening procedures for the release of confidential information by government officials. Our role in maintaining integrity is renowned in Australia and our expertise is acknowledged internationally. One example is our conflict of interest toolkit, adopted by the Canadian Air Force. We intend to uphold and improve further on this high standard over the coming years, and you can read more about the 20th anniversary in this edition of *Corruption Matters*.

Now is the time to register for the second Australian Public Sector Anti-Corruption (APSAC) Conference, to be held in Brisbane at the end of July. Organised in conjunction with our interstate counterparts the Crime and Misconduct Commission (Queensland) and the Corruption and Crime Commission (Western Australia), this year's conference promises to be an excellent opportunity to share ideas, experiences and strategies, building on the huge success of the inaugural APSAC Conference, held in Sydney in 2007.

This edition of *Corruption Matters* features more information about the 2009 APSAC Conference, including a brochure with all you need to know about this unique and important event, and why you should attend.

Although much of the work the Commission does identifies weaknesses in the system, the majority of people working in the public sector are committed to upholding ethical practices in their role. The article on the results from two surveys reinforces this by identifying improvements in the management of corruption in NSW.

There is also an opportunity to find out about the Commission's corruption prevention task groups, and details on the progress of our ICAC website upgrade, enabling you to more easily locate and access information in the future.

The Hon Jerrold Cripps QC
Commissioner

APSACC 2009 – taking responsibility, fighting complacency

Following the success of the first Australian Public Sector Anti-Corruption (APSAC) Conference in 2007, registrations are now open for Australia's leading anti-corruption event to be held in Brisbane from 28-31 July.

The ICAC is working hard with the Crime and Misconduct Commission (Queensland) and the Corruption and Crime Commission (Western Australia) to bring you a practical and relevant forum.

The exciting program is again important for every public sector official keen to identify, prevent and manage corruption; in fact if you only attend one anti-corruption conference this year, make APSAC the one!

The conference will provide the latest information on enhancing integrity in the public sector and fighting complacency to help prevent corruption, which is another major theme of this event.

You will have the chance to network with senior corruption officials from around Australia and overseas, including Kevin Brosseau, from the Commission for Public Complaints Against the Royal Canadian Mounted Police, and the Honourable Paul De Jersey AC, Chief Justice of Queensland.

International perspectives on corrupt conduct will be important case studies to learn from in addition to examples from other states and remote locations.

Other speakers in this innovative program include:

- Professor Indira Carr from the University of Surrey, UK.
- The Honourable Justice Lowell Goddard, Chair of the New Zealand Independent Police Conduct Authority.

The pre and post conference workshops, conducted by senior facilitators, will address key areas such as conflicts of interest and corruption prevention for managers, fraud and corruption controls. We look forward to generating many good ideas from these workshops.

For further information on the APSAC Conference go to the website at www.apsacc.com.au.

Early bird registration finishes on 28 May



The ICAC in 1989 (left) and today (right).

Cont. from page 1

Through its investigations, the ICAC has improved on the processes, systems and culture of many public sector agencies.

Since commencing in 1989, the ICAC has published 141 reports on its investigations. They cover many areas of corruption and have resulted in various initiatives to prevent corruption in a range of public authorities and changes to legislation.

The North Coast Land Development investigation in 1990 led to changes in the *Election Funding Act 1981*, related to the supply of information on political donations.

An investigation from 1990 to 1992 was held into the release of confidential information by government officials. This led to a tightening of procedures for releasing confidential information by NSW public sector agencies and security initiatives in federal and state agencies. This investigation also led indirectly to the enactment of specific privacy legislation in NSW.

Two reports were released in 1998 following investigations into Parliamentary and electorate travel. Sixty-three recommendations were made for reforming the allowances system (including staffing, office equipment and travel) for Members of Parliament and the management of Parliament House.

In December 2000 the Commission published a report on its major investigation into the re-birthing of motor vehicles. Findings were made that a number of corrupt Roads and Traffic Authority officers were involved in the re-birthing of approximately 100 motor vehicles.

An investigation in 2003 was held into the theft by an employee of more than 2,000 rare specimens from the Australian Museum. More than 30 recommendations were made to strengthen the policies and procedures of the Museum against future loss.

Another 2005 investigation uncovered corrupt conduct by officers at WorkCover, which “substantially undermined” safety on construction sites. The issuing of false certificates of competency “had the potential to cause enormous damage to workers, to the projects they were working on, and to the general public”.

In 2008 an investigation was held into the assessment of development applications by Wollongong City Council. The Parliament accepted the ICAC’s findings which resulted in the vacating of all civic offices at the council. Findings of corrupt conduct were made against 10 people including council officers and developers.

The long running investigations into RailCorp made public widespread corruption in the procurement of goods and services for rail track construction and maintenance.

Many of the investigations and reports made corruption prevention recommendations to minimise future risks, some of which have had influence across NSW.

The developing services of the ICAC

Stephen Osborne, an investigator with the ICAC for 20 years, says each operation is analysed and a tailored approach is devised to optimise the outcome. Improvements in technology have aided both the reporting of corruption and the investigation process.

The services of the ICAC have developed over the years to include more proactive and preventative measures against corruption such as specialised in-house workshops and regional training.

The ICAC is continuing its important role fighting corruption to benefit the NSW community.

Since inception, the ICAC has:

- considered 35,500 corruption complaints and reports;
- made 740 corruption prevention recommendations; and
- conducted 280 formal investigations.

NSW improving the management of corruption risks

Survey responses from the NSW public sector show positive directions in corruption risk management, although some challenges remain.

The ICAC conducted extensive research into the NSW public sector as part of a project examining corruption risk management.

More than 300 public sector agencies responded to a survey in 2007. They included local councils, catchment management authorities, government departments, state owned corporations and local Aboriginal land councils.

A second survey received almost 500 responses from employees of 30 different public sector organisations.

Two reports have now been released summarising the findings from this research. The first report details the results for the NSW public sector as a whole. The second report is a comparison of the organisation results from 2007 with similar research conducted in 2001.

Some commonly identified areas of corruption risk were:

- the procurement of goods and services;
- the use of organisational funds;
- confidential information;
- development applications and rezoning;
- recordkeeping; and
- political interference.

Public sector agencies were concerned about a range of possible corrupt behaviours, most notably:

- misconduct involving conflicts of interest;
- the improper use of information;
- intentional failure to create records;
- bribes, gifts and secret commissions; and
- fraud.

Employees, by contrast, were most commonly concerned about misconduct such as favouritism and harassment. Many staff also identified misconduct involving inadequate advertising (e.g. of tenders or positions),

conflicts of interest and the intentional failure to create records.

Employee results suggested that only some corruption prevention-related information was reaching employees:

- 36% of employees had heard of the *Protected Disclosures Act*.
- 40% of employees knew how to use their agency's internal reporting channel.
- 47% of employees were unaware that they were required to retain emails of business value.

However, other results provided examples of information that did reach employees:

- 91% of employees had read their agency's code of conduct.
- 82% were confident that they understood their agency's information technology security requirements.
- 83% felt they were sufficiently informed about the ethical issues relevant to recruitment.

Many corruption prevention strategies were used by proportionally more agencies in 2007 compared with 2001:

- The percentage of organisations that managed corruption risks in the context of a risk management framework increased.
- The percentage of agencies with a code of conduct increased.
- The percentage of agencies with a gift register increased.
- More agencies now use audit plans, audit charters and audit committees.
- More agencies now use a variety of specified mechanisms to manage corruption risks in procurement.
- More agencies now have an internal investigation capability.

Comparisons between these results and results from similar surveys distributed in 2001 illustrate an improved picture of corruption risk management in the NSW public sector.

The next phase of this project will examine results from different agency groups. Future publications will present these results and provide advice tailored to each group.

The ICAC would like to thank all the staff and agencies that participated in this project.

Copies of the reports can be obtained by contacting the ICAC on phone (02) 8281 5999, 1800 463 909 or from the ICAC website (www.icac.nsw.gov.au).



The 2007 organisational and staff surveys

Corruption prevention advice

The ICAC's corruption prevention officers work with public sector organisations to strengthen administrative systems and to raise awareness of potential corruption problems.

One of the key functions of the ICAC is to provide advice to the public sector about strategies to minimise corruption and maintain the integrity of public administration. In some situations the ICAC can also provide advice to private citizens about corruption



It's better to prevent corruption than cure it.

prevention practices that should be followed by public sector organisations. The main benefits of contacting the ICAC for advice by telephone are that informal advice can be given promptly and the caller can be advised about relevant information and resources. Sometimes, more research and consultation than a phone call will allow is required and in such cases ICAC officers would discuss the most appropriate way to assist. This may involve writing to the ICAC.

In some circumstances, the ICAC may decline a request for advice. Advice requests are declined when the ICAC considers that the advice function would potentially conflict with its investigative function. The ICAC is unable to give advice that could be seen as authorising a particular course of action or to provide advice that extends beyond probity and corruption prevention issues. The ICAC may only be able to provide generalised advice in cases where the request is complex or detailed and the ICAC cannot resource the request.

For corruption prevention advice, telephone the ICAC between 9am and 5pm on 02 8281 5999 (or toll free on 1800 463 909 for callers outside Sydney).

Upgraded access to ICAC information

The ICAC website is currently undergoing improvements to offer a more effective and valuable service to the community.

This fully functional website is expected to go live in the second half of 2009.

The ICAC proactively sourced feedback on its existing internet site and responded to comments from the community, the public sector, and internal employees in developing the upgrade specifications and information architecture. Industry standards and current best practices were employed in this process.

The existing strong content such as published investigation reports, corruption prevention guidelines, the provision of information in different languages and the glossary will be combined with improved features and content.

The new structure will provide users with easy navigation throughout the site. Improved functionality will offer online registration for events and training workshops.

Submitting inquiries and complaints about corrupt conduct will be easier through secure pages on the website. There will also be a

secure online facility to assist principal officers in fulfilling their obligations under section 11 of the *Independent Commission Against Corruption Act 1988*.

The Preventing Corruption section of the site will provide a comprehensive range of guidance materials, tools and links to resources to help address and prevent corruption risks in a wide range of workplace situations. Guidance in corruption prevention planning will also be available.

Information about current and past investigations, from public notices to the implementation of recommendations, will be uploaded as it becomes available. Access from a specific investigation web page will make it easier to follow outcomes.

The ICAC would like to thank everyone who completed the online survey and participated in the workshops for helping us to provide a better website service.

Investigations update

Operation Mirna – implications for capital works contracts

In December 2008 the ICAC released its investigation report on the NSW Fire Brigades (NSWFB). Findings of corrupt conduct were made against two former NSWFB project managers whose dishonest schemes resulted in them receiving corrupt payments totalling \$2.4 million.

The Commission found that between late 2005 and 2007, two project managers submitted false tenders and quotes to the NSWFB. This resulted in companies controlled by one of the project managers receiving capital works projects worth more than \$6 million. After paying the subcontractors who did the actual work, the two project managers shared \$2.4 million between them. The scheme affected 39 NSWFB projects, ranging from a major upgrade and a new station to repairs and maintenance.

The report says that there was no effective method of costing a capital works project. “The budget allocation process offered the corrupt project managers their opportunity.”

The Commission identified systemic weakness at the NSWFB and made 14 corruption prevention recommendations to minimise or prevent similar corrupt conduct and improper work practices from recurring. The recommendations were made in relation to recruitment processes, the capital works budgeting and estimating processes, and internal controls.

The ICAC was also of the opinion that consideration should be given to obtaining the advice of the Director of Public Prosecutions (DPP) for the prosecution of the project managers and others for various offences.

Operation Bellin – offering money for an unfair advantage

Operation Bellin involved two parents attempting to offer \$2,500 to a primary school teacher with the intention of ensuring entry into a selective public high school for their son.

In February 2009 the Commission released its report into the matter with corrupt conduct findings made against both the parents. On two occasions (August and October 2008) the parents offered their son’s school teacher money. The teacher reported the incidents to her superiors on both occasions.

The Commission was of the opinion that consideration should be given to seeking the advice of the DPP with respect to the prosecution of the parents for offences of offering a corrupt benefit contrary to the *Crimes Act 1900 (NSW)*.

Operation Capella - investigation into local government gifts

The Commission held a public inquiry into attempts to encourage a council officer to favourably assess planning applications. These applications were submitted by a company developing a property in Wahroonga.



Corrupt findings were made against an employee of the director of the company who offered cash and gifts worth more than \$1,800 to a council planning officer.

The Commission was also of the opinion that consideration should be given to obtaining advice from the DPP for the prosecution of the person who offered the benefits for two offences of corruptly offering an inducement contrary to the *Crimes Act 1900 (NSW)*.

There were no corrupt findings made in relation to the owner of the company or the council officer.

The Commission made three corruption prevention recommendations, including that:

- The Department of Local Government amend the Model Code of Conduct to include a clear prohibition on council officials accepting gifts and benefits of any kind, from persons seeking to influence council decisions.
- Ku-ring-gai Council removes the reference to monetary limits from the definition of gifts and benefits in its gifts and benefits policy.
- Ku-ring-gai Council ensures that its gifts and benefits policy is consistent with its code of conduct.

These reports are available to download from the ICAC website at www.icac.nsw.gov.au

Improving public trust in government



Proposed Freedom of Information reforms to increase the transparency of government contracting.

A representative government is built on the consent of the governed. This means that a reasonable level of public trust is needed for government to function effectively.

Much of the distrust for politicians has arisen as a result of the public perception that decisions are made behind closed doors. When people do not know what the government is doing their natural tendency is to assume the worst. The well-worn expression that the public stops trusting the government when the government stops trusting them rings true.

As the population becomes more competent with technology, the demand for information will continue to grow. Effective and efficient access to government information can help this increasing demand.

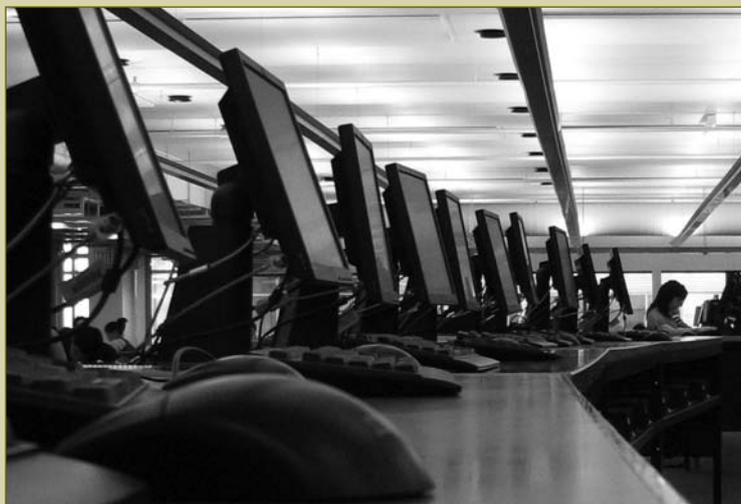
More than anything else, people want to know how the government is spending their money.

In his recent inaugural address, President Barack Obama promised that:

...those of us who manage the public's dollars will be held to account to spend wisely, reform bad habits, and do our business in the light of day, because only then can we restore the vital trust between a people and their government.

After the stimulus package was passed by the Senate, the US Government launched an interactive web page www.recovery.gov. Accompanied by a message of support from the President, the site is designed to tell the American people how their \$800 billion is being allocated. The site also lists a number of clear timeframes for information to be included.

Unfortunately, we have not experienced a similar initiative in NSW. The recent report by the NSW Ombudsman *Opening up government: Review of the Freedom of Information Act 1989*



As the use of technology increases so does the demand for information.

provides some guidance as to how government and its agencies could and should be more open about their work, including their contractual arrangements.

In 2006, the *Freedom of Information Act* was amended to require the release to the public of a greater amount of information regarding government contracts. However, state owned corporations and local councils were exempted from the new requirements. While the government promised that this would be revisited in the future, this has not occurred. The NSW Ombudsman recommended that both of these groups be brought within the scope of the contract disclosure requirements.

Agencies need to change the way in which they refuse access to information. The experience of the NSW Ombudsman with the Act has suggested that, in many situations, the starting point for many agencies is a desire not to disclose information, followed by an attempt to find an exemption clause that 'fits'. This has been particularly true of the 'business affairs' exemption. This needs to change. The NSW Ombudsman recommended that the Act no longer provide exemptions, but rather 'reasons for refusal'. Access should only be refused if it can be demonstrated that releasing the information could reasonably be expected to cause some form of detriment or harm. When access is refused, the expected detriment or harm should be made clear to the applicant, in detailed reasons for refusal.

These changes should mean the public are able to access more information about all aspects of government, including its contracts. Ideally, however, these would only be used as a last resort. The NSW Ombudsman recommended a far greater level of proactive disclosure of information. After all, this is not the government's information. It is the public's information, and is held by government on behalf of the community.

The Premier has promised to act swiftly to improve what he himself has described as a "broken" system, with an Open Government Information Bill to go before Parliament in the first session of 2009. The office of the NSW Ombudsman look forward to working with the government to provide the people of NSW with the access to information regime they deserve.

Bruce Barbour
NSW Ombudsman

In other news

New task groups working to prevent corruption

The Commission's Corruption Prevention, Education and Research Division has formed two short-term task groups as part of its corruption prevention programs in the areas of procurement and local government planning assessment functions.

Both areas have been recently illustrated by some high-profile investigations involving RailCorp and NSW Fire Brigades (procurement), and Wollongong City Council (local government planning assessment functions).

Since the release of the investigation reports into these matters, the Commission has been busy examining opportunities to educate the public sector about the findings with a view to reducing the likelihood of similar corrupt conduct occurring or recurring.

The work conducted by each task group has included visits to a number of NSW public sector agencies to deliver briefings, seminars and workshops on the lessons learnt from these investigations. These have included addressing more than 600 local government councillors, managers and officers located in high-risk areas where there is pressure for development.

The Commission is also encouraging agencies to perform their own self-diagnosis of the corruption risks revealed in the reports.

If your agency would like further information on any of the Commission's corruption prevention services please contact the ICAC on phone (02) 8281-5999, 1800-463-909 or go to the website www.icac.nsw.gov.au

South Coast Outreach Program

The next ICAC Rural and Regional Outreach program will be held on the NSW far south coast the week beginning 18th May.

The ICAC program will include workshops, discussion groups, school visits and briefing sessions. The popular local government seminar on 'Lessons from Wollongong' will be added, for regional council staff and elected members to attend.

The Outreach Program and Community Leaders Breakfast will be held at the Club Sapphire in Merimbula.

For more information about the ICAC's Outreach Program please contact Bill Kokkaris on 02 8281 5877 or email Bill: bkokkaris@icac.nsw.gov.au

Correction

The previous edition of *Corruption Matters* incorrectly referred to the Institute of Public Administration Australia (NSW Division) as the Institute of Public Affairs (NSW) in the story on the 7th National Investigations Symposium. *Corruption Matters* regrets this error and any confusion or inconvenience caused.

Corruption Matters is produced twice a year to raise awareness in the NSW public sector and the wider community about corruption-related issues. If you have any comments about the publication or would like to be put on the mailing list, please contact the Corruption Prevention, Education and Research Division of the Independent Commission Against Corruption.

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