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## Who's really running the show? Beyond the limits of the classic bureaucracy

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Eighty years of massive machine bureaucracies abruptly came to an end with the rise of Milton Freidman, Margaret Thatcher and Ronald Regan. In the quarter of a century since, governments of all persuasions across the world have been divesting themselves of routine, standardised, mechanical activities, along with services able to be delivered by the private sector. Today, the frontline of government is less than ever before about processing forms, and increasingly about flexible problem-solving, customer service, innovation and achieving value for money.

And it is within the business units that solve problems, deliver service, innovate and seek out value for money where the ICAC disproportionately finds corrupt behaviour. This raises the obvious question of why? Why are bureaucracies more effective at controlling corruption in standardised and routine activities – such as accounts payable or recruitment and selection – and struggle to control flexible, responsive activities?

To some extent, the answer lies in the very form of bureaucracies themselves. If form follows function, then the form of the bureaucracy is following functions that were standardised, predictable, reliable and routine since the late 1800s. In effect, the bureaucracy exists in its current form to deliver what some may consider the antithesis of devolved problem-solving, customer service, innovation and the search for best value.

Sociologist Max Weber provided the seminal description of classical bureaucracies – hierarchical supervision, management based on written documents, the use of rules to control behaviour, and so forth. He also alluded to the role of such bureaucratic forms in the prevention of corruption.

Where the function is to deliver flexible and responsive outcomes, however, the organisational form is quite different. A look around at, let's say, a hardware store or airline company shows that service is delivered by fluid, problem-solving customer service teams. There are teams, of course, that share an organisational form that is quite different from the classic bureaucracy model.

These groups are more like the clans described by American professor William Ouchi in 1973 and the organic forms described by co-authors  
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The Australian Public Sector Anti-Corruption Conference (APSACC) is Australia's leading international anti-corruption event. APSACC 2011 was held in Fremantle, WA, in November last year (see p. 4).

# Commissioner's editorial

At the conclusion of every public inquiry, the ICAC furnishes a public report to the NSW Parliament that provides an overview of the investigation (such as how it came about and why the ICAC chose to investigate), our subsequent findings, and any recommendations. The latter usually includes a series of corruption prevention recommendations to address deficiencies in government processes identified by the ICAC during the investigation.

The *Independent Commission Against Corruption Act 1988* requires any corruption prevention recommendations to be provided to the relevant public authority (for example, the agency at the centre of the investigation) and relevant minister. The public authority is then required to inform us in writing within three months (or longer, if agreed to by the ICAC) whether it proposes to implement any plan of action in response to these recommendations and, if so, to inform the ICAC of this plan.

Twelve months later, the public authority must then provide a written report to the ICAC of its progress in implementing the plan. If the plan has not been implemented by then, the public authority is required to submit a second report in a further 12 months' time.

Since our last issue of *Corruption Matters* in November 2011, the ICAC has released four investigation reports (these contained 22 corruption prevention recommendations to various public authorities) and undertaken five public inquiries. All investigation reports are available on the ICAC website at [www.icac.nsw.gov.au](http://www.icac.nsw.gov.au) or upon request (in the case of reports older than 10 years).

## Focus on procurement

Investigation reports are also an efficient way of identifying and assessing recurrent themes, and informing major ICAC corruption



ICAC Commissioner the Hon David Ipp AO QC

prevention strategies that may have bearing on the NSW public sector as a whole. This was the case for the ICAC's procurement project, when it was revealed that approximately 30% of the ICAC's public inquiries make findings of corrupt conduct related to NSW government procurement activities.

The procurement project has resulted in new training workshops (see p. 5) and a suite of publications, the latest of which describes a range of approaches to corruption control that managers in public sector procurement can choose from to meet their own operating requirements (see p. 6).

## Towards a better planning system

In February this year, the ICAC provided a report to the NSW Government as a response to a government paper titled *The way ahead for planning in NSW? Issues Paper of the NSW Planning System Review* (December 2011).

The ICAC's submission outlines 16 recommended changes to the NSW planning system in order to minimise the corruption risks in the current processes. Among the recommendations, the ICAC suggests that the government takes steps to make it mandatory for major strategic policy documents to be considered during the making of planning instruments. It also recommends that the government should ensure that planning authorities are required to provide regular information and updates to the public about development applications under assessment, including any significant changes made to an application.

Since its inception in 1989, the ICAC has produced 30 reports exposing likely and actual corrupt conduct involving the NSW planning system and several other reports relating to the *Cont. on page 3*



APSAACC panellists at the closing plenary session, "Do the ends ever justify the means?", 17 November. The next conference will be held in Sydney in 2013.

### Commissioner's editorial (cont.)

potential for corruption within the system and recommendations to address these risks.

The ICAC's report, *Anti-corruption safeguards and the NSW planning system*, was commenced independently of the review that is being conducted on the NSW planning system. A copy is also available from the ICAC website at [www.icac.nsw.gov.au](http://www.icac.nsw.gov.au).

### Forthcoming industry events

In November last year, I attended the third Australian Public Sector Anti-Corruption Conference (APSACC) in Fremantle, Western Australia. The ICAC jointly hosts APSACC with the Queensland Crime and Misconduct Commission and the Corruption and Crime Commission of Western Australia. The conference was a great success, with over 500 delegates from some 20 countries, including Australia, in attendance (see p. 4). In 2013, it will be Sydney's turn to host the event once again (the inaugural conference was held here in 2007).

Until then, there are several events that will take place later this year that I would like to draw your attention to, including the Corruption Prevention Network forum in Sydney on 6 September and the 9th National Investigations Symposium in Manly, on Sydney's northern beaches, from 7 to 9 November. The ICAC will also host an outreach visit to Tweed/Kingscliff and Lismore on the NSW North Coast on 8 and 9 May and another visit to a rural or regional community in November. See page 8 for more details on these events.



The Hon David Ipp AO QC  
Commissioner

### Who's really running the show? Beyond the limits of the classic bureaucracy *Cont. from page 1*

Tom Burns and GM Stalker in 1961–62. The task is continually adjusted as the individual interacts with others. For example:

- lateral, verbal communication, ignoring rank and resembling consultation rather than command
- communication as information and advice rather than instructions and commands.

Here, control swings to the individual with knowledge, and there is commitment to the concern, not impartial action or obedience. The leaders of these groups are often dominant personalities and long-term employees with expertise.

Policies and procedures play a part in controlling behaviour, but group norms, professional identity and personal ethics all play a much stronger role in controlling some groups, such as medical teams and planners.

Increasingly, there are units within bureaucracies that are operating more like clans. They are undertaking work that is not understood by the top levels of the organisation, working out solutions by themselves to unpredictable problems, not communicating through the proper written channels, and working around rules when they get in the way.

When these clan units go wrong, the challenges for management are significant. There is no simple answer.

To simply diagnose the corruption risk as too much discretion is to miss the point. Innovation, flexibility and service can only be achieved by the use of discretion.

To write procedures and change job designs in such a way as to remove discretion will also minimise the effectiveness of the units. Policies and procedures will proliferate as every possible contingency is anticipated, and will promptly be ignored by those with on-the-ground knowledge.

When corruption in clan-based units is examined by the ICAC, a laissez faire approach to management is often in the background. The

units are doing their thing and managers (who are often setting an example of poor behavior) allow them to act with little scrutiny, guidance or intervention.

These units, however, require close management. The behavioural norms and work practices can be directly observed by managers who immerse themselves in the unit. Strong communication and modelling of appropriate behavior by those with influence over the group can set the boundaries for what is acceptable behavior.

The informal communication channels are an opportunity to keep a finger on the pulse. All too often, public inquiries held by the ICAC expose corruption that is widely known by those who tapped into the verbal communication channel, and largely unknown by those relying on the formal, written communication channel. During one ICAC investigation, the corrupt behavior within an agency had been rumored for nearly a decade, but no action had been taken because there was no written complaint.

The admission of individuals into these units is another point of corruption control. This means more rigour in the selection process; that is, greater emphasis on conducting background and probity checks than in other, more prescribed and monitored roles.

As seen in football teams, surgical teams, customer service units and even construction gangs, the mindset and skill set of successful managers is noticeably broader than that required by classic bureaucracy.

# Another successful year for APSACC

**From 15 to 17 November 2011, the ICAC once again acted as co-host for Australia's premier anti-corruption conference, the Australian Public Sector Anti-Corruption Conference (APSACC).**

APSACC 2011 was organised by the West Australian Corruption and Crime Commission (CCC), the Queensland Crime and Misconduct Commission (CMC) and the ICAC, and was held at the Esplanade Hotel, Fremantle, having previously been held in Sydney (2007) and Brisbane (2009). The conference attracted over 500 delegates and has received some great feedback, including positive feedback from international delegates, the chair of the WA CCC's oversight committee, CEOs from public sector agencies and attendees from the host agencies.

Taking into account workshop participation, which exceeded both the Brisbane and Sydney conferences, the attendance numbers for the conference exceeded the total attendance numbers in Brisbane and equalled those of Sydney. This was an excellent result, considering the additional travel time to Perth for many attendees.

APSACC 2011 was opened by the WA Attorney General, the Honourable Christian Porter MLA, and included presentations by the Honourable Wayne Martin, Chief Justice of WA, Professor Geoff Gallop AC, Professor

Andrew Goldsmith, and various other illustrious speakers from the public sector, media and academia.

The conference dinner included a presentation by "Dr Connor Dele", who claimed to be an adjunct professor of criminology from Harvard University, and gave a very funny presentation on "anti-corruption, pro-corruption and the bigger picture".

The two workshops run by the ICAC – Fact Finder and Probity in Procurement – attracted capacity attendance and most of the other five workshops on offer at APSACC 2011 attracted similar high numbers.

Preparations have already begun for APSACC 2013, which will once again be held in Sydney. All those interested in corruption investigation and prevention issues are urged to visit the APSACC website at [www.apsacc.com.au](http://www.apsacc.com.au) to keep up to date with new developments.



The theme of APSACC 2011 was "A Global Compass – Navigating Public Sector Corruption". A range of workshops and featured sessions were presented targeting up-to-the-minute issues affecting public sector anti-corruption management. Bottom row left: a panel discussion with four Australian police commissioners on dealing with police complaints, discipline and misconduct processes.

# Has your staff received ICAC training?

ICAC officers have conducted training and information sessions for public officials in the NSW public sector since the Commission's inception in 1989. Our training is tailored to meet the needs of managers and is delivered with no charge to NSW public sector agencies that require assistance and undertake corruption risk management activities. The aim of the workshops is to develop better understanding and knowledge of corruption prevention methodologies and provide general information about how the ICAC works.

Feedback from recent workshop participants indicates that the information we deliver during this training is relevant and useful. The majority of participants said that before the training they were unaware of the true nature of the ICAC's role within the NSW public sector and that the workshops are an opportunity to ask questions and separate the myths from the truths that surround how the Commission actually operates.

The ICAC's Corruption Prevention Division currently offers three workshops, which can be delivered in-house or as part of a round of open workshops. The open workshops are based in Sydney's CBD and involve participants from many different agencies who have been invited or have registered an interest. All workshops can be presented as half- or full-day training sessions.

**Corruption Prevention for Managers** This workshop is intended for state and local government managers and internal auditors. It aims to raise awareness of corruption, corruption risks and the role of managers in preventing, detecting and responding to these problems.

**Corruption Prevention in Procurement for Managers** This workshop is designed for those who have line management responsibility for procurement but no specialist procurement knowledge or skills. It aims to equip managers to identify corruption risks in procurement workplace activities and develop a risk management approach to corruption prevention around procurement. The procurement manager's workshop also includes material on the manager's role in corruption prevention in procurement, such as responsibility for identifying risks and appropriate controls.

**Corruption Prevention in Procurement** This workshop is designed for staff who undertake procurement in their workplace and is particularly relevant for those with contract management roles or who are new to the public sector. It aims to assist staff who undertake procurement duties to understand the probity requirements and corruption risks associated with the procurement of goods and services.

Although the focus of a given procurement workshop will vary according to the target audience, all workshops include the following fundamentals:

- recognising corruption in procurement
- corruption risks in procurement
- understanding corruption
- identifying and managing corruption risks in procurement
- responsibilities in corruption prevention.

ICAC workshops are held throughout NSW metropolitan and regional areas. ICAC officers Adam Shapiro and Frances Beggs are available to discuss agency training needs prior to committing to a workshop. They can be contacted by phone on 02 8281 9729 or 1800 463 909 (toll free) or by email on [workshops@icac.nsw.gov.au](mailto:workshops@icac.nsw.gov.au).

**Agency workshops:** If your agency would like the Commission to run an in-house workshop, you can submit a request by contacting the training team above.

**Open workshops:** If you wish to register your interest in attending an open workshop, please go to the ICAC website at [www.icac.nsw.gov.au](http://www.icac.nsw.gov.au), click on the Education and Events tab and follow the links.



In the last financial year, the ICAC delivered 89 training sessions, reaching over 1,400 people. The procurement workshops are the most frequently requested.

# Managing procurement: the corruption prevention challenge

In December 2011, the ICAC published another report resulting from its research initiative into corruption in public sector procurement. The new report, *Corruption risks in NSW government procurement: The management challenge*, provides practical advice to managers on how to prevent corruption.

Corruption prevention is not only achieved through a set of policies, procedures and checks designed and implemented by a governance group. Corruption control must also focus on strengthening procurement structures, the procurement process and the people factor. Managers need to use judgment to mix and match compliance controls depending on the unique requirements of their workplace.

The structural arrangements of an organisation have the potential to provide the most powerful controls over procurement. By assigning accountabilities, coordination mechanisms and chains of command, structural arrangements are a key contributor to organisational performance and one of the most powerful levers of corruption control available to managers. If procurement is not under line control structurally, an agency will benefit from making a single position accountable for overall procurement.

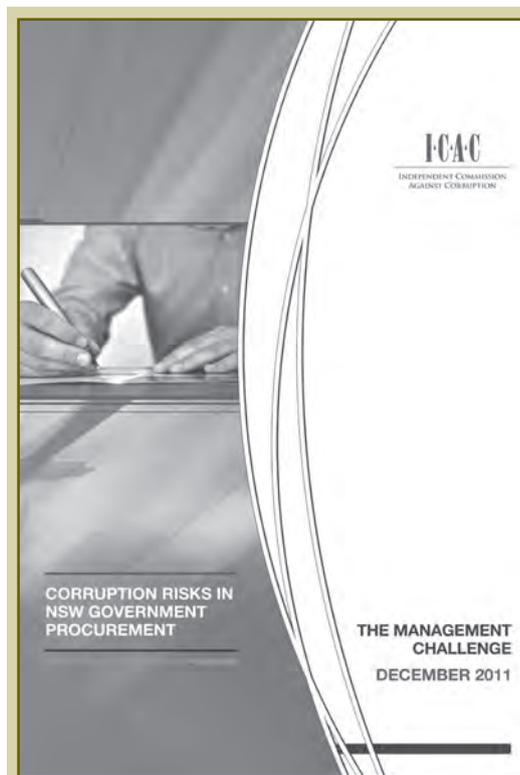
The second pillar of corruption control is the design and management of the procurement process. There are three key challenges for managers related to procurement processes: (1) designing a process that reduces opportunities for corruption and enhances efficiency, (2) limiting staff noncompliance with the process and (3) controlling out-of-process procurement.

Aligning the behaviour and effort of individuals with the goals of an organisation is a third challenge in preventing corruption in procurement. Together with structural arrangements and process quality, the behaviour of (1) staff undertaking procurement, (2) managers and (3) suppliers to government is central to the control of procurement.

Training can improve staff competencies to a degree, but is not, in itself, a complete solution to improving employee behaviour. Managers need to be made responsible and accountable. Where a unit undertakes procurement that is risky, clear procurement-related responsibilities, key performance indicators and measures, and accountability with consequences can help focus the attention of a manager on both corruption risks and sensible management of public funds.

Providing information about contracts and tendering, which is easily understood and widely available, also helps public agencies communicate probity messages and control public understanding of procurement. Information about procurement that is well communicated is also likely to make tenders more compliant and reduce misunderstandings about process.

Since there are many factors that create relatively unique sets of risks within a public agency, a simple reliance on policies, codes and training will control only a small proportion of corruption. Responding to each set of risks may require an array of approaches working in concert and tailored to the diagnosed risks.



The overarching aim of the ICAC's procurement project is to examine the corruption risks associated with procurement in the NSW public sector and to provide assistance to agencies in managing these risks. The following publications have been produced under this initiative and are available from the ICAC website at [www.icac.nsw.gov.au](http://www.icac.nsw.gov.au):

- *Corruption risks in NSW government procurement: the management challenge* (December 2011)
- *Corruption risks in NSW government procurement: recommendations to government* (June 2011)
- *Corruption risks in NSW government procurement: suppliers' perceptions of corruption* (June 2011)
- *Corruption risks in NSW government procurement: consultation paper* (July 2010).

## How do you manage unreasonable complainant conduct?

**We are aware that many organisations have difficulty identifying and managing complainants who make unreasonable demands on an organisation's time and resources. If such demands are not managed appropriately, the efficient allocation of resources is compromised, leading to excessive amounts of time being dedicated to complaints or issues that do not merit the resources allocated to them.**

People may make unrelenting phone calls, send an incessant number of emails, make unnecessary and unreasonable demands of an organisation's time and resources, and be verbally abusive or threaten to harm themselves or others. Their behaviour can "hijack" the response of staff of an organisation, leading to an inappropriate amount of resources being spent to deal with the behaviour, which can, in turn, increase the risk of stress to employees.

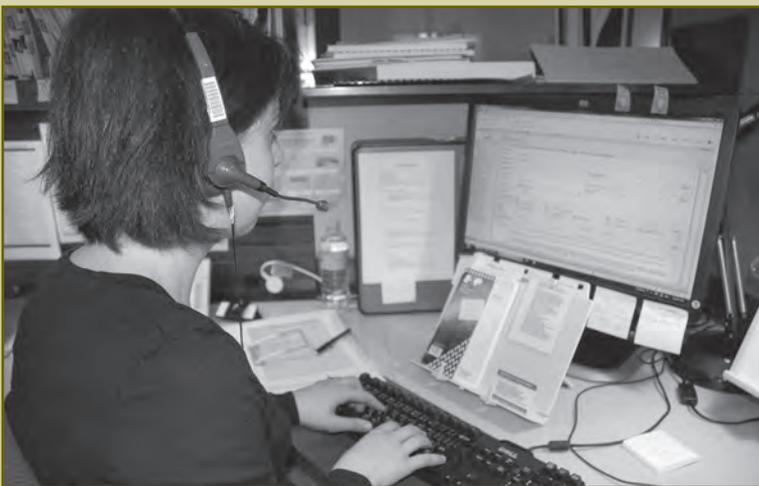
As reported in previous issues of *Corruption Matters* (November 2006 and May 2010), since 2006, the offices of the commonwealth, state and territory parliamentary ombudsman have worked collectively on the Managing Unreasonable Complainant Conduct Project (Managing UCC Project). From the outset, it was envisaged that the Managing UCC Project would be a two-staged initiative, with our overarching objective being to develop systematic and consistent strategies for managing unreasonable complainant conduct.

Our strategies during stage 1 were developed primarily from the perspective of organisations that could impose a limit or terminate the provision of services to a complainant after all reasonable efforts had been made to manage their conduct. The first stage concluded in the publication of a project report and the first edition of the practice manual, *Managing Unreasonable Complainant Conduct Practice Manual*.

During stage 2, we expanded the scope of our work to include organisations that do not have the discretion to terminate the provision of services to complainants and must maintain ongoing relationships, regardless of the conduct of the complainants. We focused on encouraging organisations to modify the way they interact with complainants who engage in unreasonable complainant conduct by using alternative service delivery methods that minimise any health and safety risks and/or resource or equity issues raised by that behaviour. We also focused on managing unreasonable complainant conduct in internet and social media contexts.

A copy of the *Managing Unreasonable Complainant Conduct Practice Manual* (second edition) is available from the NSW Ombudsman's website at [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au). Changes to the first edition of the practice manual include the substantial expansion of the suggested strategies and scripts, and the incorporation of strategies to prevent unreasonable complainant conduct from arising in the first place (such as management of expectations, improving communication and providing apologies, where appropriate).

**We have also developed a model policy to assist organisations to adopt and implement their own policies and procedures for managing unreasonable complainant conduct. Such a policy can provide clear guidance to staff in the management of unreasonable complainant conduct. Organisations that adopt such a policy may also find it useful to provide a copy to people whose conduct is being managed in accordance with it.**



Finally, the NSW Ombudsman provides training in managing unreasonable complainant conduct. Details about this workshop are available by calling (02) 9286 0900 or emailing [training@ombo.nsw.gov.au](mailto:training@ombo.nsw.gov.au), or logging onto our website at [www.ombo.nsw.gov.au/trainingworkshops/GeneralTraining.html#MUCC](http://www.ombo.nsw.gov.au/trainingworkshops/GeneralTraining.html#MUCC).

Bruce Barbour  
NSW Ombudsman

## In other news

### Ten scholarships on offer

The Corruption and Anti-Corruption Executive Program is one of the few graduate courses in Australia to focus on the theory and practice of corruption and the design of agencies and risk management controls to combat corruption. It prepares participants to take a leading role in preventing corruption in their workplace.

As in previous years, the ICAC is offering 10 scholarships (valued at \$5,500 each) to attend the course, which will be held over one week in September 2012 at the Australian National University (ANU).

Applications close 5.00 pm (AEST) on 6 July 2012. For further information, call 02 8281 5772 or visit [www.icac.nsw.gov.au](http://www.icac.nsw.gov.au).

### North Coast outreach

In addition to training workshops (see p.5), the ICAC conducts two visits to rural and regional communities every year to foster and maintain communication channels with communities across the state. In May, staff from across the ICAC will present a series of events on the NSW North Coast. To find out more about the ICAC's outreach program, call 02 8281 5999 or toll free on 1800 463 909.

### Corruption Prevention Network forum

The Corruption Prevention Network (CPN) will hold its annual full-day forum in Sydney on 6 September 2012. The network began, informally, in the early 1990s when a group of professionals came together with officers from the ICAC and the Audit Office to address recurrent issues. It became an incorporated body in 1998 and, today, welcomes the participation of practitioners from both the private and public sector, and from Australia and overseas.

In addition to the annual event, CPN also hosts an online forum for practitioners to network with other professionals on matters related to fraud and corruption prevention.

Early bird registrations for the CPN annual forum start from \$350. The forum will take place at Cockle Bay Wharf, Darling Harbour. For more information, log onto [www.corruptionprevention.net](http://www.corruptionprevention.net).

### National Investigations Symposium

The 9th National Investigations Symposium will be held in Manly, on the Sydney northern beaches, from 7 to 9 November this year. This biennial event, which is run by the ICAC, the NSW Ombudsman and the Institute of Public Administration Australia NSW, comprises preconference workshops and a conference program that reflect the many dimensions of the investigative role. Some 250 delegates participated in the symposium held in 2010. More information is available at [www.nsw.ipaa.org.au](http://www.nsw.ipaa.org.au).



ICAC staff providing information at the 2010 National Investigations Symposium (NIS). Now in its ninth year, the NIS will take place in November 2012.

**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 Division of the Independent Commission Against Corruption.

#### Independent Commission Against Corruption

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