

## Operation Atlas: front-page news

**The public inquiry held in February/March as part of Operation Atlas, the ICAC's investigation into corruption allegations affecting Wollongong City Council, attracted a huge amount of media coverage and public interest.**

The ICAC's hearing room was packed to capacity throughout the inquiry, a large media contingent camped outside and the inquiry was a major news story for almost a week. The media and public interest in the Atlas inquiry also resulted in a sharp increase in traffic on the ICAC website and calls and emails to the ICAC from members of the public.

The Operation Atlas investigation concerns allegations that persons may have engaged in corrupt conduct in connection with the assessment by Beth Morgan, a former Wollongong City Council (WCC) official, and others, of development applications submitted by Frank Vellar, Glen Tabak and Michael Kollaras; the provision by Ms Morgan to Mr Vellar of information from WCC; other dealings between Mr Vellar and WCC officials; and the activities of Ray Younan, Gerald Carroll and persons dealing with them involving the impersonation of ICAC officers, fraud, solicitation and payment of corrupt inducements and provision of false or misleading information to the ICAC.

The ICAC presented the first part of its report on the Operation Atlas investigation to the NSW Parliament on 4 March.

The *Independent Commission Against Corruption Act 1988* requires the ICAC to provide a report to Parliament on investigations that involve a public inquiry. The report contains findings of fact and any findings of corrupt conduct that are made. The ICAC may make recommendations that consideration be given to the taking of disciplinary action or prosecution of individuals and may also make corruption prevention recommendations to help the relevant public sector organisations prevent the recurrence of corrupt conduct.



**A large media contingent covered each day of the Operation Atlas public inquiry.**

If the ICAC is of the opinion that systemic corruption exists within a local government authority, and that prompt action is required in the public interest, it has the power to recommend that all civic offices at the council be declared vacant.

The report presented to Parliament on 4 March made such a recommendation in relation to the office of the mayor and councillors of Wollongong City Council. The ICAC report said:

"Having considered the evidence of WCC Councillors Val Zanotto, Frank Gigliotti, Zeki Esen and Kiril Janovski, and other evidence available to the Commission concerning their conduct, the Commission is of the opinion that their conduct makes it clear that systemic corruption exists within Wollongong City Council."

The Parliament accepted the ICAC's recommendation and a proclamation under the *Local Government Act 1993* was made by the NSW Governor the same day, declaring all civic offices at the WCC vacant. Three administrators have been appointed to the WCC until elections are held to fill the vacant civic offices, in conjunction with ordinary council elections in September 2012.

Other matters concerning the ICAC's investigation will be provided in a report to Parliament in the near future.

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# Commissioner's editorial

In March this year, the public inquiry held as part of Operation Atlas, the ICAC's investigation into corruption allegations affecting Wollongong City Council, was a major news story, leading television and radio news bulletins and making headlines in the NSW and national press.

In this particular inquiry, the conduct under investigation attracted huge media and public interest, but exposing and dealing with systemic corruption doesn't always lend itself to dramatic headlines.

Many ICAC investigations reveal systemic weaknesses within public sector organisations that have provided opportunities for the corrupt conduct to occur, have failed to detect it, and in some cases have allowed it to proliferate.

The impacts can be far-reaching and profound. Recent ICAC investigations have exposed serious and systemic corruption affecting the home building and construction sector, tertiary education and transport services in NSW, to name just a few.

Systemic corruption in the provision of essential public services such as these affects the entire community – resources and services are stolen or wasted, those in greatest need are denied access and the costs of exposing corruption and repairing the damage it does can be huge.

As well as exposing corrupt conduct, the ICAC provides advice to public sector organisations on corruption risk areas; provides resources and training to assist them in managing these risks, and helps organisations affected by corrupt conduct to prevent such problems recurring.

In recent months the Commission has released a position paper on corruption risks in NSW development approval processes; reiterated recommendations from that paper in submissions to the Select Committee on Electoral and Political Party Funding and the *Improving the NSW Planning System* legislative review; hosted the inaugural Australian Public Sector Anti-Corruption Conference; published tip sheets on a range of corruption prevention topics; conducted tailored corruption prevention training for public sector organisations, including in regional areas; and piloted training workshops on a fee-paying basis for public sector managers and specialist staff.

All of this corruption prevention and education work is informed by the investigations work we do and plays an equally vital role in protecting the public interest.

Many of these corruption prevention and education initiatives are outlined in this issue of *Corruption Matters*. I hope you will find it informative and useful in your work.

The Hon Jerrold Cripps QC  
Commissioner

## Reporting suspected corruption

### **Anyone can make a complaint or provide information about suspected corrupt conduct to the ICAC.**

Information can be provided to the ICAC in person or by letter, fax, email or phone.

There is also a Reporting Corruption Online function on the ICAC website ([www.icac.nsw.gov.au](http://www.icac.nsw.gov.au)).

Information can be provided anonymously, but this can make it difficult for the ICAC to take action if further details cannot be obtained from the person reporting the matter.

Principal officers of NSW public sector organisations (e.g. Directors-General of state government departments and General Managers of councils) have a legal obligation, under section 11 of the ICAC Act, to report any matter they suspect on reasonable grounds concerns or may concern corrupt conduct.

Reports and complaints about suspected corrupt conduct should include:

- the name of the relevant NSW authority or public official

- a clear summary of the alleged corrupt conduct
- a chronology of events
- documentation or other information that supports the allegations
- names of other people who could corroborate the information
- an outline of any steps that have been taken to bring the matter to the attention of the authority concerned
- names of any other agencies that have been contacted about the matter (for example, the Department of Local Government or NSW Ombudsman) and what action those agencies have taken or propose to take.

It is not necessary to attempt to gather 'evidence' before reporting a matter to the ICAC.

Generally, it is advisable not to pass on details of matters reported to the ICAC to others.

ICAC contact details can be found on the back page of *Corruption Matters*.

# Corruption and public housing

**Public housing is one of the most essential services provided by the NSW public sector, providing shelter and support to families and individuals at risk of homelessness, domestic violence and a host of other serious problems.**

Public housing is also a scarce and valuable resource. There are currently about 40,000 people waiting to be allocated public housing in NSW, and the Department of Housing has the difficult and complex task of deciding which applicants should be given priority on the basis of need.

The chronic demand for public housing, the value of the resource and the complexity of assessing individual applicants' needs means that there is ample motivation for corrupt conduct in the allocation of public housing, and that opportunities for corruption are very likely to be exploited.

In January 2008 the ICAC released the report of its investigation into corrupt conduct by an officer responsible for allocating public housing at one of the Department of Housing's local offices.

The ICAC found that the Senior Client Services Officer, Douglas Norris, had sought payment from a number of public housing applicants to fast-track their applications,



**One of the properties at the centre of the ICAC's investigation into corrupt allocation of public housing.**

and had used two Department tenants to facilitate most of these deals.

The ICAC made findings of corrupt conduct against Mr Norris, the two tenants through whom Mr Norris made deals and six other individuals who had paid Mr Norris, either directly or indirectly, in return for allocations of public housing.

The ICAC also made a total of 18 corruption prevention recommendations to the Department of Housing to manage the corruption risks associated with allocation of public housing. The recommendations focus on improved staff training and supervision, additional auditing and review of housing allocation processes, and tighter control and monitoring of the computer system used by the Department to allocate public housing.

In 2003 an ICAC investigation exposed similar corrupt conduct by a Department officer responsible for allocating public housing.

The Department of Housing provided extensive support for that investigation, both in terms of exposing the corrupt conduct and also in reviewing the systems and processes used by the Department to allocate priority housing.

Since the 2003 investigation, and as a result of the cooperative relationship that was established, the ICAC has worked with the Department to develop responses to specific corruption risks.

The recently-concluded investigation is a reminder that continued vigilance is needed to detect and deal with corrupt conduct, particularly in high-risk functions like the allocation of public housing.

# RailCorp investigation

**The ICAC is currently investigating allegations that RailCorp employees and contractors have acted fraudulently and/or engaged in bribery in the procurement of goods and services.**

The allegations relate to more than 20 current or former RailCorp employees working in the Asset Management Group, and to allegedly corrupt payments totalling more than \$6 million.

The public inquiry being held as part of this investigation began on 19 November 2007.

In her opening address Counsel Assisting the Commission, Ms Chris Ronalds SC, said the inquiry would reveal "a pervasive and widespread culture of non-compliance with legal obligations within the Asset Management Group, and a less-than-enthusiastic supervisory system that permits corrupt activities to continue over many years undetected and unchecked."

The current investigation is the third major ICAC investigation relating to RailCorp to be held in the past two years. In December 2006 the ICAC found corrupt conduct in the provision of traffic management services to

RailCorp and the RTA, and made a total of 14 corruption prevention recommendations to RailCorp. In June 2007 the ICAC made a further 27 corruption prevention recommendations to RailCorp after finding corrupt conduct relating to RailCorp air-conditioning contracts. In that investigation the ICAC made corrupt conduct findings against a RailCorp officer and two RailCorp contractors, and recommended that consideration be given to their prosecution for various criminal offences.

The current investigation is continuing, with hearings expected to conclude this month.

# Operation Berna

**Another recently-concluded ICAC investigation also relates to development proposals and Wollongong City Council, and has resulted in findings of corrupt conduct against a developer, Mr Lou Tasich.**

The investigation arose from a report by the Council's former General Manager, Mr Rod Oxley, to the ICAC in June last year. Mr Oxley's report detailed an allegation made by Mr Peter Coyte, the Council's Manager, Commercial Projects and Property, that he had been offered a \$30,000 bribe by Mr Tasich at a meeting in Mr Coyte's office on 2 May 2007.

The ICAC investigated this allegation, a counter-allegation by Mr Tasich that Mr Coyte had solicited bribes during lunch meetings at restaurants on two previous occasions, and the reasons for the delay in Mr Oxley's reporting of the alleged bribe to the ICAC, in accordance with his obligations under section 11 of the ICAC Act.

In its investigation report, made public on 20 December, the ICAC found that Mr Tasich did offer a \$30,000 bribe to Mr Coyte, with the intention of inducing Mr Coyte to support a proposal that Mr Tasich had prepared for the purchase of Council-owned land.

The ICAC found that Mr Tasich's counter-allegation was false, and had been made up by Mr Tasich after he became aware that Mr Coyte had reported Mr Tasich's offer of a bribe.

The ICAC found that Mr Tasich had engaged in corrupt conduct and recommended that consideration be given to prosecuting him for a number of criminal offences, including bribery and giving false or misleading evidence to the ICAC. No findings of corrupt conduct were made against Mr Coyte.

The Council's General Manager, Mr Oxley, became aware on 4 May 2007 of the bribery allegation, but he failed to report the matter to the ICAC until 31 May 2007 (his last day in office). On that day Mr Oxley also wrote to Mr Tasich and informed him of Mr Coyte's bribery allegation.

The ICAC concluded that Mr Oxley's conduct fell below the standard expected of a principal officer of a public authority and had the potential to prejudice the Commission's investigation. However, the Commission was not persuaded by the available evidence that Mr Oxley wilfully disregarded his statutory duty or attempted to 'tip off' Mr Tasich, and made no findings of corrupt conduct against Mr Oxley.

## Lessons for local government

Although no findings of corrupt conduct were made against Council staff, this investigation does highlight the need to manage the risks associated with unsolicited proposals to purchase and develop public land. One of the 24 recommendations made in the ICAC's recently-published position paper, *Corruption risks in NSW development approval processes*, is:

"That individual councils consider measures to address the risk of inappropriate relationships forming between council officers and frequent applicants. ..."

In this case, some of the negotiations between Messrs Tasich and Coyte took place over three long restaurant lunches at which a significant amount of alcohol was consumed and at which no other council officer was present.

While conducting business over long lunches is not itself corrupt conduct, this experience shows that it can facilitate an environment in which inappropriate relationships form and corrupt offers can be made with greater confidence.

It is the Commission's long experience that corrupt conduct of the type carried out by Mr Tasich can be avoided by adhering to a policy of selling valuable assets – such as land – only via an open, competitive process. Had Mr Tasich been advised of such a policy early on in negotiations, his corrupt offer would most likely not have eventuated.

# ICAC research visit to Canada

**Michael Nest, an Acting Senior Corruption Prevention Officer at the ICAC, was one of three recipients of 2007 SGE Credit Union / Department of Premier & Cabinet Travelling Fellowships, which fund research into innovations in public sector policy and programs.**

**Michael reports on his visit to Ottawa and Manitoba in Canada, seeking insights and information on Aboriginal governance in Canada that can be applied to the ICAC's corruption prevention work with Local Aboriginal Land Councils in NSW:**

"I applied for the fellowship because the corruption prevention training the ICAC delivers to Local Aboriginal Land Councils (LALCs) is one of the most challenging parts of my work. A typical day in the life of a LALC is very different from that of other public agencies, sometimes creating different risks for corruption. Governance

arrangements also occur in the context of Aboriginal culture, and corruption prevention training needs to take this into account to be relevant and effective.

With its many social and political similarities to Australia, Canada has traditionally been a source of ideas and lessons on Indigenous issues and I hoped to bring back ideas to enhance the ICAC's work with LALCs.

Over two chilly weeks in March I met with 41 individuals from 13 organisations, including representatives from the Assembly of First Nations in Ottawa, the Assembly of Manitoba Chiefs and the Southern Chiefs' Organisation. I also met a number of people involved in delivering specialised training programs to build the governance capacity of Aboriginal organisations.

I found that Canadian law and practices allow for much greater innovation and variety in Aboriginal governance than is permitted in NSW under the *Aboriginal*

*Land Rights Act 1983*. This is reflected in a far more complicated and varied Aboriginal 'governance landscape' in Canada.

In Canada, 'Band Councils' play the leading role in governance of First Nations communities. Band Councils are responsible for providing many services – such as roads, sewerage, schools, housing, health services, town planning, and in some cases police – that in NSW are delivered by local councils or the state. In comparison, LALCs have a much more limited role in terms of service delivery.

Many Band Councils also run businesses – which are often much larger in number and scale than those run by LALCs – and generate additional income for their communities from these operations.

Interestingly, the Canadians I met viewed the word 'corruption' as a blunt term usually

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# Corruption prevention

The ICAC produces a wide range of resources to help NSW public sector agencies identify and manage corruption risks and prevent corrupt conduct occurring.

New ICAC resources include tip sheets which provide concise and practical advice on the use and misuse of resources and corruption risk management.

## Managing corruption risks

Over the past few years, risk assessment and management has become part of normal public sector practice. Risk assessment is part of strategic planning for most public sector agencies and there are a number of legislative and policy provisions that require or encourage NSW public sector agencies to have risk management plans.

All public sector agencies are exposed to some degree to corruption risks, and the consequences of failing to manage these risks can be very substantial – as those agencies that have experienced serious and systemic corruption can attest.

Corruption involving or affecting a public sector agency can result in direct financial loss and wasted resources, damage to the agency's reputation and a loss of public confidence, financial and other costs of investigating the corrupt conduct, and adverse effects on staff.

The ICAC recommends that corruption risks should be factored into an agency's overall approach to risk assessment and management.

The *Corruption risk management* tip sheet produced by the ICAC in February explains what corruption risks are and how corruption risk management fits in with other risk management processes in an agency.



The tip sheet identifies a number of specific functions that are particularly exposed to the risk of corruption – such as contracting-out service provision to other agencies or the private sector, receiving cash payments, and providing assistance or care to the vulnerable or disabled – while warning that corruption risks can be present in most areas of a public sector agency.

The tip sheet also warns agencies that even where a function – such as information management, asset storage or waste collection – is outsourced, the agency is still responsible for ensuring that any associated corruption risks are properly identified and managed.

The decision on whether to develop a separate corruption risk assessment and management process or to integrate this into routine risk management is a matter for individual agencies. The decision will depend on such factors as the size of the agency and the number of activities or functions that are particularly exposed to corruption risks.

The *Corruption risk management* tip sheet has been distributed to NSW public sector agencies and is also available, together with other ICAC corruption prevention publications and resources, on the ICAC website, [www.icac.nsw.gov.au](http://www.icac.nsw.gov.au).

## Use and misuse of resources

**The misuse or theft of resources by public officials is consistently amongst the top three types of suspected corrupt conduct reported to the ICAC, and is at the core of many of the matters investigated by the Commission.**

'Public resources' covers all the resources paid for, owned or controlled by public sector agencies. It includes tangible objects like tools, equipment and corporate credit cards; publicly-funded services such as public housing and public health services; work-related confidential information and an employee's time at work.

The most obvious impact of misusing such resources is financial loss, but there are other costs as well. Misuse of confidential information, for example, can seriously compromise an agency's work, and investigating the misuse of resources can be time-consuming, resulting in lost productivity.

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# Major events

## 7th National Investigations Symposium Sydney, 5–7 November 2008

**The 7th National Investigations Symposium (7NIS) will be held at the Manly Pacific Hotel, Sydney in November 2008. The program will offer interactive workshops on Wednesday 5 November and two days of conference sessions on Thursday 6 and Friday 7 November 2008.**

The NIS is for:

- experienced investigators
- complaint handlers
- regulators
- managers and human resources professionals
- auditors

within Commonwealth, State and local government bodies who wish to enhance their knowledge, skills and capacities to conduct administrative, regulatory or disciplinary investigations.

The 7NIS is also an opportunity to hear and meet with investigative specialists and practitioners and learn of new approaches and techniques. Previous delegates have also attested to the networking advantages of attending the 7NIS.

### Workshops – 5 November 2008

Interactive workshops are offered exclusively for 7NIS delegates on the Symposium program. Numbers are limited and places will be allocated on a first-to-register basis.

#### Fact finder workshop

This is an introductory workshop for those without previous training in investigations, who may be required to conduct an internal fact-finding investigation into a complaint or allegation of staff wrongdoing, including misconduct or corrupt conduct.

The workshop has a practical focus and covers how to plan, conduct, conclude and report on an internal investigation.

Attention will also be given to the principles that underpin investigations, including confidentiality and procedural fairness.

Case studies and real examples enliven this interactive workshop and allow participants to think practically about the topics.

Workshop topics include:

- the role of the investigator
- underlying principles including confidentiality and procedural fairness
- developing a scope, purpose and fact-finding plan for an inquiry
- collecting and analysing information and evidence
- tips for storing and managing information on complex matters
- testing the reliability of evidence
- making findings of fact leading to report recommendations.

Senior experienced staff from the legal and investigations units of the ICAC facilitate this workshop.

#### Unreasonable complainant conduct workshop

So called 'difficult complainants' can take up an inordinate amount of time and resources and cause much stress. Widespread anecdotal evidence suggests that their number is growing and the nature of the difficulties they present is becoming more complex.

The unreasonable complainant conduct project, which is in progress across all Parliamentary Ombudsman offices in Australia, has developed a new approach to this problem.

The *Dealing with Unreasonable Complainant Conduct* one-day workshop now makes the new approach available to agencies more generally. It is designed to give staff the strategies, skills and resources to confidently deal with unreasonable conduct by complainants.

Workshop delegates examine:

- examples of difficult or unreasonable conduct
- categories of unreasonable conduct
- strategies for managing that conduct
- key messages for complainants/clients and for staff including the importance of management support for staff to implement the strategies
- debriefing and de-stressing – the importance of looking after ourselves.

Senior officers from the NSW Ombudsman's office will facilitate this workshop.

### Symposium sessions – 6 and 7 November 2008

The 7NIS sessions comprise an opening plenary session with keynote addresses and two days of presentations in three concurrent streams.

This year's Symposium offers sessions on:

- well-known and controversial case studies
- investigating unsatisfactory professional conduct
- the role of consultants in administrative reviews and investigations
- profiling techniques
- emerging crimes
- biometrics: the use of face recognition
- the Australia-wide unreasonable complainant conduct project
- topical issues and investigative journalism.

#### How to register

Early bird registration is available from May 2008. To register, log on to [www.nsw.ipaa.org.au](http://www.nsw.ipaa.org.au) for the full program, registration form and price list, or phone the Institute of Public Administration of Australia (NSW Division) on 02 9228 5225.

The Symposium is a very popular event. The last Symposium was over-subscribed by more than 20 per cent. It is strongly recommended that you register early to avoid disappointment. The 7NIS is a joint initiative of the ICAC, NSW Ombudsman and IPAA (NSW).

# Australian Public Sector Anti-Corruption Conference

## Brisbane, July 2009

**The second Australian Public Sector Anti-Corruption Conference (APSACC) will be held in Brisbane from Tuesday 28 to Friday 31 July 2009.**

The APSACC is a joint initiative of Australia's leading anti-corruption bodies: the ICAC, the Crime and Misconduct Commission (QLD) and the Corruption and Crime Commission (WA).

The inaugural APSACC, held at the Hilton Sydney in October 2007, attracted 528 attendees. Delegate feedback gave high praise to the Conference for the range of speakers, topics, workshops and networking opportunities through social events. Copies of the APSACC 07 speaker papers and presentations are freely available on the Conference website [www.apsacc.com.au](http://www.apsacc.com.au).

### **Order an APSACC 09 program and registration form**

The APSACC website has a facility to download and order a copy of the APSACC 09 program and registration form. The program and registration form will be released in March 2009. A limited and discounted registration and accommodation offer will be available until sold.

### **Conference sessions**

APSACC organisers are currently building the speaker program based on the following topics:

- building organisational integrity
- corruption prevention for rural and remote communities

- international perspectives on corruption and corruption prevention
- secondary and post separation employment
- procurement and tendering / development and infrastructure
- managing the impact of investigations – agency case studies
- research and evaluation strategies
- the *Whistling while they work* project.

Day two of the conference sessions program offers sector streams for public officials engaged with:

- care and custody
- local government
- boards and committees
- health sector
- schools and higher education
- universities
- public sector.

Information about the workshop program to be offered at APSACC 09 will be outlined in the next edition of *Corruption Matters*.

## Transparency International – a profile



**by Michael Ahrens, Chief Executive, Transparency International Australia**

It is a truism to say that everybody claims to be against fraud and corruption, even those engaged in it. On the international level, however, that has not always been the case.

Until the mid-1990s, the World Bank regarded consideration of corruption in its lending policies as an irrelevant matter, in fact as a taboo subject in their reports. Monies could be provided to the most corrupt countries and projects under this policy.

The refusal of the World Bank at that time to allow the question of corruption to be considered in its multiple aid programmes created increasing unrest amongst a number of senior officials in the World Bank.

One of these was a senior World Bank employee with experience in Africa and Latin America, the distinguished German lawyer, Peter Eigen.

Eigen resigned from the World Bank and, together with a small group of influential and prominent personalities who felt they could no longer tolerate the acceptance of corruption as a fact of life, created Transparency International in 1993.

What was originally planned to be a small ginger group has evolved into the leading international non-government organisation on anti-corruption matters. Transparency

International is remarkably active, with chapters in more than 100 countries.

TI and its chapters are non-profit, independent and non-partisan and do not investigate individual cases.

In 1995, TI developed the **Corruption Perceptions Index**, which measures perceived levels of corruption in particular countries, as determined by expert assessments and opinion surveys. The 2007 CPI covered 179 countries. New Zealand and the Scandinavian countries were rated least corrupt, scoring 9 on a scale of 10 and Australia scored 8.6. However, more than 60% of countries surveyed, including many in the Asia-Pacific region, scored less than 5 out of a clean score of 10.

In 1999, the **Bribe Payers Index** was launched. The BPI measures the propensity of the 30 leading exporting countries, which account for 82% of world trade, to engage in bribery abroad. In 2006 the worst scores were given to companies from Brazil, Russia, India and China.

The **Corruption Barometer** surveys by region and by sector the extent to which those who are forced to pay bribes are suffering. Understandably the police are regarded as most demanding of bribes, but the judiciary are also mentioned regularly by citizens of many countries

Transparency International also publishes an annual **Global Corruption Report**, which

focuses each year on a particular sector. The 2007 Report dealt with the judiciary and includes a very useful toolkit for use by agencies trying to reform legal systems which suffer from the scourge of corruption. The 2008 Report will cover corruption in water supplies and the 2009 Report will deal with business sector fraud and corruption.

Finally, Transparency International has produced a stream of **National Integrity Studies** which analyse the systems which impact on public integrity.

Pacific region countries were studied in 2004 and the National Integrity Study on Australia, conducted by Griffith University, was completed and launched in late 2006. It contains 21 recommendations, most of which are yet to be fulfilled, to tighten integrity systems in Australia. Our first priority is to urge that the three remaining states implement an anti-corruption agency.

### **Supporting Transparency International in Australia**

If you or your organisation is not already a member of TI Australia we would appreciate your interest in becoming one. TI Australia's Directors work on a pro bono basis, but we need funding to cover our expenses. For more information on supporting TI Australia and to access the TI Australia membership application form, go to [www.transparency.org.au](http://www.transparency.org.au).

# Enforcement action by councils



by Helen Ford, Acting Assistant Ombudsman

Australian regulatory bodies have a reputation of requiring people to jump through hoops to get consent to do something but then doing little to make sure the terms of the consent are complied with. Councils are no exception. Enforcement is the most complained-about responsibility of councils. About one quarter of the complaints about local government the NSW Ombudsman's Office received last year raised concerns about councils either failing to take enforcement action or taking unreasonable action. Councils are perceived to be either too soft or too hard. Decisions can be seen as unjust, arbitrary and discriminatory.

To our knowledge only about 10% of councils have an enforcement policy. Some councils have told us they rely on the professional knowledge and skills of their staff to manage enforcement responsibilities. Others regard enforcement as a low priority in the scheme of a council's service functions. In the end, complaints we receive suggest many councils have difficulties dealing successfully with complaints about non-compliance and some of the most intractable and resource intensive matters involve enforcement issues.

Poor enforcement practices we see include failing to record or respond to complaints of non-compliance, failing to investigate

and document allegations of non-compliance, issuing penalty notices for offences councils aren't authorised to enforce, expending resources to pursue matters because of irrelevant concerns (including covering up council's own failures) and failure to coordinate with other agencies responsible for regulatory action.

So why have an enforcement policy?

- To provide an overarching document setting out strategic and procedural directions for council's many different types of regulatory responsibilities.
- To assist staff to act promptly, consistently and effectively in response to allegations of non-compliance.
- To support staff in the exercise of discretionary powers.
- To foster an awareness within the community of the reasons for and value of compliance.
- To better manage the community expectations about the exercise of council's discretionary powers.
- To set out priorities, responsibilities and processes for dealing with the different types of compliance issues.
- To provide the framework for choosing options after an investigation.

- To encourage cooperation with other agencies responsible for enforcement in the local government area.

The NSW Ombudsman has developed good-practice guidelines to help councils act promptly, consistently and effectively in response to allegations of unlawful activity. Port Stephens Council has recently adopted a compliance policy based on these Enforcement Guidelines. Bruce Peterson, Environmental Services Manager at the council reports:

"Before the introduction of this policy, it was difficult to prioritise compliance issues. We were attempting to react to enforcement complaints without a systematic and consistent approach.

"We now have a process that not only saves time and money but is clear to our key stakeholders. Councillors, staff and the community know exactly how we intend to deal with a compliance matter, how we will provide feedback and what our priorities are.

"The policy focuses on negotiation, mediation and restoration rather than pursuing expensive legal action. The courtroom is now a last resort for Council and this has the potential to lead to significant cost savings."

The guidelines can be downloaded from the NSW Ombudsman's website, [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au).

## Using *Corruption Matters* within agencies

**We encourage NSW public sector agencies to distribute *Corruption Matters* content internally. An A4 format version of this edition is available on the ICAC website and is designed for internal distribution via email and intranet.**

*Corruption Matters* articles may be reprinted in NSW government publications and distributed within NSW government agencies, provided the source is acknowledged. The ICAC would appreciate notification of such use.

Permission to reprint columns contributed by other agencies should be sought from the relevant author and agency.

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## The Corruption and Anti-Corruption Executive Program

### Canberra/Sydney, 3–12 November 2008

The ICAC is offering scholarships for senior public sector managers to attend a Corruption and Anti-Corruption Executive Program at the Australian National University (ANU) and ICAC from 3 to 12 November 2008.

### The Corruption and Anti-Corruption Executive Program

This unique course, held over two weeks, attracts participants from around the world. Participants will increase their understanding of corruption and develop practical strategies for investigation and prevention.

### The ICAC scholarships

The scholarships cover the ANU course fee (\$4,400).

The scholarships will be offered to senior employees of the NSW state and local government sectors. Scholarships will also target employees from rural and regional NSW.

For an information kit please contact Sandra Walker on 02 8281 5772. For further enquiries about the program contact Michael Nest on 02 8281 5739. A brochure about the course is available on the ICAC website, [www.icac.nsw.gov.au](http://www.icac.nsw.gov.au). (The closing date for scholarship applications is 31 July 2008.)

# Corruption Prevention Network Conference

Sydney, 11 September 2008

The 2008 CPN Conference focuses on the challenges of achieving sustainability and value for your corruption prevention efforts. The 2008 Conference includes:

- Insightful interviews with the ICAC Commissioner, Ombudsman & Auditor General
- The CPN's largest-ever range of high profile speakers
- Official Launch of the Standards Australia Probity Assurance Handbook
- CPN Award Winners' Best Practice Showcase
- Corruption Prevention Information Exhibition
- Networking opportunities with aroundz 200 practitioners

Register and pay NOW to secure your place and receive a MASSIVE \$100 or \$150 SAVING per registration:

- EARLYBIRD RATE: \$350 per person
- EARLY GROUP RATE \$300pp (5 or more)

The conference registration form is available from [www.cpn2008.info](http://www.cpn2008.info).

Further enquiries: Stephen Horne, CPN Conference Chair, tel 02 9261 9104.

## ICAC research visit to Canada

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reserved for corrupt conduct by senior public officials or major fraud. They felt uncomfortable describing ordinary public servants – or Band Council chiefs, members or employees – as 'corrupt' for behaviour such as nepotism, misuse of public resources or partial decision-making. When identifying improprieties they would talk about a lack of accountability and transparency, and the need to build capacity through skills training or training in ethics and a code of conduct.

Aboriginal people in particular were keen to talk about the role of mediation and conflict resolution in dealing with corruption – a perspective I found unfamiliar as it falls outside the ICAC's mandate.

A key observation from the research was that rather than revise the current content or delivery method of its training program for LALCs, the ICAC should consider additional ways to engage with LALC officials and employees in order to build internal capacity to prevent corruption.

# 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

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 will discuss with the caller 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).**

## Use and misuse of resources

Continued from page 5

Public sector agencies need to tell staff how the agency's resources are meant to be used through specific policies and procedures – for example, 'use of vehicles' and 'use of communication devices' policies – and also through other documents such as codes of conduct and secondary employment policies.

The ICAC has recently produced tip sheets for public sector employees and managers on the use and misuse of resources. The tip sheet for employees includes a number of case studies of matters that have come to the attention of the ICAC, and the tip sheet for managers discusses each of the risk areas outlined above, providing risk management options for each.

The *Use and misuse of public sector resources* tip sheets have been distributed to NSW public sector agencies and are also available, together with other ICAC corruption prevention publications and resources, on the ICAC website, [www.icac.nsw.gov.au](http://www.icac.nsw.gov.au).



# ICAC training services

**One of the most important ways in which the ICAC assists NSW public sector agencies and public officials to prevent corruption is by providing practical training and training materials.**

The ICAC's Corruption Prevention, Education and Research Division has produced two *Managing the risk of corruption* training packages, which include sector-specific case studies and are intended for use by learning and development staff in NSW public universities and the NSW public health sector respectively. The ICAC also offers tailored training in corruption prevention and the conduct of internal investigations to NSW public sector agencies.

The ICAC's training services are in high demand, and not every request for training can be met. In many cases, only a small number of staff in any one agency or worksite require training, and meeting such requests on an agency-by-agency basis would be an inefficient use of the ICAC's limited training resources.

To better meet the demand for corruption prevention training, the ICAC has recently trialled a series of training workshops on a fee-paying basis for public sector managers and specialist staff. Providing training on this basis will allow individuals or a small number of staff from an agency to receive training they might otherwise miss out on, and helps the ICAC to make best use of its training capacity.

In February the ICAC conducted four workshops, including one in Parramatta in response to strong demand from public sector agencies located in western Sydney.

The workshops offered were:

- a one-day *Corruption prevention for managers* workshop, covering how to recognise corrupt conduct, manage

- conflicts of interest and prevent corruption in the workplace
- a one-day *Fact-finder* workshop, covering how to plan, conduct and report on an internal investigation
- a half-day workshop on *Better management of protected disclosures*, covering what constitutes a protected disclosure, how to encourage disclosures and improving the assessment and management of protected disclosures.

A total of 72 people from 29 public sector agencies participated in the workshop, which were conducted by ICAC training and corruption prevention staff. Their comments on the workshops were positive:

"Very useful for session to be run for representatives from several agencies – it's good to get feedback from others doing same thing. Both presenters were very good – very knowledgeable in their areas which is to the benefit of all participants."  
(*Fact-finder* workshop participant.)

"Very good coverage of management responsibilities in a single day."  
(*Corruption prevention for managers* workshop participant.)

Participants indicated that they appreciated the practical exercises and case studies based

around past ICAC investigations and showed an interest in learning more about practical corruption prevention strategies and what other organisations have achieved.

The ICAC will evaluate this pilot series of workshops to determine whether to offer the workshops on a regular calendar basis, in addition to the ongoing provision of tailored training to individual agencies and through the Rural and Regional Outreach Program.

There's been strong interest in the new ICAC training DVD, featured in the November 2007 issue of *Corruption Matters*. The training video, which depicts ten scenarios that could occur in a state agency or local council environment and which might lead to corrupt conduct, is designed for use as part of training workshops delivered by ICAC training staff. The ICAC is currently considering the development of an online interactive training program, making use of the video material, for public sector managers.

For more information on ICAC training services, contact Margaret Ludlow, Senior Project Officer, Training and Development, tel 02 8281 5810, email [mludlow@icac.nsw.gov.au](mailto:mludlow@icac.nsw.gov.au).



**In April ICAC trainers conducted a training workshop for the Department of State and Regional Development, as part of DSRD's management development program**

# ICAC outreach

**The ICAC's Outreach Program is one of the Commission's longest-running and most successful corruption prevention and education initiatives.**

The Outreach Program, which began as the Rural and Regional Outreach Strategy in 2001, is designed to provide information, resources and training to public sector agencies and officials in their own region and to inform rural and regional communities about the ICAC's work.

A team of ICAC staff visits two regions of the state each year and presents a program of practical corruption prevention training,

liaison visits to state agencies and councils, presentations to secondary students and to community workers, and an event for community leaders.

As well as providing easy access to ICAC services and resources, the Outreach Program gives ICAC staff an invaluable opportunity to hear first-hand about the issues that face public officials and communities in regional areas.

The most recent Outreach Program, to the Hunter region, was split into two parts. In November 2007 the ICAC visited councils, delivered training and hosted a community leaders' breakfast in the Hunter Valley.

Part two of the Hunter program, held in March this year, focussed on state agencies. The

March program also included a special meeting with multicultural workers from the region who wanted to know more about the ICAC's multilingual information resources. That meeting also gave ICAC staff an opportunity to learn more about the issues facing emerging communities in the Hunter region.

The next Outreach Program will take place in the Riverina in May 2008. The training component of the program will be based in Wagga Wagga.

In November this year the ICAC will extend its Outreach Program to metropolitan areas by delivering a program in western Sydney. For further details, contact Bill Kokkaris, Senior Project Officer, Education and Public Affairs, tel 02 8281 5877, email [bkokkaris@icac.nsw.gov.au](mailto:bkokkaris@icac.nsw.gov.au).



# Inothernews

## ICAC submissions

### In February the ICAC made formal submissions on political donations and the NSW planning system.

The ICAC's submission to the Select Committee on Electoral and Political Party Funding was largely based on its September 2007 position paper, *Corruption risks in NSW development approval processes*, which made a total of 24 specific recommendations to address identified corruption risks.

In its submission to the Select Committee, the ICAC reiterated five of these recommendations relating specifically to political donations, including a recommendation that the Premier consider requiring persons submitting development applications, rezoning proposals and applications for other types of approvals and permits to a minister to declare any political donations they have made to the minister or to his or her political party.

The Select Committee on Electoral and Political Party Funding is due to report by 26 June 2008. For more information, go to [www.parliament.nsw.gov.au/partyfunding](http://www.parliament.nsw.gov.au/partyfunding).

The ICAC also made a submission in February in response to the *Improving the NSW planning system* discussion paper, released by the Department of Planning

in November 2007. The discussion paper forms part of a review of the NSW planning system, announced by the Minister for Planning, the Hon Frank Sartor, at the *New ideas for planning forum* held in August 2007.

The ICAC submission, one of 538 received by the Department of Planning, also reiterated key recommendations from the *Corruption risks in NSW development approval processes* position paper, including that the Department consider additional oversight mechanisms for council-approved developments relying on State Environmental Planning Policy No.1.

For more information, go to [www.planning.nsw.gov.au/planning\\_reforms](http://www.planning.nsw.gov.au/planning_reforms).

## Corruption Prevention Network Awards

### Nominations are open for the 2008 Corruption Prevention Network's annual Awards. The Awards are for excellence in corruption prevention and are presented at the CPN annual conference, to be held this year on 11 September 2008 in Sydney.

The Corruption Prevention Network began in the early 1990s when practitioners got together with officers from the ICAC and Audit Office to consider how best to address issues which kept surfacing in internal and external investigations. A focussed approach

on corruption prevention was identified and developed and the CPN became an incorporated body in 1998. It operates an extensive email forum for discussion and information exchange.

The CPN awards recognise outstanding achievement in building organisational integrity. They are now in their fourth year and are open to all organisations including private and public business enterprises, not for profit organisations and state, local and commonwealth agencies. The awards are unique in Australia and help promote innovation and best practice in the field of anti-corruption work.

Nominations are available in two categories:

1. Corruption prevention tool or technique –this category recognises the development, implementation and /or application of a specific tool or technique by an organisation; and
2. Corruption prevention program – this category recognises the implementation of a suite of corruption resistance strategies in an integrated fashion within organisations.

Applications for the awards close on Friday 11 July 2008.

For more information, go to [www.corruptionprevention.net](http://www.corruptionprevention.net).

## About Corruption Matters

*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, Independent Commission Against Corruption.

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