

2001 | ANNUAL
REPORT | 2002



INDEPENDENT COMMISSION AGAINST CORRUPTION

ASSESSING AND IDENTIFYING CORRUPTION RISKS

- We received and assessed 1505 complaints (see page 13).
- We worked with community members of non-English speaking background to improve corruption reporting (see page 14).
- We reviewed our handling of protected disclosures by employees of public sector agencies to ensure these are managed better (see page 15).
- We worked with public sector agencies to improve reporting of suspected corrupt conduct (see page 17).
- We researched the nature of corruption risk in the NSW public sector (see page 24).

INVESTIGATING CORRUPT CONDUCT

- We conducted *Operation Trophy*, an investigation into corrupt conduct at Rockdale City Council. This investigation resulted in exposure of significant corruption and achieved legislative reform to the development approvals system (see page 28).
- We undertook a significant restructure of the Strategic Operations Division and established a Strategic Risk Assessment Unit to support the work of the Division (see page 26).
- We re-oriented the work of the Strategic Operations Division to allow it to focus on more serious and/or systemic corruption (see page 26).
- We applied a more flexible approach to the work of the Strategic Operations Division, with a focus on gathering admissible evidence for subsequent proceedings (see page 27).
- The Strategic Operations Division was assigned 80 new matters for investigation, and completed 159 investigations (see page 23).

BUILDING CORRUPTION RESISTANCE

- We undertook significant work on improving corruption resistance in the development approval system (see page 40).
- We completed extensive work on corruption risks in universities in NSW (see page 44).
- We conducted eight Corruption Resistance Reviews (see page 54).
- We released a "do-it-yourself" corruption resistance review kit for the public sector (see page 54).
- Our Rural and Regional Outreach Strategy Program continued, with visits to Lismore and the Hunter region (see page 49).
- The Corruption Prevention Unit was assigned 140 case matters for action, and completed 201 matters (see page 23).

OUR PEOPLE – OUR ORGANISATION

- In addition to the restructure of the Strategic Operations Division, we undertook significant restructures of the ICAC's Corruption Prevention, Education and Research and Corporate Services Divisions (see page 66).
- We implemented a new learning and development program, building on the results of a skills and competencies audit conducted in 2001 (see page 67).
- We implemented a new performance management system to manage individual staff performance in line with Commission goals and objectives (see page 67).
- We undertook a review of our internal business processes to enhance our case management and performance tracking systems (see page 68).

There are a number of organisations that contribute to the regulatory framework in NSW:

- The ICAC is a standing commission of inquiry that focuses specifically on corrupt conduct. As well as investigating, we are also charged with helping prevent public sector corruption and educating the community and the public sector.
Corrupt conduct can be any conduct by any person (whether or not a public official) that adversely affects, or could adversely affect, the honest or impartial exercise of official functions by a New South Wales public official or a New South Wales public authority. To be considered corrupt the conduct must also be serious. That is, it must, if proved, be of a type that could constitute or involve:
 - a criminal offence,
 - a disciplinary offence,
 - reasonable grounds for dismissing, dispensing with the services of, or otherwise terminating the services of a public official, or
 - in the case of conduct of a Minister of the Crown or a Member of a House of Parliament, a substantial breach of an applicable code of conduct or conduct that brings the Parliament or the office of the Minister or Member into serious disrepute and involves a breach of the law.
- The NSW Ombudsman is responsible for safeguarding the public interest by providing for the redress of justified complaints and promoting fairness, integrity and practical reforms in public administration. Its jurisdiction includes administrative review and investigation of complaints about police, freedom of information and allegations of child abuse. It has other responsibilities regarding protected disclosure advice, witness protection appeals and auditing of agency records for telecommunications interception and controlled operations.
- The NSW Audit Office provides advice to Parliament, Government and public sector agencies about public sector performance. It conducts audits under the *Public Finance and Audit Act 1983* and other NSW Acts and may conduct an audit of all or any of the particular activities of a public authority concerning efficiency, economy and compliance with relevant laws.
- The Police Integrity Commission investigates complaints of serious misconduct against NSW police officers.

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HOW TO CONTACT THE ICAC

Address:	Level 21, Piccadilly Centre, 133 Castlereagh Street, SYDNEY NSW 2000
Postal:	GPO Box 500 SYDNEY NSW 2001
Email:	icac@icac.nsw.gov.au
DX:	557 Sydney
Phone:	(02) 8281 5999 1800 463 909 (toll free)
Fax:	(02) 9264 5364
Website:	www.icac.nsw.gov.au
Business hours:	9am–5pm Monday to Friday

The Hon Dr Meredith Burgmann MLC
President
Legislative Council
Parliament House
SYDNEY NSW 2000

The Hon. John Murray MP
Speaker
Legislative Assembly
Parliament House
SYDNEY NSW 2000

29 October 2002

Madam President

Mr Speaker

The ICAC's Annual Report for the year ended 30 June 2002 has been published in accordance with the *Independent Commission Against Corruption Act 1988*, and the *Annual Reports (Department) Act 1985*.

In accordance with Section 76 of the *Independent Commission Against Corruption Act*, I am pleased to furnish the Annual Report to each of you for presentation to Parliament.

Yours faithfully



Irene Moss AO
Commissioner

COMMISSIONER'S FOREWORD

This year has been one of significant change for the Independent Commission Against Corruption (ICAC). In the face of new challenges and opportunities, the ICAC has been readying itself to take the fight against corruption to new levels. We have been building the structures, acquiring the skills and recruiting the people that we need now and for the future.

Our challenge has been to build on our successes while overcoming the fact that the corrupt are getting better at hiding their misdeeds. We realised that we needed to work harder, be smarter, and acquire new tools and techniques if we were to remain effective and keep ahead of the corrupt. During 2001-02, we did much to achieve this state of readiness for a new era in corruption fighting.

Strategic and Flexible Approaches

Undoubtedly, one of our most outstanding achievements of the year was the completion of *Operation Trophy*, which investigated corrupt conduct by councillors on Rockdale City Council. This investigation effectively demonstrated our renewed capacity for taking on serious and substantial corruption. We brought new techniques to bear in this investigation, and it resulted in the comprehensive exposure of significant corruption. It also highlighted the work of our Corruption Prevention area, which had done extensive work on corruption risks in the development approvals process in the preceeding twelve months. That work led to significant legislative reform and will inform further recommendations for changes to the planning system.

Apart from its outcomes, one of the most pleasing aspects of *Operation Trophy* was the way in which officers from throughout the ICAC were involved. We were able to make optimal use of skills and experience right across every unit in the organisation. We also made use of the opportunities it provided for further enhancing our overall investigative capacity.

Operation Trophy also confirmed the direction of an extensive change management program that has been underway at the ICAC for the past two years. The change program has brought new skills and techniques, improved ways of working, and greater



efficiencies to the ICAC. We are now better placed to confront more sophisticated forms of corruption. However, we will continue at working to develop and enhance this capacity.

During the year, we formally established the Strategic Operations Division and the Strategic Risk Assessment Unit to provide a new focus to our investigation and intelligence activities. Mal Brammer, who brings a wealth of skills, knowledge and experience to the Commission, leads this area. We will continue to improve in coming years, realising the benefits of developments in investigation planning and methodologies.

During the past year, we realised the considerable benefits that come with recruiting and developing skills in new investigative techniques, particularly in the area of financial investigations and computer forensics. These skills have been of great benefit in our investigative work.

During the year, we also developed stronger relationships with our peer agencies. In particular, we reaped the benefits of a closer working relationship with NSW Police and the NSW Crime Commission. Working with these agencies has given us access to cutting edge technology and skills. This added immensely to our capacity during the year and bodes well for the future.

The traffic has not been all one way. Coming out of our investigations, we have forwarded evidence of other offences to police, the Australian Taxation Office and other agencies. We offered training and development opportunities to officers from other investigative agencies. We are also looking at opportunities for pooling resources with key agencies to maximise our collective effectiveness.

Hearings and Reports

In public hearings, we continued to unravel the complex arrangements leading to the collapse of the NSW Grains Board. We hope to complete this investigation in coming months. We also completed our investigation into corrupt conduct by a student liaison officer at the University of Technology, Sydney. This investigation was followed by a survey of every public university in New South Wales to check on the security of their student record systems, which we found could be improved at every university.

We also saw the completion of the investigation into allegations of corrupt conduct against officers of the National Parks and Wildlife Service (NPWS). This investigation conclusively established that the memo at the heart of the investigation had been fabricated by the so-called whistleblower, John Kite, and corrupt conduct findings were made against him and another officer of the NPWS, Susanne Ryan.

Public hearings are just one tool available to the ICAC to investigate allegations of corrupt conduct. Away from the spotlight of public hearings, we carried out extensive investigations into a variety of matters. In this Annual Report, we highlight some of the more significant investigations undertaken.

Responsiveness

Our Assessments Unit was revamped during the year, with a renewed focus on responsiveness and timeliness. Wherever possible, we are providing more detailed information and reasons in replying to people who make complaints to the ICAC. I believe it is an important and useful discipline to account for our decisions, and while this will not be possible in every instance, it has been carried out frequently during the year.

Our corruption prevention function continued to target key sectors. In earlier years, much of our corruption prevention work was either intended for the widest possible audience or linked to individual investigations or cases. Now that many of the fundamentals of corruption prevention have been absorbed by the public sector, we have moved to targeting key sectors for work that addresses issues specific to them. From a "one size fits all" approach, we have moved to tailoring solutions for key sectors.

Recently, we have targeted our work to deal with issues in key specific sectors (such as Local Government), sectors which have not traditionally been exposed to corruption prevention (such as universities), and specific corruption issues across the public sector (such as fraud). These corruption prevention initiatives have built on our expertise, but equally importantly, have made use of the knowledge and experience of stakeholders in these areas.

We continued our Rural and Regional Outreach Strategy (RAROS), with visits to Lismore and the Hunter Region during the year. These visits involve a significant investment of time and resources to delivering a range of corruption prevention and investigation training to public officials in non-metropolitan New South Wales. We appreciate that the issues facing rural and regional New South Wales differ from those in the larger centres. Our RAROS activities typify our commitment to delivering these services to communities and the public sector right across the State.

Complaints and ICAC's Jurisdiction

Over the next year, there will be a State Election and Local Government elections. In such periods, there is a risk that candidates will use publicity about referrals to the ICAC to score points against rivals. Allegations of corruption against any individual are most serious matters and referrals to the ICAC must be handled appropriately. Individuals genuinely concerned that a matter be taken up by the ICAC should appreciate that publicity at the outset generally does not help us in our work. They should also give serious consideration to whether their complaint to the ICAC is warranted and justified, particularly on the threshold question of the ICAC's jurisdiction.

Just because an action or decision is controversial or questionable does not make it corrupt. The *ICAC Act* is quite specific about what constitutes corrupt conduct. Put simply, the alleged conduct must not just be dishonest or partial, it must also be capable of constituting a criminal or disciplinary offence, or a breach of the Parliamentary code of conduct, or bringing disrepute onto the office of Minister or Member of Parliament whilst involving a breach of the law.

While many complaints might satisfy the first test of dishonesty or partiality, they fail on the second test of constituting a relevant offence or breach. I would urge those thinking of making complaints to the ICAC, particularly in the coming year of State and local elections, to seriously consider the issues we have to assess in dealing with allegations of corrupt conduct.

Conclusion

There has been a great deal of change and achievement for the ICAC in 2001-02. Yet, while much has changed and improved, much remains to be done. Over the next year, we will continue our change program. We will continue our work in tracking performance and acquiring the best in techniques, technology and tools to aid our fight against corruption. We will consolidate the structural changes of recent times and capitalise on the renewed skills, energy and enthusiasm of our staff. I appreciate that many of the changes put in place now will only be fully realised in years to come. But they are essential and will be invaluable in safeguarding our vital role of ensuring the integrity of the New South Wales public sector.

We continue to appreciate the contribution that comes from the Parliamentary Joint Committee and the Operations Review Committee. I would like to acknowledge the support and assistance of the members of those bodies. As I have noted, we enjoyed a closer working relationship with our peer agencies and my thanks go to the management and officers of these organisations.

My greatest thanks and appreciation, however, go to the Executive Management and staff of the ICAC not only for their unstinting efforts in securing the change necessary for our continued effectiveness, but also for their unceasing hard work and outstanding achievements during the year. Their commitment has laid the groundwork for a new era for the ICAC.



Irene Moss AO
Commissioner

THE YEAR'S RESULTS

Performance against objectives and planned improvements

During this year, we continued to work towards achieving the Commission's Corporate Strategic Direction for 2001–2006. Each division (Strategic Operations; Corruption Prevention, Education and Research; Legal; and Corporate Services) developed operational plans for 2001–2004 to identify the functions and activities they would undertake to deliver the Corporate Strategic Direction.

Performance against these plans continues to be monitored throughout the year by means of monthly performance reviews at the Executive Management level. Results in some key areas are reported in the following performance table:

- Identifying and assessing corruption risks
- Investigating corruption
- Building corruption resistance
- Accountability and governance
- Our people – our organisation

In the 2000-2001 Annual Report, we committed ourselves to delivering improvements in a number of key areas. The following table outlines the commitments given in last year's Annual Report, describes what we have done to deliver on those commitments and identifies opportunities for development and enhancement.

Work has continued on improving the Commission's business planning and processes, as well as establishing systems for sustained meaningful performance reporting (see page 61). These will be reported in future years.

Objectives	In 2000-01 Annual Report, we undertook to:	What occurred	What we will do to further improve
Identifying and assessing corruption			
Provide the community with better information about the role of the ICAC to ensure that information provided to the ICAC relates to possible corruption in the NSW public sector.	Redesign role and structure of Assessments Unit.	<ul style="list-style-type: none">Restructured Assessments Unit, and reshaped role in line with re-organisation of ICAC work in other areas (see page 12).Assessments Unit now has a greater role in gathering information and undertaking preliminary inquiries (see page 12).	<ul style="list-style-type: none">Improve resourcing of Assessments Unit, and identify opportunities for improvements to processes, particularly in the turn around time for matters.
	Implement communication strategies to improve quality of reports from members of the public.	<ul style="list-style-type: none">Provided details of outcome of complaint and reasons to complainants where appropriate (see page 12).Assessments officers now required to obtain further information and liaise more extensively with people providing information (see page 12).	<ul style="list-style-type: none">Ensure continuing improvement in quality of service to people making complaints.
	Implement communication strategy to improve awareness of ICAC's role among NESB communities.	<ul style="list-style-type: none">Developed communication strategy in consultation with community stakeholders (see page 14).	<ul style="list-style-type: none">Deliver communication strategy through ethnic media in 2002-03.Agencies perceived to have high levels of corruption by NESB communities to be provided with resources in community languages.
	Assist the public sector (including CEOs) in reporting corrupt conduct so as to improve the quality of information given to the ICAC.	<ul style="list-style-type: none">Develop improved liaison relationships between Assessments Unit and public sector agencies.Implement coordinated communication strategy involving all oversight agencies with responsibility for protected disclosures.	<ul style="list-style-type: none">Conducted meetings with agencies providing schedule reports to improve reporting and advise of ICAC resources (see page 17).Improved quality of Section 11 reporting noted (see page 18).Prepared brochures providing advice on making protected disclosures. Over 35,000 distributed to public sector agencies (see page 16).
Make more strategic use of the information received with a view to maximising the impact of the ICAC's involvement in any given matter.	Conduct research into corruption risks in State agencies	<ul style="list-style-type: none">Conducted research into public sector profile and work on report undertaken (see page 24).	<ul style="list-style-type: none">Release reports in 2002-03.
Investigating corruption			
Select matters that correspond with identified risk areas.	Develop strategic risk assessment capability to enhance investigation selection and planning.	<ul style="list-style-type: none">Established Strategic Risk Assessment Unit and recruitment commenced for generalist and specialist analysts (see page 26).	<ul style="list-style-type: none">Finalise recruitment for Strategic Risk Assessment Unit. Develop and integrate strategic and tactical role of unit in the Strategic Operations Division.
	Continue implementation of recommendations from Investigative	<ul style="list-style-type: none">Commenced review of business planning and evaluation processes commenced (see page 26).	<ul style="list-style-type: none">Incorporate Strategic Risk Assessment Unit into strategic and tactical decision making and investigation planning and management.

Objectives	In 2000-01 Annual Report, we undertook to:	What occurred	What we will do to further improve
Investigating corruption (continued)			
	Capacity Review regarding investigation planning and management, improved training and development and enhanced risk assessment and management capacity.	<ul style="list-style-type: none"> Engaged education and training project officer to coordinate improved training and development specific to Strategic Operations. Conducted training and development in risk management, computer forensics and leading and managing investigations (see page 67). 	<ul style="list-style-type: none"> Deploy extended financial investigative capacity on serious and/or substantial matters involving fraud and corruption.
Ensure investigations are effective.	Identify and implement further enhancements to Operations Management Committee (OMC).	<ul style="list-style-type: none"> Undertook more comprehensive reporting of matters to OMC during 2001-02. OMC continued to oversee management of investigations, and make decisions on direction and resources allocation. 	<ul style="list-style-type: none"> Review arrangements for coordination and management of investigations to achieve more focussed outcomes for activities of Strategic Operations Division. Improve overall governance of ICAC planning, management and implementation.
Work with the public sector to ensure the response to detected corruption is effective.	Implement recommendations of research into impact of investigations including agency/witness liaison relationships.	<ul style="list-style-type: none"> Agency/witness liaison relationships established with agencies, particularly those the subject of investigation (see page 38). 	<ul style="list-style-type: none"> Ongoing implementation of recommendations and evaluation of their effectiveness in managing the impact of ICAC investigations.
	Publish further reports from monitoring implementation of recommendations.	<ul style="list-style-type: none"> Five status reports published on ICAC website as 'Recos on the web' (see page 37). 	<ul style="list-style-type: none"> Continued monitoring of the implementation of recommendations to occur as part of overall performance measurement project.
Building corruption resistance			
Promote awareness of corruption risks in the public sector	Convene workshops and prepare guidelines for corruption risk management strategies for new technology applications (eCorruption).	<ul style="list-style-type: none"> Convened workshop on eCorruption risk issues in government licensing and produced resource on identifying and treating risks (see page 47). Worked with Chief Executive Officers' E-government Committee to produce guidelines on eCorruption risks. 	<ul style="list-style-type: none"> Work with Department of Information Technology and Management to develop IT security awareness resources and guidelines for agency security management plans.
	Continue delivery of the rural and regional outreach strategy (RAROS).	<ul style="list-style-type: none"> Delivered two programs in Lismore and the Hunter Region during 2001-02 (see page 49). Conducted evaluation of initial RAROS (see page 50). 	<ul style="list-style-type: none"> Deliver RAROS programs in Riverina-Murray and Orange during 2002-03.
	Further implement and evaluate Local Government Strategy.	<ul style="list-style-type: none"> Released discussion papers on development and building applications and misuse of resources (see page 40). Evaluated contracting and procurement resource (see page 42). 	<ul style="list-style-type: none"> Continue implementation of Local Government Strategy, with further work on development controls, misuse of resources and cash handling.
Develop tools to help detect and minimise corruption risks.	Deliver corruption resistance reviews and develop "DIY" corruption resistance resource.	<ul style="list-style-type: none"> Conducted eight corruption resistance reviews. Agencies working on recommendations (see page 54). Prepared and released DIY Corruption Resistance Review kit (see page 54). 	<ul style="list-style-type: none"> Monitor implementation of recommendations from Corruption Resistance Reviews. Evaluate impact of implementation of recommendations.

Respond to individual agencies' corruption issues in order to encourage agencies to seek early assistance.	Evaluate corruption prevention resources and refine and enhance products as necessary.	<ul style="list-style-type: none"> • Evaluated corruption prevention advice (see page 56). • Results indicate satisfaction with advice but low awareness of ICAC's advice function (see page 56). • Incorporated feedback into development of advice function (see page 57). 	<ul style="list-style-type: none"> • Promote corruption prevention advice function in light of findings from the evaluation.
Accountability and Governance			
Be responsive to the needs of the Parliamentary Joint Committee on the ICAC (PIC).	Ensure ongoing provision of information to the satisfaction of the PIC.	<ul style="list-style-type: none"> • Gave evidence and met with the PIC on three occasions regarding general management, management reviews and the conduct of hearings by the ICAC. 	<ul style="list-style-type: none"> • Continue to meet requests for information from PIC in timely and satisfactory manner. • Provide briefing for new members of PIC appointed following 2003 State elections.
Support the Operations Review Committee (ORC).	Reporting to ORC to be improved in line with recommendations of 2001 internal audit.	<ul style="list-style-type: none"> • Recommendations implemented. Regular internal audits of reports to ORC in progress. Administration of ORC improved and streamlined alongside developments in case management (see page 63). 	<ul style="list-style-type: none"> • Ongoing provision of timely and accurately reporting to ORC. • Review administration arrangements to ensure effectiveness.
Our people – Our organisation			
Establish appropriate performance measurement and feedback mechanisms.	Implement new structures and processes in the areas identified for improvement in internal and external reviews.	<ul style="list-style-type: none"> • Restructured Strategic Operations, Corruption Prevention, Education and Research and Corporate Services Divisions (see page 66). • Undertook Business Process Review (see page 68). 	<ul style="list-style-type: none"> • Maintain and enhance improved capacity acquired by restructure.
	Monitor and review corporate strategic direction and plans.	<ul style="list-style-type: none"> • Developed divisional plans in line with corporate strategic direction and plans (see page 67). 	<ul style="list-style-type: none"> • Continue monitoring and reviewing corporate strategic direction and planning.
	Fully implement new individual performance management system based on corporate objectives outlined in corporate planning process.	<ul style="list-style-type: none"> • New performance management system fully implemented. (see page 67). 	<ul style="list-style-type: none"> • Continuing implementation of performance management system. • Evaluation of system to ensure that it is meeting objectives.
	Improve the ICAC's capacity to report against agreed performance indicators.	<ul style="list-style-type: none"> • Continuing development of performance indicators was dependent on settling the structure and processes of key areas in the Commission, including Strategic Operations Division and the Assessments Unit. 	<ul style="list-style-type: none"> • Continue work on development of performance indicators against results of change management program.
	Report against indicators in 2001–2002 Annual Report.	<ul style="list-style-type: none"> • Reporting against indicators delayed until appropriate reporting systems established (see page 61). 	<ul style="list-style-type: none"> • Develop and implement performance tracking systems to allow sustained performance reporting.
Maintain a cooperative, productive and safe work environment.	Develop a coordinated and targeted training and staff development program to help establish a better skills mix.	<ul style="list-style-type: none"> • A Skills and Competencies Audit was conducted in July/August 2001 (see page 67). • New Learning and Development Program developed and implemented (see page 67). 	<ul style="list-style-type: none"> • Further develop targeted training and integrate Learning and Development Program with performance management system.
Ensure resources, systems and procedures are relevant and effective.	Ongoing implementation of Information Management and Technology Strategic Plan including upgrades and enhancements to corporate information systems.	<ul style="list-style-type: none"> • Engaged KPMG to conduct a Business Process Review as basis for enhancing case management and performance tracking systems (see page 68). 	<ul style="list-style-type: none"> • Continue re-design of corporate information management systems to improve case management and performance tracking and reporting.
	Explore further enhancements to electronic service delivery.	<ul style="list-style-type: none"> • All government service targets met, with interconnectivity requirements delivered ahead of schedule (see page 114). 	<ul style="list-style-type: none"> • Continue delivery of electronic services. • Liaise with peer agencies to identify enhancements to electronic services between agencies.

In 2001-02, the ICAC continued an extensive change management program to equip the organisation and its staff with the latest in skills, techniques and technology to take on increasingly sophisticated forms of corruption in the NSW public sector.

Earlier internal and external reviews highlighted the need for a more strategic, flexible and integrated approach to the work of the ICAC. This approach informed the development of a corporate strategic direction for 2001-06 which was guided by the vision of “*building and sustaining public sector integrity*”.

The new approach to the work of the ICAC involves moving away from a structure where most of the case work was carried out by investigators, which put constraints on the deployment of resources. We have re-oriented the work so that the Assessments Unit (see page 12) and the Corruption Prevention Unit (see page 22) now handle greater numbers of matters.

Chapter 1, *Assessing and Identifying Corruption Risks*, provides a complaints profile of the matters received during 2001-02. It describes the work undertaken to improve reporting and profiling of corruption risks in the NSW public sector.

The Strategic Operations Division (formerly “Investigations”) is responsible for pursuing more serious and systemic corruption in the public sector. To better achieve this, the Strategic Operations Division was restructured during the year to create a more proactive, strategic investigative capacity. New positions were created to acquire leading-edge skills in specialist disciplines, particularly in financial analysis and investigations (see page 26).

Chapter 2, *Investigating Corruption*, details how Strategic Operations employed new approaches to their work during 2001-02. This included using the latest in investigative and surveillance techniques, employing more sophisticated tools such as computer forensics, mounting joint operations with peer agencies, and focussing on the gathering of admissible evidence for subsequent proceedings.

The work of Strategic Operations became better integrated with the work of Corruption Prevention during the year. For instance, the major investigation into corruption at Rockdale City Council followed

nearly a year of corruption prevention work on the issue of development controls in Local Government generally. Similarly, an investigation into corrupt conduct at University of Technology, Sydney, was accompanied by a survey of vulnerabilities in student records systems as well as an overall profile of corruption risks for the university sector.

Chapter 3, *Integrated Approaches*, highlights how we have worked on some specific areas drawing on the strengths of Assessments, Strategic Operations and Corruption Prevention, Education and Research.

The focus of Corruption Prevention has also changed in recent times. Priorities for corruption prevention work are now based on using ICAC investigations, research and profiling to target specific corruption risks. We now identify key sectors and issues for corruption prevention and work with informed stakeholders on these issues to develop specific solutions for specific challenges.

Chapter 4, *Building Corruption Resistance Through Tailored Solutions*, features some of the initiatives in this area. Chapter 5, *Building Corruption Resistance through Capacity Building*, describes how we worked with the public sector to improve their ability to anticipate and deal with corruption risks in their own organisation.

Chapter 6, *Accountability and Governance*, sets out the accountability regime for the ICAC and reports how this contributed to the work of the ICAC in the past year.

The ongoing change management program for the ICAC was supported by corporate-wide initiatives including a review of our business processes, a new learning and development program and the full implementation of a new performance management system. These and other aspects of our corporate support structure are described in Chapter 7, *Our People – Our Organisation*.

Finally, the Appendices provide detailed reporting on such items as our complaints profile, criminal and disciplinary proceedings arising from ICAC investigations, corporate management, as well as annual reporting required by law.

ASSESSING AND IDENTIFYING CORRUPTION RISKS



- Profile of Matters Received
- Complaints From the Public (Section 10 Complaints)
- Protected Disclosures
- Notifications From Public Sector Agencies (Section 11 Reports)
- Initial Decisions by Assessment Panel
- Referrals to Public Sector Agencies (Sections 53 & 54 Reports)
- Profile of the NSW Government Sector
- The Year Ahead

The ICAC receives information about possible corrupt conduct from a variety of sources. These include the community, principal officers and employees of public sector agencies, and peer agencies at the State and Federal levels. The purpose of our initial assessment is to determine the best means of following up on the information provided to the ICAC.

In this chapter, we describe how this information was used in the past year to identify and assess corruption in the NSW public sector. We also look at our efforts to ensure the continuing flow of quality information to the ICAC by improving our communication with complainants and other people providing information about corruption.

During 2001-02, the ICAC continued work on enhancing our structures and systems for anticipating and identifying corruption risks. Dealing with individual complaints and notifications is and will continue to be a significant feature of our work. However, we are also looking for opportunities to be more strategic in anticipating and identifying corruption risks in the public sector.

As an example, it should be appreciated that a major operation like the investigation into corrupt conduct at Rockdale City Council started from just one of 1505 matters we received during the past year. The impact of that investigation was the product of using a newly enhanced investigative capacity supported in a number of areas by peer agencies, as well as extensive corruption prevention and research work on corruption risks in development approvals for the preceding year. This capacity will be brought to bear on significant and systemic corruption risks in the public sector identified in the future.

We will continue to deal with complaints made by members of the community and public officials and notifications made by principal officers of public sector agencies. However, we also recognise the need to be more proactive in identifying serious and systemic corruption risks in the public sector.

During the year we continued working towards both objectives, giving greater attention to the needs of complainants while building and developing a strategic capacity to anticipate and address corruption risks.

In particular, building on the recommendations of internal reviews, the Assessments Unit now has a much more significant role in gathering information to progress the handling of matters within the ICAC. Assessment officers now undertake background inquiries, allowing for better decision making on the appropriate way to progress matters. Assessments officers are also increasing the level of liaison with complainants and public agencies, meaning we have access to more and better information.

Similarly, we are providing more information to complainants and to agencies. We are committed to providing reasons to people making complaints, where this is possible and appropriate. We started doing this in response to criticisms that people giving information to the ICAC could never be sure of the value of their efforts because they received only perfunctory advice from us on the outcome of our inquiries. There will still be situations where we cannot provide complainants with reasons, but we know from feedback that this initiative is being noted and appreciated.

The Assessments Unit is a critical component in the ICAC's capacity to respond promptly and effectively to suspected corruption. In a number of instances during 2001-02, Assessments officers immediately alerted Strategic Operations officers to information received that had a bearing on ongoing investigations. Ongoing development of the Unit to establish it as a critical first response unit for the organisation will continue in coming years.

PROFILE OF MATTERS RECEIVED

Table 1: Categories of matters received (2001-02, compared to previous two years).

Category	1999-2000	2000-2001	2001-2002
Section 10 This is a complaint that may be raised by any person such as a member of the general public as provided for in Section 10 of the <i>ICAC Act</i> .	574	515	683
Protected Disclosure This is a complaint made by a public sector employee that meets the criteria of the <i>Protected Disclosures Act 1994</i> . Complaints that do not meet the criteria are counted as s.10 complaints.	138	130	154
Section 11 This is a report from the principal officer of a public sector organisation, such as a chief executive officer of a State level public authority or the general manager of a local council. Under s.11 of the <i>ICAC Act</i> , these officers must inform the ICAC of suspected corrupt conduct. Notifications from peer agencies in NSW such as NSW Police and NSW Ombudsman are counted in this category.	430	411	394
Information This includes matters that are not actual complaints about corrupt conduct but give information about a situation that may have the potential for corruption.	288	314	177
Dissemination This refers to information provided by government agencies other than NSW agencies, such as the Australian Federal Police, the National Crime Authority or the Commonwealth Ombudsman.	7	4	0
Referrals from Parliament This is where the NSW Parliament refers a matter to the ICAC by resolution of both Houses.	0	0	0
Inquiry This is where advice is sought from the ICAC, usually by a member of the public, about whether a particular situation might indicate corrupt conduct, or similar matters.	33	9	11
Own Initiative This is a matter initiated by the ICAC itself without a complaint or referral being received. This may arise from other matters being investigated or from media reports.	3	11	3
Outside jurisdiction These matters do not either concern corrupt conduct or do not involve the NSW public sector. Where possible, people making complaints outside the ICAC's jurisdiction are referred to another agency that can deal with their complaint.	136	115	83 ¹
Total	1609	1509	1505

¹ Another 274 matters involving complaints outside the jurisdiction of the ICAC were received by telephone during 2001-02. Where possible, these complainants were referred to a more appropriate agency to handle their complaint.

COMPLAINTS FROM THE PUBLIC (SECTION 10 COMPLAINTS)

Section 10 complaints are usually made by members of the public or by public sector employees whose complaints do not meet the criteria of the *Protected Disclosures Act 1994*.

For reporting purposes, we count complaints as contact with the ICAC where allegations of corrupt conduct are made. A single complaint may contain a number of allegations against an individual or number of individuals, and each allegation is then counted separately. There were 683 Section 10 complaints received during 2001-2002, containing 1047 allegations.

The leading areas of public sector activity resulting in Section 10 complaints during the year were:

- building and development applications/rezoning (27.9 percent of allegations)
- staff matters (12.6 percent)
- law enforcement (11.6 percent)
- use of public resources (10.2 percent)
- use of government services (8.8 percent).

By way of comparison, complaints about building and development applications/rezoning in 2000-01 constituted 18.3 percent of the total Section 10 allegations received. The profile of the ICAC's investigation into Rockdale City Council may account for the increase in complaints on this issue. Over 35 percent of the complaints involving this issue in 2001-02 were received in the two and a half months after we advertised our public hearings into Rockdale Council.

The top five areas of alleged misconduct leading to complaints were:

- favouritism/nepotism (18.2 percent)
- bribery/gifts/secret commissions (8.4 percent)
- misuse of public resources (8.1 percent)
- failure to disclose conflict of interest (8.1 percent)
- collusion (7.4 percent)

Table 4 in Appendix 1 provides a full list of the issues raised in Section 10 complaints to the ICAC.

Non-English speaking background project

In last year's Annual Report, we reported on efforts to improve the reporting of corrupt conduct by people from non-English speaking backgrounds (NESB). Our NESB project continued this year with work with eleven community languages identified from previous research.

These groups are:

Arabic	Greek	Russian
Turkish	Chinese	Italian
Serbian	Vietnamese	Croatian
Korean	Spanish	

This work builds on research we commissioned in 2000-2001 to identify obstacles preventing members of non-English speaking background from reporting corruption to the ICAC.

In November 2001, we produced and launched a discussion paper based on the research.

This discussion paper summarised the findings about obstacles preventing members of NESB communities from reporting corruption to the ICAC and provided questions for response.

The Commissioner formally released the discussion paper at a forum with ethnic community workers and media. The discussion paper was sent to councils, ethnic community agencies and the ethnic press.

To progress the discussion on these issues, we approached key community groups and asked them to identify the key messages that would encourage their community to report corruption to us.

We met with representatives from the Australian Arabic Communities Council, Chinese Australian Services Society, Croatian Australian Welfare Centre, Greek Welfare Centre, CoAsIt (Italian Committee for Assistance), Australia-Korean Welfare Association, Russian Ethnic Community Council of NSW, Serbian Orthodox Welfare Association, Spanish and Latin American Association for Social Assistance, Turkish Welfare Association and the Vietnamese Community Association.

The key messages developed out of these meetings have been incorporated into media releases to be sent to ethnic media early in 2002-03.

The research also identified two NSW government agencies that people from non-English speaking backgrounds perceive to have high levels of

corruption. We met with these agencies and discussed ways that they can overcome the problems that come from these perceptions. In the coming year, the ICAC will provide these agencies with resources for distribution via their intranets for customers from non-English speaking backgrounds in eleven community languages.

PROTECTED DISCLOSURES

Public sector employees who raise suspected corrupt conduct with the ICAC may receive the protection of the *Protected Disclosures Act 1994*.

Protected disclosures are treated as a special class of 'Section 10 complaints'. This is because they constitute an important source of information about potential corrupt conduct, given the employee's 'insider' status, and because the *Protected Disclosures Act* requires the complaint to be handled with due regard to the position of the complainant.

During 2001-02, we received 154 protected disclosures containing 264 allegations.

The leading areas of public sector activity resulting in protected disclosures were:

- staff matters (50.7 percent)
- use of public resources (20.5 percent)
- purchase of goods and services/tendering/contracting (8.0 percent)
- building and development applications/ rezoning (6.4 percent)
- government services (3.8 percent).

The areas of misconduct resulting in the majority of protected disclosures made to the ICAC were:

- favouritism/nepotism (24.6 percent)
- misuse of public resources (16.7 percent)
- fabricating and falsifying information/forgery/fraud/tampering with information (9.1 percent)
- harassment/victimisation/discrimination (9.1 percent)
- breach of policies and procedures (8.7 percent).

A full list of the issues raised in protected disclosures made to the ICAC during 2001-02 is contained in Table 4 in Appendix 1.

WHAT ARE WE DOING TO IMPROVE THE HANDLING OF PROTECTED DISCLOSURES?

Protected disclosures from whistleblowers in the New South Wales public sector make up about 10 percent of all the matters we receive each year. Many public officials making protected disclosures feel that they are taking a risk in blowing the whistle on their bosses or colleagues. We know from feedback from whistleblowers and other bodies, such as our Parliamentary Committee, that we can do better in our response to people making protected disclosures.

The ICAC carries out regular surveys of attitudes to corruption in the public sector. Our most recent survey was done in 1999 and results were compared to those from an earlier survey carried out in 1993. One figure of concern was that 69 percent of survey respondents still agreed with the statement "People who report corruption are likely to suffer for it". While this was a small improvement on the 1993 results, where 75 percent held that view, it still indicates a long way to go in developing cultures within organisations that encourage rather than inhibit whistleblowing.

Part of the problem is that organisations are not always aware that there is a problem. In surveys we have done of Local Government and the public sector as a whole, there has been a dissonance between what organisations think and say they have done to promote protected disclosures and the level of staff awareness of the same initiatives.

For instance, when we surveyed local councils during 2000-2001, 99 percent of General Managers said that they were aware of the *Protected Disclosures Act*, and 91 percent of them said that they had internal reporting procedures in place. Yet only 44 percent of staff said that they were aware of the Act and only half knew that there was an internal reporting procedure in place at their council.

Much of our work in recent years on protected disclosures generally has been about building the capacity of organisations to encourage internal reporting and deal with such reports. The *Protected Disclosures Act* Implementation Steering Committee (PDAISC), of which the ICAC is a

member, has made capacity building for public sector agencies a priority. Raising awareness of the *Protected Disclosures Act*, its requirements and its protections has been a significant stage in this process (see Staff Awareness).

Part of the capacity building that has been taking place in recent years has been about equipping agencies with the ability to conduct internal investigations. By working with agencies on particular matters and offering training and guidelines on internal investigations, we hope to provide agencies with the means to deal with internal problems properly, adequately and effectively (see page 57).

Our Assessments Unit and people dealing with protected disclosures are trained on issues associated with protected disclosures. We are constantly reviewing our procedures to ensure that risks to people making protected disclosures are addressed.

The ICAC is being more attentive to protected disclosures and looking for opportunities to pursue appropriate protected disclosures and complaints of reprisals to ensure that these issues are addressed adequately by agencies.

We do appreciate that one of the concerns of whistleblower advocates is the tendency of organisations like ours to refer matters back to agencies for investigation. Referring matters to an agency to follow up reflects a philosophy that agencies should generally be able to deal with many of their own problems, subject to appropriate oversight and monitoring. People making protected disclosures sometimes fear that such referrals will not result in any real action and will leave them at risk of exposure.

One thing we are doing at the moment with people making protected disclosures is to talk to them before making any such referral, to go through the pros and cons of whether they should give their consent to referral.

Another change in our approach is to take greater care in the referral of protected disclosures back to the agency. If the whistleblower does not consent to the referral, it will only be made where it is clearly in the public interest and the whistleblower's interests can be protected.

Staff awareness

The ICAC also works with other NSW oversight agencies and internal witness support units on strategies to improve the handling of protected disclosures. This is done through the PDAISC.

During 2001-02, the PDAISC undertook work arising from the ICAC research study *Corruption... who wants to know?* The research study found that one in five public officials from State agencies and local councils did not know where to go to report corruption.

The ICAC recommended to the PDAISC that work be done to help first-line staff in local councils and public sector agencies to understand:

- there is protected disclosures legislation
- how the internal reporting system operates
- how to correctly make a protected disclosure.

To achieve this, the PDAISC Chairperson wrote to the chief executive officers of all local councils and agencies, pointing out that internal reporting systems can result in useful information for risk management planning as efficiencies and weaknesses could be identified from staff making reports. The letter encouraged CEOs to promote the provisions of the Act and the organisation's internal reporting system to staff.

To support the requested education program, the PDAISC wrote and produced brochures for first-line officers to explain the legislation and how to make a protected disclosure. Two separate versions of the *Thinking of blowing the whistle? How to make a protected disclosure* brochure was produced in February 2002.

To date, local councils and State agencies have requested over 35,000 printed versions of the brochure. The brochures are also available on the ICAC (www.icac.nsw.gov.au) and NSW Ombudsman (www.ombo.nsw.gov.au) web sites for public sector organisations to download and customise for use in their organisation.

Changes in staff awareness in the organisations that requested the brochures will be measured by the PDAISC in the next reporting period.

Legislative change

The PDAISC raised the problem of public officials from one public agency working closely with public officials from another public agency not being assured of obtaining protection under the *Protected Disclosures Act* if they make a disclosure about a colleague from the other agency. This might occur in relation to joint teams or projects or even where agencies share premises.

Currently, an employee concerned about the conduct of an employee of another agency has to lodge their disclosure with the other agency to receive the protections of the *Protected Disclosures Act*. The PDAISC suggested amending the *Protected Disclosures Act* so that a whistleblower in this situation would be able to make a protected disclosure through the internal reporting systems in their own agency instead of or in addition to the head of the public authority that employs the subject of the complaint.

The Cabinet Office advised the PDAISC in April 2002 that the amendment would be included in the next Statute Law Review Bill.

we were being advised of matters in a sufficiently timely manner. As a result, we asked some agencies to go back to reporting matters individually.

In addition to the individual Section 11 reports, we received notification of 946 minor matters from agencies with scheduling arrangements.

Improving Section 11 reporting

During 2001-02, we commenced an ongoing series of meetings with agencies that had scheduling arrangements with the ICAC to discuss ways of improving reporting.

We wanted to ensure that these agencies understood when they were required to report to the ICAC, offering assistance and advice and suggesting that agencies call us when in doubt about what to report. We discussed more efficient ways of reporting that fit in with their own internal reporting procedures and reporting arrangements with other oversight agencies. We also offered assistance and advice on conducting inquiries and investigations, particularly with specialist expertise, and provided information on our corruption prevention resources. To support these activities, we also provide the name and contact details of an ICAC officer to liaise with once a matter has been reported.

As part of the meetings we also seek feedback from the agencies on what assistance they would like from the ICAC, and how we can improve the level and quality of assistance. The overall objective of these liaison meetings is to encourage agencies to actively identify and report suspected corruption and to provide them with resources that can help them better manage corruption risks and undertake internal investigations where appropriate. This is supported by our capacity building activities, including internal investigations training (see Chapter 5).

We will continue to meet with agencies in the coming year and in particular those agencies that up to now have reported very little to the ICAC.

REPORTS FROM PUBLIC SECTOR AGENCIES (SECTION 11 REPORTS)

Section 11 of the *ICAC Act* requires principal officers of public sector agencies, such as chief executive officers of State Government agencies and general managers of local councils, to report suspected corrupt conduct to the ICAC.

In 2001-02, 394 Section 11 reports containing 541 allegations were received from principal officers.

Schedule Reporting

Agencies making Section 11 reports to the ICAC usually make them individually. However, some larger agencies have long-standing arrangements to report some matters by schedule on a regular basis. Schedule reporting is intended only for less serious matters.

During 2001-02, we reviewed the scheduling arrangements of a number of agencies to ensure that

Subjects of Section 11 Reporting

The leading areas of public sector activity resulting in Section 11 reports were:

- use of public resources (30.7 percent)
- staff matters (17.2 percent)
- purchase of goods and services/tendering/contracting (12.6 percent)
- government services (9.2 percent)
- building and development applications/rezoning (8.9 percent)

The leading categories of misconduct reported by principal officers were:

- misuse of public resources (25.9 percent)
- fabricating and falsifying information/forgery/fraud/tampering with information (12.9 percent)
- bribery/gifts/secret commissions (9.1 percent)
- favouritism/nepotism (7.9 percent)
- breach of policies and procedures (7.4 percent).

We acknowledge those agencies that have been very diligent in reporting suspected corrupt conduct. These notifications sometimes result in formal investigation and hearings. This was the case with the University of Technology, Sydney, which notified the ICAC of anomalies in its student records, leading to the public hearings as part of *Operation Tudor* (see page 43). In other cases, an agency's prompt reporting and their own action has been sufficient to deal with the matter.

There is some confusion in public sector agencies about when to notify suspected corrupt conduct to the ICAC. Some agencies are unclear whether they should undertake some preliminary inquiries to see if there is any substance to the suspicion or allegation before reporting it to the ICAC, while others will report such matters immediately upon being made aware of them. The correct response will depend on a variety of factors, including the agency's ability to adequately carry out its own preliminary inquiries. If agencies are in doubt, we would encourage them to make informal contact with the ICAC at the outset to determine the best way of dealing with the matter.

From the nature of matters reported by agencies under Section 11, it must be acknowledged that the public sector is doing a great deal to deter and combat corruption without the direct involvement of the ICAC. The case studies described below recognise the prompt response of some agencies and the successful outcomes of internal investigations. They also acknowledge the efforts made by agencies to address systemic issues that come to light in these investigations.

Bribe offers

In the following case studies, several councils acted promptly in notifying the ICAC and NSW Police of bribe offers made to council officers. Councils often report such cases, involving relatively small amounts of money being offered to council officers. These cases raise issues for councils in how to respond. In one of the cases (*Heritage Listing*), the council asked for advice on how the bribery attempt could be established, as it was the word of the officer against the resident and the officer had refused the bribe. The council asked whether the officer should have taken the envelope and handed it straight to the General Manager to prove that the offer had taken place.

It demonstrates some of the difficulties in establishing that a bribe attempt has taken place. While it may not always be possible to pursue these matters, there are opportunities to undertake further investigations into these incidents. If the conduct is detected early and there is the potential for further offers of bribes to be made, a controlled operation may be mounted to catch the bribery as it happens. The case studies below reflect some of the activity in this area during the year.

Each of these case studies also demonstrates the honesty of the officers concerned and the appropriateness of their response in reporting the offers to their supervisors.

Heritage listing

At a meeting between a council officer and a local resident, the resident offered a bribe to the officer. The meeting had been arranged to

discuss the resident's plans to develop his heritage listed property. The resident handed an envelope to the council officer, saying that he would like to thank the officer for the way in which he was dealing with the matter and that the envelope contained \$500.

The officer immediately handed the envelope back to the resident and terminated the meeting. The incident was immediately reported to council's internal auditor, the General Manager and the ICAC. It was also reported to NSW Police.

The council advised that there was no subsequent contact between council staff and the resident since the incident and that the resident has not submitted a development application. Police interviewed the resident but no information was obtained to support or refute the allegations. The council advised the ICAC that it will remind staff about the appropriate action to take in such situations and that it will exercise caution in any future dealings with the resident concerned.

Computer offer

An employee of a computer company offered a council officer a \$5000 computer for free if the officer helped the employee with his subdivision application. Council had previously refused the application. The officer refused the bribe and reported the offer to his supervisor on the day it occurred. Council reported the matter to the ICAC and to NSW Police.

In response to this incident, the council also advised that it intended to update its code of conduct and provide staff with formal training on ethical issues, protected disclosures, and reporting corrupt conduct to the ICAC.

Putting a stop

A council building inspector attended a site to issue a stop work notice on a development. The owner offered the inspector a bundle of \$50 notes to allow the unauthorised construction work to continue. The inspector declined the offer and promptly reported the matter to his manager. The council reported the bribe offer to the ICAC and to NSW Police.

Drawing the line

An architect was alleged to have offered a council officer \$500 to speed up the processing of a development application. The officer refused the bribe and reported it to management. The council notified the matter to the ICAC.

Sealed and delivered

A developer was alleged to have offered \$150 to a council officer to permit landscape works to proceed. The officer had asked the developer for development reports. The developer handed the officer an envelope, saying that the reports were enclosed. The officer returned to council, opened the envelope, and found \$150 along with the reports.

We conducted surveillance on the developer to determine the prospects of a controlled operation. Following a risk assessment, we did not proceed with the controlled operation. We waited for the developer to make contact with other council officers but this did not eventuate.

We interviewed the developer who confirmed that he had given the envelope to the officer, but he disavowed any knowledge of the \$150 or how it got into the envelope. With no other evidence, we brought the matter to a close and transferred the money to consolidated revenue.

Bearing gifts

Two council officers were visiting the home of a resident who had put in an application to run a business from his home. The resident gave the two officers an envelope, which they refused believing that it contained money. The two officers submitted a recommendation to council that permission for home employment be refused. The resident then visited council and again offered an envelope to one of the officers who this time observed that it contained money.

The council notified this matter to the ICAC. Our inquiries established that the resident had earlier made a similar offer to a third council officer after he had recommended that the development application proceed. The officer

reported the matter to the council but it was not notified to the ICAC at the time.

We held a private hearing with the resident. He admitted offering envelopes containing \$100 cash to the three officers. He denied that he was offering a bribe to the officers. Instead, he insisted that the money was intended as a gift, consistent with his Vietnamese culture. This was supported by the fact that he continued to offer the money even after his development had been approved.

The ICAC is using this case in our corruption prevention work with non-English speaking background communities (see page 14). The officers who reported the offers were commended for their forthrightness and honesty.

Net Returns

One issue showing agencies acting appropriately to both identify potential misconduct by proactive measures and promptly notify it to the ICAC when warranted is the inappropriate use of the internet and e-mail.

Despite media attention given to instances of departmental computers being used to access or distribute pornographic and other indecent material, some public officials are still engaging in this sort of conduct. Accessing of inappropriate sites and material is relatively easy to audit and identify, with large files often causing mail servers to crash.

Yet ICAC research indicates that 80 percent of public sector agencies do not conduct random audits of their electronic systems. The following case studies describe how some agencies are taking proactive steps to audit internet usage and notify the ICAC of suspected corrupt conduct indicated by these audits.

One agency advised us that a large volume of pornographic material had been found on the private directory of an administrator. In response, the agency told us that they would be installing new detection software. The same agency subsequently advised us of audits that suggested that three more officers had so much pornographic and private material in their directories that the computer facilities were overloaded.

Following this second notification, the agency advised that they would be alerting staff to department policy and regular audits of email and servers and that staff were at risk of dismissal or disciplinary action if this sort of misconduct was established.

Another agency made two Section 11 reports after audits revealed that officers had accessed inappropriate internet sites. Each of the officers had made admissions and were suspended without pay pending the completion of departmental inquiries.

Other Case Studies

The following case studies outline some examples of agencies effectively addressing corrupt conduct within their organisations. In addition to prompt reporting to the authorities, they show effective internal investigations and a committed response to the systems issues that come to light.

Client disservice

An agency reported that one of its workers was alleged to have stolen nearly \$23,000 from a client's bank account over a period of a year. The agency interviewed the client and her son before interviewing the employee. The employee subsequently resigned and has repaid most of the money. The agency encouraged the client to report this matter to police and offered its assistance in that regard. The agency also checked with other clients with whom the employee worked to make sure that they had not been treated the same way and advised us that there appeared to be no other matters of concern.

Creditable response

An agency conducting departmental credit card reconciliations discovered that an employee had incurred over \$6000 worth of personal expenditure. Subsequent inquiries also established concerns over use of departmental vehicles. The agency's investigation established that the officer was inadequately supervised and that the problems had been allowed to occur through the absence of centralised controls over credit cards and vehicles. Further, there was a failure to reconcile credit card transactions and a

failure to conduct regular reviews of credit card reconciliations. The agency also provided a copy of its report to NSW Police and advised that it would consider disciplinary action following the receipt of advice from police on what action they would take. The agency advised us of the steps they were taking to address the systems issues identified in their investigation.

Timely action

An area health service discovered that a health care program employee had submitted false timesheets over a two year period, collecting over \$6000 to which she was not entitled. As a result, the employee was dismissed and action undertaken to recover the money. The area health service also advised us of changes they instituted to prevent a recurrence of this fraud.

Hire authority

A council advised us that an officer had personally banked a cheque for over \$2600 intended for the council. The officer was the caretaker for a council facility, and a review of the hire charges for the facility disclosed that payment had not been received for a regular booking. The hirer was contacted and indicated that payment had been made, and subsequent inquiries found that the caretaker had banked the cheque into his own account.

Dealing with an improper offer

An agency reported that during a meeting to discuss property disposal, the client offered an agency manager a personal incentive if the sale price could be reduced. The manager advised the client that sales of NSW government owned property are in accordance with government guidelines and that there was no scope for deals.

Delivering business to family

The coordinator of a health support program was found to have given business to courier companies with which she had family connections. As a consequence, her services were terminated and the agency took action to ensure that appropriate purchasing procedures were followed in future.

Below par behaviour

A golf club on public land advised us that some staff were believed not to be ringing up sales of golf balls for the club driving range. A key pad for this item was not linked to the cash register and staff were alleged to be ringing up amounts received as "no sale" and keeping the proceeds. The agency referred the matter to NSW Police and has requested a copy of the police investigation and has appointed an auditor to pursue the matter.

INITIAL DECISIONS BY ASSESSMENT PANEL

Each matter we receive is assessed individually to determine the appropriate course of action. The ICAC Assessment Panel does this work.

Initial decisions – the Assessment Panel

The Assessment Panel consists of the Deputy Commissioner, and the Executive Directors of Strategic Operations, Corruption Prevention, Education and Research, and Legal, or on occasions, their delegate.

For each matter, the panel will consider issues relating to jurisdiction, the seriousness of the complaint, whether it is being or could be adequately handled by another agency and opportunities for identifying serious, substantial or systemic corruption.

The panel will then make one of five decisions:

- 1. Immediate referral or no action by the ICAC.**
A significant number of matters are best referred to other investigating agencies, such as the Ombudsman's Office, the Department of Local Government or the Health Care Complaints Commission. Some may be disciplinary matters that do not involve corruption but still should be referred to the agency about which the matter was raised. Other matters are being adequately handled by the agency making the notification. Many other matters simply have nothing to do with corruption and do not warrant any action by the ICAC at all.
- 2. Request an investigation and report by another agency.** If an allegation of corrupt conduct is

made about an agency, the ICAC has the power to require that the agency conduct an internal investigation and then report back to the ICAC by a certain date. The ICAC will do this if it is appropriate for the agency to deal with the matter.

3. Preliminary investigation by the ICAC.

If the ICAC feels that a matter is worth looking into itself but may not warrant a formal investigation, it will conduct a preliminary investigation. This may lead to the matter not being pursued, referred to another agency, or becoming a formal ICAC investigation.

4. Provide corruption prevention advice.

If the matter appears to involve systemic issues rather than allegations of specific corrupt conduct, inquiries may be undertaken in order to give advice about how to stop the problem happening again.

5. Formal investigation by the ICAC.

For matters with potential to expose significant and/or systemic corrupt conduct, the ICAC may conduct a formal investigation with a specific scope and purpose, which can involve using powers such as surveillance and hearings (both public and private).

During the year, the ICAC upgraded the Assessments area to take greater responsibility for conducting initial inquiries into matters received so as to provide the Assessment Panel with better information for decision making. The Assessments Unit has also been given greater responsibility for undertaking preliminary inquiries into less serious matters. Accordingly, the Assessments Panel has referred significantly more matters to the Assessments Unit for further inquiries. Similarly, more initial referrals have been made to the Corruption Prevention Unit for further inquiries and action.

A conscious decision was taken to have the Strategic Operations Division focus on more serious and substantial corrupt conduct and to create a capacity for more proactive identification of corruption risks in the public sector.

Overall, the Strategic Operations Division has been allocated fewer matters but with more prospects for identifying substantial corruption risks. There has still been an increase in the overall number of matters taken up by the ICAC with the Assessments and Corruption Prevention Units dealing with more matters.

Table 2 shows what the Assessment Panel decided on these matters compared to the previous two years.

Table 2: Action taken by the ICAC (2001-02, compared to previous two years).

Action taken by the ICAC in response to matters received	1999-2000	Total 2000-2001	2001-2002
Immediate referral or no action taken by the ICAC	863 (76%)	762 (73%)	1063 (74%)
Matters acted upon by the ICAC			
Referred to Assessments Unit for further inquiries	51	28	163
Referred to Corruption Prevention Unit for further action	68	94	140
Referred to Strategic Operations Division and/or Legal Division for further inquiries and/or investigation	161	165	80
Total number of matters acted upon by the ICAC	280 (24%)	287 (27%)	383 (26%)
Total number of matters*	1143	1049	1446

* The total figures will be less than the figures for matters received during the year. This table records *decisions* made during the reporting year. Some matters received towards the end of a reporting year will not be assessed until the beginning of the next reporting year. The figures also exclude matters classed as information or outside jurisdiction from the outset.

During 2001-02, the Strategic Operations Division finalised 159 matters referred to it for further action while the Corruption Prevention Unit finalised 201 matters. All other matters (1094 in 2001-02), including those where no further action was taken by the ICAC, were finalised by the Assessments Unit.

REFERRALS TO PUBLIC SECTOR AGENCIES (SECTION 53/54 REPORTS)

The ICAC can refer a matter to another agency for investigation. Such referrals are made under Section 53 of the *ICAC Act* and the report back from the agency is made under Section 54. Most referrals made under Section 53 are to the agency employing the officer against whom an allegation has been made. In 2001-02, we referred 20 such matters.

We received 22 Section 54 reports (including matters previously referred in 2000-01). Corrupt conduct was identified in the investigations undertaken by two agencies. Eight reports identified breach of procedures and/or code of conduct and five reports identified systems issues in need of improvement. The sorts of matters referred for Section 54 reports included allegations that an agency manager had employed her son for a position for which he was unqualified, an employee had misused a departmental credit card, and a council officer had received personal payment for a truckload of road metal.

The following case studies are examples of matters referred to agencies for investigation and report and the action taken in response. They show agencies undertaking thorough inquiries and taking responsibility for responding to the issues identified by the investigation.

Off duty?

The ICAC received a Section 10 complaint that council officers were spending time at a hidden site where they held barbecues and consumed alcohol and drugs, drove council vehicles after consuming alcohol and used council's material and equipment for their private work and benefit.

The matter was referred to the council for investigation. Two workers admitted that they had attended a non-work site during working

hours and disciplinary action was initiated. There was evidence that scrap materials had been sold for their benefit but no evidence that staff were using council equipment and material for personal gain. The council found that there were systems weaknesses in the procedures for use or borrowing of council equipment and accounting of materials.

As a result of their investigation, the council said that they would monitor and supervise the areas of concern and conduct an efficiency and probity audit. The council undertook to review its drug and alcohol policies, the storage and disposal of scrap material and procedures for borrowing tools and equipment.

Pre-school for scandal

We received allegations concerning the employment of family members by the Chairperson of a pre-school funded by the Department of Community Services. There were further allegations concerning aspects of the financial management of the pre-school and school vehicles being used for personal use or hired out to the public, with limited or non-existent record keeping in relation to this practice.

We referred the matters to the Department for investigation. It did not find any evidence of corrupt conduct, but found several systems weaknesses. These included staff failing to understand funding and performance agreement conditions; inadequate record keeping, particularly in respect of legislative and financial requirements; failure to keep proper minutes of management committee meetings; and inadequate policies and procedures to manage conflicts of interest, unethical conduct and potential corruption risks.

In response to the investigation, the pre-school and the Department undertook to improve training and education for management and staff on relevant policies and procedures; monitor service records to ensure compliance with reporting requirements; establish a system for recording, monitoring and reporting on complaints; and establish an additional support position to improve the management of the pre-school.

RESEARCH PROFILE OF THE NSW GOVERNMENT SECTOR (STRATEGIC IDENTIFICATION OF CORRUPTION RISKS)

In late 2001, the ICAC commenced a major research project to develop an overall picture of corruption-related issues facing the NSW government sector and corruption resistance strategies in place. This follows an extensive profile of the Local Government sector undertaken in 2000-2001 that has subsequently informed much of our corruption prevention work in that sector.

We created the NSW Government sector profile to better understand:

- the range and prevalence of corruption risks across NSW government organisations
- how corruption-related issues and risks differ among government organisations
- the practices and strategies that organisations already have in place to minimise corruption
- where future intervention, both by individual organisations and by the ICAC, will be most effective.

The research does **not** seek to quantify the amount of corruption that occurs. Instead, the focus of this research is on corruption risks and the response of agencies to those risks. It identifies both strengths and areas for improvement. This information will provide us with an informed foundation from which to develop tailored approaches to assist government sector organisations build and sustain corruption resistance. A further aim in conducting this research is to promote discussion about the corruption risks facing NSW government organisations and how best to manage them.

A report summarising the results of this research will be released in 2002-03.

THE YEAR AHEAD

- We will continue to improve the resourcing of our Assessments Unit and identify opportunities for improvements to processes, particularly in the turn around times for the handling of matters.
- We will continue to review our dealings with people making complaints to the ICAC to ensure we provide the best response possible.
- We will continue to review the handling of protected disclosures to ensure these are handled appropriately.
- We will improve our liaison relationships with public sector agencies, offering assistance in the handling of matters and building the capacity of agencies to handle matters.

INVESTIGATING CORRUPTION



- Investigation into Corrupt Conduct at Rockdale City Council
(*Operation Trophy*)
- Local Government Case Notes
- A Variety of Approaches
- Strategic Partnerships
- Formal Investigations
- Managing the Impact of ICAC Investigations
- The Year Ahead

The Strategic Operations Division is responsible for the most visible aspects of the ICAC's work. Strategic Operations brings together the ICAC's investigative, intelligence, analytical and specialist support capacities. The Division underwent significant change during 2001-02 to enhance the investigative capacity of the ICAC, building on reviews carried out in 2000-01.

Earlier this year, the Strategic Operations Division was restructured to acquire leading edge skills in key investigative functions, such as financial and fraud related investigations and computer forensics, as well as to achieve a flatter management structure.

A Strategic Risk Assessment Unit (SRAU) was established to give a new focus and structure to the ICAC's intelligence and analytical capacities. The SRAU is responsible for the strategic identification of corruption risks in the public sector, using information available to the ICAC and to other peer agencies. It is also responsible for providing strategic and tactical input in support of ICAC investigations.

As part of the restructure, the SRAU assumed responsibility for intelligence, physical and counter surveillance, technical services and management of electronic surveillance and assumed identities. The intelligence section was redesigned, with recruitment action undertaken for new Intelligence Analyst positions to underpin an intelligence-led approach to investigations. The focus of these positions will be to deliver intelligence products that inform key strategic and tactical decision making and improve coordination, prioritising and tasking for investigations.

At reporting time, the recruitment for the Strategic Operations Division and the SRAU was still being finalised. The acquisition of high level skills and experience in specialist fields will be supported by ongoing enhancements to the way in which we plan and carry out our investigations and intelligence functions. These will result in a much more effective capacity to anticipate and address significant and substantial corruption risks in the NSW public sector.

During the year, we developed stronger operational links with peer agencies particularly with NSW Police, the Australian Federal Police (AFP), the

National Crime Authority (NCA), the Australian Transaction Reports and Analysis Centre (AUSTRAC) and the NSW Crime Commission. These links have given the ICAC access to technical assets and operational support that have greatly assisted investigations.

For instance, a Memorandum of Understanding has been entered into with NSW Police to, among other things, provide for police support in the execution of search warrants to minimise risk to ICAC officers and the community. In turn, this has allowed the ICAC to move away from providing our own officers with firearms.

The closer links with these agencies has seen the ICAC pass on information and evidence to assist the functions of those agencies. Some of this is described in the case studies in "Strategic Partnerships" (see page 32).

The restructure of Strategic Operations has been matched by a re-orientation of our work within the organisation. Over the past two years, we have been moving away from a rigid structure where investigations were often conducted in isolation from other units or where the focus was solely on the investigative outcomes towards a more strategic, integrated way of approaching the work of the ICAC.

In particular, there is now a much closer working relationship between the Strategic Operations Division and the Corruption Prevention Unit. Corruption Prevention is now involved much earlier in formal investigations and takes responsibility for progressing those inquiries where the likely outcomes will be focussed on prevention.

The current integrated approach to the work of Strategic Operations and Corruption Prevention was very much in evidence in our work in Local Government (see "Investigation into corrupt conduct at Rockdale City Council and Case Studies "Local Government" from page 28 and "Integrated Approaches" at page 39) and universities (see page 43).

The new focus has also seen changes in the way investigations are progressed. In the early years of the ICAC, public hearings were a principal means of gathering evidence of corruption and were said to be

far and away the most effective investigative tool available to the ICAC.

Times have changed. Hearings no longer have the same effect on witnesses as they once did due to increasing familiarity with public inquisitorial hearings and more sophisticated means of carrying out and concealing corruption.

We have recently taken the approach that for hearings to be used more effectively, they need to be preceded by much more extensive gathering of evidence. For instance, without the voluminous intercept and surveillance evidence obtained and put to the witnesses in the hearings for our investigation into Rockdale City Council, we simply would not have achieved the results and impact we did.

Another consequence of relying on hearings as a primary investigative tool in the past has been the impact on the admissibility of evidence in subsequent proceedings against those found to be corrupt.

The *ICAC Act* requires people to answer questions put to them at hearings even though it may incriminate them. However, witnesses are entitled to object to giving an answer, with any subsequent admissions regarding their own conduct not able to be used against them in subsequent criminal, civil or disciplinary proceedings. This was intended to give the ICAC the means necessary to obtain the truth while preserving the effect of an individual's right against self-incrimination by denying the use of those admissions in later proceedings.

Where investigations relied primarily on hearings and in particular on admissions from the parties involved, this made it difficult to pursue prosecutions in these matters. There were instances where people were found to be corrupt but were not charged or disciplined because of insufficient evidence. This was a matter of concern to our Parliamentary Joint Committee on the ICAC, which has raised this issue in hearings with the ICAC over the past few years (see page 61).

While there will be occasions when it is important to establish that there was corrupt conduct, possibly at the expense of future proceedings, we have changed our focus in the past two years towards gathering

more admissible evidence to support potential proceedings. Not only does this support possible proceedings, it increases the prospect of successfully pursuing the matter through our own hearings.

This has necessitated a change in the way in which we work. We have increased our focus on obtaining evidence away from hearings and we are working with other agencies, such as NSW Police, to gather evidence of corrupt and criminal conduct where these coincide.

While public hearings are a useful means of exposing corrupt conduct that has warnings and lessons for the public sector, they can be excessive when dealing with relatively small or minor misconduct by an individual public servant. In these instances, it will still be necessary to pursue criminal or disciplinary charges and our focus has been on gathering evidence to pursue these options.

Some of the case studies set out below describe how we now take a variety of approaches to investigating and pursuing allegations of corrupt conduct, including working with other agencies. They indicate a more focussed and flexible approach to investigating allegations of corrupt conduct. There will continue to be a place for public hearings as an investigation tool, as evidenced by our Rockdale investigation, but we are making increasing use of other means to effectively address corruption risks in the public sector.

Many of the ICAC's investigations take place away from the public gaze, with the work and the outcomes not known to the public. For example, a lot of effort can go into investigating serious allegations where no corrupt conduct is found or there is insufficient evidence to sustain the allegation. While they may not expose corrupt conduct, these investigations can be just as important in clearing the name of the affected public official or simply clearing the air in a particular workplace or community. Sometimes these sorts of investigations may be reported in the public interest but when these allegations are not publicly known they are often reported directly back to the agency concerned. One such matter is reported below ("A question of character").

A question of character

A department notified us of allegations that a manager in one of its regional offices had requested and received \$500 from an employee to provide a character reference in court proceedings over a drink driving charge. This was a matter that might normally be investigated by the department, but it was concerned about the seriousness of the allegation, sensitivities in the office and the office being in a country area.

We went to the area and conducted interviews with all the relevant staff and examined documents. We established that the allegation had arisen from a convoluted series of misunderstandings arising from the desire of the employee to find some way of properly acknowledging the assistance given by his manager and subsequent explicable, though ill-informed, innuendo. There was no evidence of any corrupt conduct.

This was a serious allegation of corrupt conduct that could have been quite damaging to the department and the office in question but which was satisfactorily resolved because of timely notification to the ICAC and the full cooperation of the department.

INVESTIGATION INTO CORRUPT CONDUCT AT ROCKDALE CITY COUNCIL (OPERATION TROPHY)

Without a doubt, the most significant work undertaken by the Strategic Operations Division this year related to our investigation into the conduct of two councillors on Rockdale City Council and their dealings with developers and go-betweens. It also reflected a much more integrated approach to the work of the Strategic Operations and Corruption Prevention, Education and Research Divisions.

Operation Trophy was a significant undertaking for the ICAC. It involved the deployment of staff from throughout the organisation on various aspects of the investigation. Full and extensive use was made of a range of ICAC powers. In the course of the operation, we obtained 34 telephone interception

warrants, 53 listening device warrants, 12 search warrants and issued 74 notices to produce. As a result, extensive evidence (including intercepted telephone calls and SMS text messages) was obtained. Hearings were conducted, with 12 days in private and 10 days in public.

Sufficient evidence was obtained to make findings of corrupt conduct against two Rockdale City Councillors, Deputy Mayor Adam McCormick and Councillor Andrew Smyrnis, two go-betweens, Manuel Limberis and Tony Retsos, and two developers, Con Chartofilis and Terry Andriotakis. Recommendations have been made that the Director of Public Prosecutions consider charges against each of these individuals.

The ICAC's investigation prompted consideration of what action can be taken to remove a councillor against whom there is substantial evidence of corrupt conduct. At the outset of the ICAC's inquiries, the *Local Government Act 1993* provided only for the dismissal of the mayor and councillors following a public inquiry and a recommendation to the Governor from the Minister for Local Government.

As a result of the investigation, amendments were made to the *ICAC Act* and the *Local Government Act* to allow for the suspension and eventual dismissal of individual councillors on the recommendation of the ICAC and the removal of all councillors where there is evidence of systemic corruption.

Amendments were also made to the *Environmental Planning and Assessment Act 1979* to enable the ICAC to recommend that a planning administrator be appointed to a council when there is evidence of systemic corruption and to recommend the suspension of development consents or modifications that have been obtained corruptly.

In addition to the findings and recommendations concerning the individual parties, the investigation report also looked at changes to planning systems and policies that might prevent the corruption uncovered in this case. Building on our corruption prevention work, the report canvassed such issues as political donations, caucus voting, councillors dealing with staff and conflicts of interest. Further recommendations on these systems issues will be released in the coming year.

LOCAL GOVERNMENT CASE NOTES

Investigating allegations of corrupt conduct against elected officials and staff in Local Government represents a significant amount of our work. About one quarter of the matters we receive each year concern local councils and we spend considerable time and resources dealing with these matters. The following case studies highlight the sorts of issues raised in these investigations.

Sex, lies and red tape

The ICAC received an allegation that a council officer had visited a sex worker at her home, claiming that he was responding to complaints about her operating a brothel. The officer was said to have told the sex worker to return to a particular brothel where she had previously been employed.

Our inquiries established that the council officer was not from the local council but was in fact employed by another council. We also confirmed that he had visited the sex worker and urged her to return to her previous employer.

The officer was running his own business as a building regulation consultant in breach of his council's code of conduct and policies. He had been hired as a consultant by the owner/operator of the brothel where the sex worker had previously worked. Acting on the brothel owner's behalf, the officer had visited and harassed a competing brothel in the area.

Upon completion of the ICAC's inquiries, the matter was referred to the General Manager of his council for further action. The Australian Taxation Office was advised of his undeclared income from his consultancy.

Not-so-local councillor (*Operation Jota*)

The ICAC received allegations that a local councillor had been elected in the 1999 Local Government elections despite not living in the area for which she had been elected, in breach of the *Local Government Act*.

The councillor had represented herself as being a resident in the area and was enrolled in the council area. ICAC enquiries found that she did not own the residence at the address supplied and that the only address changes she had made at the time were her electoral registration and driver's licence. Further enquiries established that she had purchased a residential property in another Local Government area five months before the election and checks indicated that this appeared to be her residence.

The difficulty facing the ICAC in pursuing this matter was that while the *Local Government Act* provides for the removal of councillors where there are irregularities in their election, proceedings must be commenced within three months of the election. The allegations in this instance were made to the ICAC well after the three month period had expired.

The ICAC discontinued its investigation due to the complexity of evidence necessary to properly establish the residential requirement. The lack of any practical outcome, given expiration of the time to challenge the election, was also a factor. Although recommendations for possible legislative amendment were considered, it was not pursued due to the presumed policy intent in the *Local Government Act* of having reasonable certainty in the finalisation of elections within a reasonable time from their occurrence.

Concrete evidence

A resident complained to the ICAC that the local council concrete labour gangs were constructing driveways for people using council concrete and in council time but taking payment in cash and not passing on the money to council. Council foremen were said to be obtaining some of the money from the illegally installed driveways as well as approving overtime so that other legitimate council work could be completed.

ICAC investigators made inquiries of residents identified as having paid cash for the driveway works.

Enquiries with council staff revealed that no labourer employed in this area had approval from the General Manager for secondary employment.

Five council labourers were formally interviewed. Two of the labourers advised that it was a common practice about 15 years ago to undertake these types of works as a means of supplementing the low wages paid to these staff. All labourers interviewed stated that the council had enforced secondary employment policies in recent years.

The five labourers interviewed stated that no council resources were used in the construction of the driveways and that the works were carried out in the labourers' own time. Enquiries with the council revealed that council records could not prove or disprove claims that council materials were utilised.

However, it was established that the labourers had used the council's own drawings and plans to achieve the requisite levels for each of the driveways.

There was no evidence to suggest that senior council engineers were aware of the labourers' work. In fact, the labourers said that senior council staff had recently been actively enforcing council's policies on secondary employment.

No corrupt conduct was identified during the investigation. However, a formal report of the

results of the investigation was made to the General Manager, advising him that:

- the practice of council labourers constructing private residence driveways was occurring as recently as November 2000. However, the practice ceased following recent reiteration of the council's policy on secondary employment
- council staff did not initiate the approach for additional work. Instead, they were approached for quotes by residents while kerb and guttering works were taking place in their street
- at the time, council staff utilised council's information to attain requisite levels for the driveways
- none of the staff interviewed applied for permission for secondary employment.

Council advised that a review of the approval of overtime for council's labourers has commenced.

Concrete conflict

The ICAC received a complaint that a council officer had deliberately delayed the construction of a driveway and had added to the building costs because the resident would not use the concrete company nominated by the officer.

The council's own inquiries established that the officer and his father operated two concrete contracting companies with the firms operating from the officer's home. The council established that the officer's businesses were active and operated current accounts with the concrete supply companies. These businesses appeared to operate within the council's area. There was also evidence that in one case his actions as a council officer had increased the cost of one development by \$900.

The council advised that the officer had no approval for secondary employment. It was also indicated that any subsequent application would be unlikely to be granted, given the apparent and irreconcilable conflict of interest between his council position and his business.

The council's investigation report suggested that there was enough evidence to establish that the officer had breached the code of conduct by:

- taking advantage of his position to obtain undue or improper advantage or gain
- engaging in private work without seeking the approval of the General Manager
- using his council vehicle for private purposes.

There was no evidence that the officer had threatened any person, although there was evidence that he pressured people to use his preferred suppliers by unduly delaying work and/or placing unworkable conditions on their intended work.

While previously employed by another council in 1998, the officer was the subject of a similar complaint to the ICAC. As a result, his former employer had dismissed him. ICAC's Corruption Prevention Unit expressed concern about the officer's secondary employment and the failure of his former employer to advise his new employer of the grounds of his dismissal when reference checks were undertaken.

The ICAC referred the investigation back to council to consider disciplinary action against the officer. The Corruption Prevention Unit provided advice on the secondary employment issues and the post-employment issues regarding his former employer.

A VARIETY OF APPROACHES

During 2001-02, we undertook a number of investigations where new approaches to gathering evidence were adopted. There were some matters where instead of relying on hearings we were able to investigate and put a brief together for the Director of Public Prosecutions (DPP) to consider criminal charges. In other matters, we were able to work with affected agencies to deal with serious or difficult allegations of corrupt conduct. These case studies describe some of the approaches we took to such matters during the year.

Who guards the guards?

In December 2001, an area health service notified the ICAC of allegations that a security guard had stolen up to \$18,000 worth of computer equipment from a hospital. It was alleged that another security guard monitoring the closed circuit TV had helped him. The day after the notification was received, ICAC investigators conducted interviews and search warrants were executed within the week. Most of the equipment was recovered during the search with the balance returned by one of the guards the following day.

A brief of evidence was forwarded to the DPP, recommending charges of break and enter against one of the guards and charges of receiving stolen goods against the other. The DPP has since laid charges of break, enter and steal and larceny against one of the guards and charges of receiving stolen goods and goods in custody against the other.

Manipulating the payroll

An area health service notified the Commission of suspected corrupt conduct involving the manipulation of its electronic payroll system. An employee had substituted her own payroll details for other employees of the service so that salary payments for doctors and other health professionals were transferred into her account.

To avoid detection after receiving their salary payments, she then removed her own details and reinstated the original details. She also paid herself leave loading which she was not entitled to receive. In total, she obtained over \$27,000.

Following an investigation, the ICAC forwarded a brief of evidence to the DPP. As a result, the DPP recommended 13 charges of obtain benefit by deception under Section 178BA of the *Crimes Act 1900* be laid against her.

The employee pleaded guilty to all counts. In sentencing, the judge did not consider that a gaol sentence was appropriate, due to mitigating circumstances, instead giving her a good behaviour bond of three years. The employee was also ordered to repay the outstanding money.

Fixing up family (*Operation Katana*)

The ICAC received allegations that a departmental manager was in the habit of awarding departmental contracts to family and associates. The companies tendering for work were alleged to be submitting tenders under different names with the bid prices coming in under the department budget and within a few cents of one another. It was also alleged that the manager's children were picking up contracts and that the successful tenderers were submitting false employee records to overcharge the department.

The ICAC undertook an extensive financial investigation to determine the associations between the manager and the successful bidders. The inquiries established that the manager was effectively allowed to run his own show through lack of supervision and failure to adhere to policy and procedure. The manager had declared an interest or association with some of the bidders but had not disqualified himself from considering or awarding tenders to them.

As a result of information provided by the ICAC, the department laid disciplinary charges against the manager. The manager has now left the department. In response to the issues identified by the ICAC, the department is now reviewing its contract practices, quality assurance systems, code of conduct and supervision and accountability of senior managers.

STRATEGIC PARTNERSHIPS

Allegations of corrupt conduct can sometimes involve other matters of a criminal nature and our investigations sometimes bring other criminal behaviour to light. The following case studies describe how we developed a close working relationship with NSW Police in the past year to ensure that the appropriate authority handled these serious matters. They illustrate how we have developed and strengthened our working relationships with peer agencies in the past year and indicate the way in which we intend to continue enhancing these arrangements.

Supplying information (*Operation Philidor*)

In August 2001 a driver, disqualified from holding a licence till 2018, approached two RTA officers and separately offered each of them \$15,000 to get a false driver's licence. The RTA reported the matter to the ICAC.

Using a controlled operation and deploying telephone intercepts, the ICAC not only established the bribe offer but also gathered evidence that the target was a very active street level drug dealer, supplying heroin, cannabis, amphetamines, ecstasy and cocaine.

The ICAC mounted a joint operation with NSW Police, with ICAC officers conducting surveillance and providing real time intelligence to police. As well, the ICAC handed over evidence, resulting not only in the arrest of the dealer but also his supplier.

Ten charges were laid against the target, including supplying indictable quantities of drugs, witness tampering and driving while disqualified. Four charges were laid against his supplier and another charge of witness tampering was laid against a third man.

Collision collusion

The ICAC was advised of allegations that two public officials and two civilian witnesses had provided false statements to police investigating a motor vehicle accident involving one of the officials.

Using powers available to the ICAC, we obtained a statement from one of the witnesses to the accident. The witness said that the version of events given to police had been concocted to ensure that the injured officer would receive worker's compensation for the injuries sustained. The statement given to police also served to deny any suggestion of culpability against the people involved.

We passed the information on to NSW Police, using provisions of the *ICAC Act* that allow us to hand on information that might assist the investigation of another agency. Police were able to progress their investigations based on the information we had provided. We were subsequently advised that evidence was obtained, leading to charges against all those involved in the incident for providing false statements and attempting to pervert the course of justice.

We are awaiting the outcome of the prosecutions and the Corruption Prevention Unit is working with the department on systems issues identified in the course of our investigation.

Dealing with a problem

An agency notified the ICAC of suspicions that employees were selling drugs from an agency outlet. The ICAC mounted a joint operation with NSW Police, placing the employees under surveillance.

Soon after, there were indications that the operation's existence might have been leaked. The ICAC conducted an investigation into the leak. While it was found that there was talk

generally about an investigation, it was apparent that this particular investigation had not been compromised. However, the situation was that staff were still on guard and had modified their behaviour.

The investigation soon established that there was drug dealing being conducted away from the agency outlet. Owing to jurisdictional issues, NSW Police took over the operation. The ICAC handed over all the evidence it collected to assist the police investigation, which is continuing.

Cops are (lap) tops

The ICAC received a call from police in northern NSW that a laptop computer had been handed in to a local computer repair shop. They were concerned that the computer may have belonged to the ICAC and contained confidential information. When the computer was turned on, a warning screen appeared indicating that unauthorised access to or unauthorised use of the information contained in the computer system constitutes corrupt conduct under the *ICAC Act* and is a criminal offence.

NSW Police transported the laptop to Sydney for forensic examination by ICAC officers. The examination revealed that it was not an ICAC computer and contained no ICAC information. The computer was subsequently identified as belonging to a former public sector employee, who may have installed the warning for security reasons.

NSW Police are now conducting an investigation into the possible theft of the computer from the former employee's department. The prompt contact with the ICAC to alert us to the possible loss of one of our computers was much appreciated and reflects our good working relationship with NSW Police.

FORMAL INVESTIGATIONS

Matters with the potential to expose significant and/or systemic corruption or which otherwise involve matters of significant public interest are made the subject of formal investigations. Such investigations can make use of the full range of ICAC powers.

A formal investigation is given an operational title and the nature and limits of the investigation are established by a "scope and purpose" document that must be approved by the Commissioner or Deputy Commissioner before it can proceed.

Many formal investigations proceed to hearings, whether in private or public or both.

Public and private hearings

The ICAC is an investigative agency and hearings are a tool to assist with investigations. Their primary purpose is to obtain information that assists the ICAC to determine the facts of a matter. Hearings may be held in public, in private or a combination of both.

The *ICAC Act* requires the public interest to be taken into account in deciding whether to have hearings in public or private. What ultimately assists and benefits the investigation is among the public interest considerations taken into account. In recent years, more matters have been heard in private as a means of obtaining evidence that has not been affected by other evidence given in public and to ensure that unnecessary harm to the reputation of individuals appearing or mentioned at the ICAC is minimised.

Hearings are conducted by the Commissioner or an Assistant Commissioner appointed for a particular investigation.

When a public hearing occurs or an investigation originates from a reference by Parliament, a report must be made to the Parliament. Public reports may also be prepared about any other ICAC investigation.

Hearings were held in relation to 11 investigations during 2001-2002, over 102 days, including 46 days of public hearings.

Investigations with private hearings

During 2001-02, seven matters involved only private hearings. The following case studies describe some of the matters that were the subject of private hearings.

Court in the spotlight (*Operation Firefly*)

In July 2001, the ABC's *Four Corners* program aired the story "*Party Tricks*" featuring, among other things, allegations that New South Wales Supreme Court documents had been given to a businessman in return for \$18,000. The following day, the Attorney General's Department wrote to the ICAC expressing concern at the possibility that it was an officer of the Supreme Court who had acted improperly in providing copies of the sealed documents to the businessman.

The ICAC commenced *Operation Firefly* to establish where the documents had originated. The extent of our interest in the allegations aired by the *Four Corner's* story was the suggestion that a Supreme Court officer, being a NSW public official, may have improperly passed on the documents.

Extensive reviews of documents were undertaken, telephone records were obtained and checked and financial tracing and analysis was conducted. An extensive interview was undertaken with the businessman. In-depth interviews were carried out with a number of staff employed by the Attorney General's Department. A private hearing was conducted.

At the end of the investigation, there was no evidence to establish that any officer of the Attorney General's Department was involved in this matter. The ICAC discontinued the investigation, and notified the outcome to the Attorney General's Department. The Department provided every assistance requested in the course of this investigation.

Tender spots (*Operation Veracini*)

The ICAC received allegations about the awarding of building maintenance and repair work by a large public sector agency. It was alleged that a private sector company had an arrangement with a senior officer of the agency and a consultant whereby company employees would submit bogus quotes from supposed competitors for contracts from the agency. These quotes were submitted along with a genuine quote from the company, who would then ultimately be awarded the work.

ICAC officers interviewed a number of the company's employees and, with the cooperation of the agency, took possession of a large quantity of records. We undertook a detailed assessment of the records of contracts awarded to the company. Following this, we launched a joint investigation with the agency concerned. We executed search warrants on the homes of agency employees, as well as various other private and business premises, obtaining more records for examination.

Four former employees of the company gave evidence in private hearings. Each employee told of being directed by the company's owner to prepare and submit false quotations to the agency along with a genuine quotation. The practice was said to have commenced in 1994, although our analysis of the records indicated that it mostly occurred between 1996 and 2000.

Two employees of the agency, a former agency employee and the company owner appeared in private hearings. Under objection, evidence was given that dummy quotes were prepared and submitted upon instruction of the company owner and with the concurrence of the senior agency officer. Evidence was given that these arrangements were entered into so as to comply with the agency's tendering requirements.

Neither the investigation nor the hearings obtained any evidence that corrupt payments were made to the agency officers by the company. The ICAC is presently considering the possible referral of matters to the DPP. Material was referred to the agency to enable disciplinary

proceedings. The senior officer subsequently resigned. The agency has also been provided with corruption prevention assistance to deal with the corruption risks identified in this investigation.

Briefing the bidder (*Operation Bourbon*)

An agency was evaluating tenders for a major project. Following a decision on the preferred tenderer, the principal party of the unsuccessful consortium took the agency to the Supreme Court, seeking judicial review of the tender process.

In the course of the Supreme Court proceedings, the managing director of the principal party gave evidence that he had been provided with confidential information about aspects of the tender by a senior manager with the agency. The agency consequently reported the matter to the ICAC and an investigation was initiated.

Private hearings were held and evidence taken from six witnesses, including the managing director and the agency manager.

The managing director maintained that the agency officer provided him with confidential information on a number of occasions at various stages of the tender process. Generally, there was little evidence to corroborate this and where it could be established, it was unclear that the information passed on was actually confidential.

The hearings focussed on one occasion where the managing director stated that the agency official provided information about where the consortium stood in relation to its competitors. On his first appearance, the official strongly denied providing any confidential information. Further, he strongly maintained that he was not in a position to provide any confidential information as he was not on the project team at the relevant time.

The agency's project manager contradicted this evidence. He said that although the official was formally removed from the evaluation process, the agency still retained a project team, of which the official was a member, and this team received regular reports. Another agency officer,

who had replaced the officer who was the subject of the allegations, confirmed that he briefed the project team with confidential information on the state of the evaluations. The information he provided at that meeting was almost identical to the information alleged to have been provided by the official to the managing director. This was reflected in meeting notes taken from a briefing given by the managing director to his consortium partners.

The project team minutes were obtained and they confirmed the specific details of the confidential information provided at the meeting and the official's attendance. The official's own notes of the meeting were also obtained. They recorded the information concerned and his electronic diary also showed an appointment with the managing director after this meeting and before the meeting between the managing director and the consortium partners.

When he was recalled to give evidence, the official claimed that he could not remember providing the managing director with confidential information. When his earlier strong denials and his claim that he did not have access to confidential information at the relevant time were put to him, he acknowledged that he clearly did have access and said that he was unprepared when he first gave evidence. The evidence obtained by the private hearings strongly suggested that the official had provided confidential information about the evaluation of the tenders to the managing director.

All relevant material obtained by the ICAC was made available to the agency for any disciplinary action it may wish to pursue.

Investigations with public hearings

During 2001-02, public hearings were held for four investigations. These investigations were:

- the termination of Mr John Kite's employment with the National Parks and Wildlife Service (*Operation Meteor*)
- possible corrupt conduct associated with the collapse of the NSW Grains Board (*Operation Agnelli*)
- the improper alteration of student records at the University of Technology, Sydney by a student liaison officer (*Operation Tudor*)
- corrupt conduct associated with development proposals at Rockdale City Council (*Operation Trophy*).

Operation Meteor was reported in December 2001, *Operation Trophy* was reported in July 2002 and *Operation Tudor* was reported in August 2002. The investigation for *Operation Agnelli* is continuing but it is hoped to report this matter later this year.

Reported investigations that did not involve public hearings

During 2001-02, four matters not involving public hearings were investigated that were the subject of reports made public either by the ICAC or the agency concerned.

In August 2001, the ICAC tabled the *Report into Matters Arising from a Ministerial Statement Made in the Legislative Assembly on 10 April 2001*.

This report detailed the findings made by the ICAC regarding allegations that the NSW Police Service had been pressured into issuing a media statement to back up statements made by the then Minister for Education and Training, and that the Minister, his press secretary and/or the Director of Communications in the Premier's Office had fabricated a story in support of the Ministerial Statement.

In February 2002, the ICAC issued a report under Section 14 of the *ICAC Act* to Albury City Council and the Minister for Local Government regarding the circumstances surrounding the termination of the appointment of the General Manager and leaks to the local media. Albury City Council subsequently made the report public.

In April 2002, the ICAC issued a report under Section 14 of the *ICAC Act* to Dubbo City Council and the Minister for Local Government regarding allegations concerning the awarding of tenders and contracts by the Council. Dubbo City Council subsequently made the report public.

In July 2002, the ICAC issued a report under Section 14 of the *ICAC Act* to Fairfield City Council and the Minister for Local Government regarding the outcome of inquiries into allegations that a former councillor, Phuong Ngo, still exercised influence over some councillors and council decisions despite being in prison for murder. The Council and the Minister for Local Government subsequently made the report public.

Investigation Reports Published During 2001-2002

In 2001-02, we published three investigation reports with another two reports published in July and August 2002 dealing with matters investigated during the preceding year.

In July 2001, we tabled and published *Garbage drains and other things: An examination of conduct of two Liverpool City Council workers*.

In August 2001, we tabled and published the *Report on investigation into matters arising from a Ministerial Statement to the Legislative Assembly on 10 April 2001*.

In December 2001, we tabled and published the *Report on investigation into matters concerning John Kite and the National Parks and Wildlife Service*.

Prosecutions and Disciplinary Action

The ICAC does not prosecute or discipline people as a result of our investigations but we can make recommendations to the appropriate authorities that consideration be given to these courses of action. The recommendations are then considered by the Director of Public Prosecutions (DPP) in relation to criminal proceedings or by the agency employing the person in relation to disciplinary action.

Where recommendations are made that consideration be given to the prosecution of a person, we are responsible for preparing a brief of evidence for the DPP to consider. As mentioned earlier, we are looking at improving the means of

obtaining evidence to enable the DPP to mount prosecutions as required. These efforts are continuing but there are indications in the past year that we have been more successful in getting matters up for prosecution.

We monitor the outcomes of recommendations we make regarding criminal charges and disciplinary action. Appendix 2 details the changes in the status of these matters during the reporting year.

Recommendations Affecting Whole Agencies

In addition to recommendations for consideration of prosecution and disciplinary action, our investigation reports usually contain recommendations for systemic reform to ensure that the conduct is addressed and systems are put in place to prevent its recurrence.

As part of our performance tracking, we monitor the implementation of these systemic recommendations. We report the results of this monitoring on our website under the heading of '*Reco's on the Web*'. This project gives public sector agencies the opportunity to detail what they have done in response to recommendations we have made in our investigation reports.

A list of the reports monitored since last year's Annual Report is contained at Appendix 3. The list shows that 97 percent of the recommendations in these reports were fully or partly implemented by the affected agency.

Managing the Impact of ICAC Investigations

We appreciate that agencies can respond in different ways to the experience of the ICAC investigating conduct in their organisation, particularly when it is the first time they have experienced a large-scale investigation. Research conducted in 2000-01 detailed the impact our investigations had on some organisations, and particularly on staff not involved in the conduct we were investigating.

In response, we developed a package of resources to assist organisations to better manage the impact of an ICAC investigation. This included reviewing and redeveloping an earlier publication, *How to handle the effects of an ICAC Investigation*, to reflect what we had learned since that time.

We also established a liaison function inside the Education Unit of the ICAC. The purpose of this function is to provide agencies under investigation with a direct contact to assist them to manage information and support.

The liaison officer will provide agencies with advice and support in such areas as:

- resources available to guide agencies and councils in managing staff expectations resulting from the investigation
- advice on how to prepare communication strategies to advise staff on the investigation and its impact on the organisation
- coordination of ongoing corruption prevention advice and support
- referrals and print information for witnesses
- general information about the functions, powers and processes of the ICAC.

When we commenced our hearings into Rockdale City Council, we became aware of reports of council staff being subjected to abuse from members of the public. We worked with the communications director at Rockdale Council to provide advice and support on managing the impact of this investigation. Advice about the ICAC and the hearings was placed on the council intranet while the General Manager held briefing sessions with staff about the hearings. An in-house committee was formed to manage internal communications about the investigation and the hearings.

We have also provided liaison advice and support to other agencies for a number of investigations that did not proceed to public hearings. This liaison function is now factored into our planning for major investigations, and assistance is offered to affected agencies when there are prospects for public hearings arising from an investigation.

THE YEAR AHEAD

- We will undertake investigations of serious and/or substantial corruption, employing latest methodologies in risk assessment and investigation management.
- We will continue to develop our strategic risk assessment capability and use it to inform decision making in investigations planning and management.
- We will deploy our enhanced financial investigative and analytical capacity to identify and investigate serious and/or substantial fraud and corruption.
- We will continue our focus on gathering admissible evidence for applicable substantive charges against persons under investigation.
- We will continue working with peer agencies to identify opportunities for sharing information and working on joint operations.

INTEGRATED APPROACHES TO CORRUPTION RISKS



LOCAL GOVERNMENT

- Local Government Strategy
- Evaluation of the Local Government Strategy
- Issues of Jurisdiction over Elected Officers (Section 9 Issues)

UNIVERSITIES

- Investigation into Corrupt Conduct at University of Technology, Sydney (*Operation Tudor*)
- Student Records Systems Survey
- Strategic Risk Assessment of the University Sector

As canvassed earlier, there has been a change in the focus of some of the work of the ICAC in recent years. In particular, we have adopted a more integrated approach to investigations and corruption prevention where there have been opportunities to enhance outcomes by using skills and expertise from each of these areas. This approach may be demonstrated in formal investigations that have a significant focus on corruption prevention issues, or in corruption prevention resources that build extensively on risk issues that have come to light in investigations.

During 2001-02, our work on Local Government and universities highlighted the ICAC's new integrated approach to dealing with corruption risks in the NSW public sector.

Each of these areas was the subject of a major ICAC investigation, as well as other inquiries, which built on and informed our corruption prevention work. Further corruption risks were identified by targeted ICAC research, complaint profiles and risk assessments. Each risk area was the subject of a strategy developed to involve key stakeholders in developing solutions to the corruption issues identified in various work undertaken by ICAC officers.

The integrated approach to addressing corruption risks in these areas also acknowledges their significance for the public sector. Local Government and universities are major employers with large amounts of revenue, and particularly in non-metropolitan NSW they are among the largest and highest profile public sector agencies in their local area.

LOCAL GOVERNMENT STRATEGY

To assist councils to deal with the risks in these areas, the ICAC has been working with Local Government as part of a strategy to develop guidelines that enhance corruption resistance. These build on research, complaints handling and investigations undertaken by ICAC officers.

The ICAC's research project on Local Government, conducted in 2000, identified four main council business activities prone to corruption risks:

- tendering and contract administration
- development and planning approvals

- use of council resources
- cash handling.

In response, we developed three publications. *Taking the Con Out of Contracting*, *Taking the Devil Out of Development* and *No Excuse for Misuse* were resources designed to assist in the development of guidelines for the first three risk areas, while work is underway on a resource for cash handling risks. *Taking the Con Out of Contracting* was substantially completed in 2000-01, and was reported in detail in last year's Annual Report.

We have been careful to use the experience and insights of Local Government stakeholders, particularly councils, to inform the development of these publications. Issues papers have been prepared and distributed for the first three of these risk areas, prompting responses from councils across the State.

Taking the Devil Out of Development: development assessment & planning

Partiality, bribery and conflicts of interest in local government planning were high-level risks identified in the ICAC research into Local Government. These types of issues are also often the subject of complaints to the ICAC and they were starkly illustrated by our investigation into Rockdale Council, *Operation Trophy*.

In November 2001, the ICAC released a discussion paper, *Taking the devil out of development: Exploring corruption risks in administration of development applications by local councils (Taking the Devil...)* to canvas the risks in council planning processes, and suggest measures for dealing with these risks. Responses to the reform proposals were sought and 70 submissions had been received by February 2002. Responses were generally positive with many declaring support for our proposals.

To deal with the issues that came up in *Operation Trophy* and the additional proposals in the submissions we had received, we issued an interim report in May 2002.

The *Taking the Devil...* initiative was well under way before *Operation Trophy*, and it anticipated or identified many of the risks that came to light at Rockdale Council. The proposals for reform will help councils build resistance to the type of corrupt behaviour seen in the Rockdale investigation. We have urged all councils to examine their planning

procedures and practices to ensure community confidence that their development assessment decisions are consistent, fair and objective.

The State Government responded promptly to some of the issues raised by *Operation Trophy* and *Taking the Devil...* by introducing laws to allow the ICAC to deal more effectively with corruption in the development application system. One change to the *Local Government Act* allows the ICAC Commissioner to make a recommendation to remove a councillor or a whole council if they have been found by an ICAC inquiry to have acted corruptly. Previously, this could happen only after a separate inquiry by the Department of Local Government.

Further amendments were made to the *Environmental Planning and Assessment Act*. These changes were directed at people who obtain a development approval through corrupt means. Before the changes, there was very little that could be done to put a halt to such developments without compensating the developer. As a result of the changes, corruptly obtained development approvals can now be suspended or withdrawn without compensation. Furthermore, the developer may lose any profits obtained corruptly because their assets can be seized and sold to recoup the value of the corrupt benefit they have obtained.

However, the ICAC recognises that while these changes were necessary they are not the complete answer to other corruption risks associated with development applications. So, throughout the next year we will develop further proposals for additional reforms to minimise opportunities for corrupt conduct associated with development approvals. In particular, we will work on proposals for assisting councillors in their capacity as development assessors and on grey areas such as unethical and inappropriate behaviour or non-pecuniary conflicts of interest.

During the coming year, we also propose to release policy and practice guidelines for improving development control systems, to complement the proposals for legislative reform.

Misuse of resources

During 2001-02, as part of the Local Government Strategy focusing on the risks associated with council resources, we released the discussion paper, *No excuse for misuse*.

Misuse of resources occurs when they are used for unofficial purposes without proper authorisation and often for personal gain.

Council resources include such things as:

- staff
- materials and supplies
- facilities
- motor vehicles, fuel, spare parts and accessories
- general plant and equipment, office equipment
- communication and information devices, such as phones, computers and the Internet.

During 2001, 18 percent of all complaints concerning councils received by the ICAC related to the misuse of resources. We are also aware that a significant number of complaints to the Department of Local Government and the Ombudsman fall into this category. We also built on work done on this issue by the Crime and Misconduct Commission (CMC) in Queensland.

In our experience, major areas of misuse include:

- secondary employment
- use of council resources for personal business
- personal use of communication devices (phones, computers and Internet)
- disposal of surplus materials and low value assets.

Although the value of the resource loss is often not great in individual instances, it is our view that the cumulative value of loss is very significant. We also believe that a lot of misuse goes undetected and that certain organisations or parts of organisations have a culture that is accepting or tolerant of misuse. In *No excuse for misuse* we identify the factors that allow or lead to heightened risk of misuse and highlight the need for means to deal with these factors.

In an effort to address these issues we have looked to councils to help us develop model codes, policies and procedures.

The culmination of this work will be launched through a set of guidelines during our Regional and Rural Outreach Strategy (RAROS) visit to Wagga Wagga in November 2002.

EVALUATION OF THE LOCAL GOVERNMENT STRATEGY

To ensure that the guidelines produced as part of the Local Government Strategy are meeting the needs of Local Government, the ICAC has an ongoing evaluation program. The guidelines for tendering and contract administration, *Taking the Con out of Contracting (Taking the Con...)*, are the first to be evaluated.

How did we do the evaluation?

Telephone interviews were held with key stakeholders including the Department of Local Government, the then Local Government and Shires Associations (now known as Lgov NSW), representing councillors and elected officials, the NSW Ombudsman and General Managers, Directors of Corporate Services/Administration and Procurement Officers from a random selection of NSW local councils.

What did we find?

This evaluation found that Local Government appreciates the ICAC guidelines and takes them very seriously. The inclusion of a checklist of issues to address was considered to be a very useful feature to the guidelines.

Councils said that they need some time (six to 12 months was suggested) after the publication of each report to implement the ICAC recommendations given that purchasing and contracting is often decentralised in Local Government. Councils said that they believed *Taking the Con...* successfully employs a unified risk management approach to purchasing in councils.

Using examples of corrupt conduct investigated by the ICAC as well as guidance on enhancing corruption resistance was said to be an effective medium for achieving positive change in local council procedures. This was reinforced by those councils who have experience of previous ICAC investigations saying that they had already reviewed their procurement policies and practices anticipating many of the issues raised in our guidelines.

ISSUES OF JURISDICTION OVER ELECTED OFFICERS (SECTION 9 ISSUES)

Councillors are public officials for the purpose of the *ICAC Act*. However, to make a finding of corrupt conduct which underpins the jurisdiction of the ICAC, the conduct must not only fall within Section 8 of the *ICAC Act* which variously defines dishonest and partial conduct, but it must also satisfy Section 9 of the Act.

For conduct to be considered corrupt, Section 9 requires at least one of the following to be satisfied:

- the conduct should amount to a disciplinary offence
- the conduct should provide grounds for dismissal
- the conduct should amount to criminal offence
- in the case of Members of Parliament, the conduct should amount to a breach of a code of conduct or involve a breach of the law bringing the office of Member or Minister into disrepute.

There is no equivalent provision for the last test for elected officials at the Local Government level.

So, among public officials, councillors enjoy almost unique protection from the *ICAC Act* because unless the corrupt conduct is a criminal offence or involves a pecuniary (monetary) interest, which can be disciplined under the *Local Government Act*, they are not covered by the elements of Section 9.

As a result, Members of Parliament, employees of State agencies and even council staff can be held to a higher standard than local councillors.

This issue was raised with the Parliamentary Joint Committee on the ICAC (PJC) during their review of the ICAC's jurisdiction in 2001. The PJC agreed that this was a serious gap in the legislation and recommended that it be remedied. The ICAC has been in discussions with the Department of Local Government to see whether it is possible to adjust the disciplinary regime for local councillors so that conduct of the nature presently excluded can be included within Section 9 as a disciplinary matter.

Section 9 Case Studies

1. The ICAC received an allegation that a General Manager's contract was terminated after he had investigated allegations of sexual and racial harassment against a councillor. The councillor had refused to cooperate with the investigation and was alleged to have subsequently been instrumental in removing the General Manager. While there were provisions in the contract allowing for removal on performance issues, it was not clear that these were the grounds relied on for terminating the contract. Even if the ICAC could establish that the General Manager was removed for improper reasons, the Section 9 problems outlined above prevented us from pursuing the matter. We referred the matter to the Department of Local Government for further action.
2. The ICAC was told of efforts by one Mayor to favour a friend in awarding a council contract. It was alleged that the Mayor ordered the consideration of his friend's bid even though it did not meet council specifications, and had pressured staff to buy products from his friend and make a favourable recommendation on his friend's development application. As there was no evidence of bribery or pecuniary interests or similar, these matters were beyond the jurisdiction of the ICAC. The complaints were referred to the Department of Local Government, while the ICAC will undertake corruption prevention work with the Council.
3. We received allegations that a councillor was using personal and medical information to try to harass and intimidate a colleague into resigning from the council. It was alleged that the councillor was doing this to get her friend elected to the casual vacancy. Even if the harassment and the improper motives could be confirmed, our advice was again that this sort of conduct fell outside the provisions of Section 9 and could not be pursued.

4. It was alleged that a councillor had failed to declare his membership of a local community organisation when considering council matters involving the club. As the club membership would not necessarily constitute a pecuniary interest, again we would have been prevented from pursuing the matter as it fell outside our jurisdiction.

INVESTIGATION INTO CORRUPT CONDUCT AT UNIVERSITY OF TECHNOLOGY, SYDNEY (OPERATION TUDOR)

In July 2001, the University of Technology, Sydney (UTS), notified the ICAC that certain records had been changed on the computerised database of student academic records. An internal audit by UTS revealed that alterations had been made beyond the allowable date and suspicion fell on a student liaison officer in the Graduate School of Business.

We conducted a formal investigation into these matters, with private and public hearings. We manually examined student records, conducted forensic examinations on a number of UTS computers, including archived material, obtained financial records and executed search warrants on the premises of the student liaison officer.

As a result of the investigation, we found that the student liaison officer, Toto Sujanto, had improperly gained access to electronic student records without authorisation and then improperly altered certain students records so as to delete failed subjects. This had the effect of removing failures from the academic transcripts of the affected students and allowing the students to avoid resitting the subjects, resulting in a loss of fees to UTS. The evidence was that Sujanto received money, favours and hospitality from the students in return for these alterations. The investigation report setting out our findings was released in August 2002.

The investigation revealed wider systemic weaknesses in the administration of student records and computer security at UTS. As a result of the investigation, UTS was able to restore the failures to the students' academic transcripts and recoup the lost fees. The UTS advised us that they were improving their student academic records system in line with our findings and recommendations.

STUDENT RECORDS SYSTEM SURVEY

There was no reason to believe that the systems issues that we had identified at UTS were not also occurring at other public universities. So, as part of *Operation Tudor*, we surveyed the other nine public universities in NSW to check on the integrity and reliability of their student records systems. Our survey found weaknesses in the student records system of every public university. These weaknesses included:

- absence of full audit trails
- infrequent checks that access levels are appropriate
- exception reports, which alert administrators to system breaches, were not being generated or used adequately
- too many staff had access to modify and create records
- failure to check for and remove "modify/create" access after staff resigned or changed duties
- failure to remove "modify/create" access when casual and temporary staff ceased employment
- students employed by the university had "modify/create" access to student records.

We also looked at the processes for determining student exemptions based on previous studies.

We found:

- absence of authenticity checks for supporting documents submitted by students
- failure to audit authenticity checks
- failure to separate the approval and recording functions
- authorisation decisions were not open to scrutiny or challenge.

These results were reported in the investigation report released in August 2002.

STRATEGIC RISK ASSESSMENT OF UNIVERSITIES

At the time of our investigation into UTS, we had already identified the university sector as a key sector for corruption prevention work, particularly in the area of building corruption resistance.

Most public universities are established by State legislation and are subject to the jurisdiction of State oversight bodies such as the ICAC, the Ombudsman and the Audit Office, yet the Commonwealth Government is often seen as the dominant public sector influence over universities because of the public funding arrangements.

With the role of State oversight bodies not clearly understood, we were concerned that universities may not be aware of many of the corruption resistance messages that had been adopted in other public sector agencies in response to our initiatives.

We also perceived that universities were at risk of increasing vulnerability to corruption, particularly with reduced public funding and the associated pressure to engage in increasingly commercial activities.

To profile the corruption risks for the university sector and to create the basis for further discussion on how universities could recognise and address those risks, we undertake a strategic risk assessment for the public university sector in New South Wales.

The strategic risk assessment was informed by data from our complaints handling, the survey of student records systems, our research into corruption risks for the NSW public sector (see page 24), Corruption Resistance Reviews we performed at two universities and case studies from our peer agencies in NSW and other jurisdictions.

The strategic risk assessment, released in August 2002, describes the challenges facing universities in identifying and dealing with corruption risks and highlights opportunities for developing corruption resistance. The risk assessment was used as the basis for a forum with high level representatives of all NSW public universities held in August 2002. These initiatives will be described in further detail in next year's Annual Report.

BUILDING CORRUPTION RESISTANCE THROUGH TAILORED SOLUTIONS



- Fraud
- Waste
- eCorruption
- Recruitment and Selection
- Free Offers – There's Always a Catch
- Meeting the Needs of Non-metropolitan NSW
- Future Work – Corruption Risks in the Health Sector
- The Year Ahead

BUILDING CORRUPTION RESISTANCE THROUGH TAILORED SOLUTIONS

Corruption prevention is one of the primary functions of the ICAC. Until recently, corruption prevention activities generally either focussed on broad advice to the whole public sector to ensure fundamental messages were communicated and taken up or on specific advice arising from investigations or contact made with the ICAC.

In the past two years, we have changed the focus of our corruption prevention work to focus on significant sectors or particular issues. While we will continue to provide advice in the other areas, we are moving away from "one size fits all" strategies towards tailored solutions.

In 2001-2002, we continued to work with agencies to identify risks that could be dealt with by corruption prevention and resistance strategies.

FRAUD

Fraud is a serious crime. The potential losses to State and Local Governments in NSW, which handle around \$35 billion each year, are tremendous. Part of the problem is that no one knows exactly how much is stolen through fraud. This means that agencies and councils need to be vigorous in their fraud prevention and detection efforts.

Part of the ICAC's job is to help the public sector to prevent fraud. We also investigate fraud and collect evidence to help prosecute the fraudsters. Recently, we announced that we would significantly boost our capacity to investigate fraud. Combined with this, we want to increase our capacity to help agencies and councils to combat fraud.

We have done this by developing guidelines for agencies and councils to help them respond to fraud. In May this year, we released a discussion paper seeking comments and suggestions on the issues we raised as well as on fraud in general. We also ran two workshops to get feedback from key agencies and councils to make sure our guidelines are the best possible resource for State and Local Government. The guidelines should be finalised during 2002-03.

WASTE

The ICAC receives a steady stream of complaints and reports about corruption in the waste industry. Some come from members of the public reporting suspected corruption. Some come from the heads of organisations meeting their mandatory duty to report corrupt conduct to us.

In recent years, we have investigated some of these reports, including:

- corrupt practices by staff at the St Peters Tip
- Liverpool Council being ripped off by waste truck operators working for its former waste contractor
- corrupt relationships between a number of waste operators and an officer of the Environment Protection Authority.

During the past year we were alerted to the following instances:

- a council reported allegations that staff at a waste depot were using two types of receipts. One was linked to the cash register and the other was a handwritten receipt. The implication was they were issuing handwritten receipts so they could "skim" these fees. After investigating, the council reviewed its cash handling and banking procedures and installed video surveillance equipment at the depot
- a council reported that two gatekeepers at a waste management centre allegedly recorded only one in three vehicles in the cash receipting system. The council referred the matter to NSW Police. The police concluded one or both gatekeepers were defrauding the council. Both employees were stood down. The council investigation also resulted in action to tighten procedures.

Recently there have been major legislative changes establishing a new strategic direction for reducing, processing and recycling waste. As this new legislation is put in place, industry and government have to adjust to these changes. We want to ensure that during this transition period, the waste sector takes account of both existing risks and any emerging corruption risks in managing waste. So, we thought it was timely to have an informed

discussion about corruption risks for the waste industry.

The ICAC carried out a strategic assessment of the NSW waste sector to identify the corruption risks. After concluding that there are many corruption-related risks and issues to be addressed, we released a discussion paper to stimulate discussion about the corruption risks in the industry. The issues paper prompted strong responses from key stakeholders in the industry including Local Government, contractors and industry bodies.

After considering submissions and holding a forum for interested parties to further discuss these issues, we are now developing a set of guidelines to improve the management of corruption risks in the waste sector.

The major corruption risks we will be addressing in our guidelines include:

- the amount of money involved in the industry
- the range of public and private sector players involved
- the changes being experienced by the waste industry
- the work of regulators in the industry
- contract management issues
- community understanding of the industry.

The ICAC's waste industry guidelines will be published before the end of the year. We are grateful for the assistance of many agencies, individuals and organisations that have given us their advice and input.

eCORRUPTION (CORRUPTION RISKS FROM NEW AND EMERGING TECHNOLOGIES)

The ICAC continued its ongoing strategy of working with the public sector to identify and manage corruption risks associated with new and emerging technologies.

In September 2001, the Commission released its summary report, *eCorruption: eCrime Vulnerabilities in the NSW Public Sector*. This report describes the extent to which new and emerging technologies are applied in the NSW public sector (eGovernment)

and current corruption risk areas. It relates the responses to these corruption vulnerabilities and NSW public sector managers' understanding of eCorruption risks. It builds on the results of the ICAC's research into eCorruption vulnerabilities in the NSW public sector and the highly successful eCorruption Symposium in May 2001.

To start work on practical strategies for dealing with eCorruption risks, the ICAC also commenced a workshop series. The first workshop was held in September 2001 and focused on the NSW Government Licensing Project, "*connectingBusiness*". At the workshop, an invited panel of experts focused on the key eCorruption risks for the project and agreed on a practical risk management plan to address these risks.

We released a summary of proceedings, *Workshop One: On-line government licensing: identifying and dealing with corruption risk*, shortly after the workshop. It presents eCorruption risk scenarios followed by several practical eCorruption risk management strategies.

In response to last years ICAC's eCorruption symposium, the Government directed the Chief Executive Officers' E-Government Committee to work on the eCorruption risks identified by the ICAC. The Committee continued to incorporate eCorruption risk management into the Government's Information Management and Technology Strategic Plans. Guidelines addressing many of the key eCorruption risks identified in the ICAC's research were issued during the year. As an example, the Premier's Department released guidelines focussing on managing eCorruption risks associated with use of the internet and email.

Another key outcome was the requirement that all NSW agencies have security management plans by December 2002. As well as developing guidelines on security of electronic information, the Department of Information Technology and Management approached the ICAC to assist with IT security awareness education resources. A video promoting IT security awareness and placing this in the context of eCorruption risk management is due for release later in 2002.

RECRUITMENT AND SELECTION: NAVIGATING THE BEST COURSE OF ACTION

In March 2002, the ICAC published revised guidelines on recruitment and selection.

The ICAC receives many complaints about recruitment and selection processes. Over the past two years, 18 percent of all complaints received by the ICAC have been about these processes.

Our research also shows that public officials are unclear or uncertain about recruitment and selection processes.

Our guide, *Recruitment and Selection*, will help agencies to ensure integrity in selection and recruitment. It highlights examples of pitfalls in recruitment using cases considered by the ICAC. The publication also provides guidance for members of selection panels dealing with an ethical dilemma.

Surveys conducted in 1999 for ICAC's research publication *Unravelling Corruption II: Exploring Changes in the Public Service Perspective 1993-1999*, released in 2001, show some public officials are unsure or uncertain about what might constitute favouritism when recruiting or selecting. For example, about one third of survey respondents say it is not corrupt to use your public sector position to get a friend or colleague a job without following the proper processes. This is favouritism and is clearly improper. *Recruitment and Selection* steers readers through case examples of conflicts of interest and how to manage them.

In one case, we investigated a selection decision after a successful appeal against the decision. It emerged that the selection panel convenor and two other panel members were close friends of the panel's preferred applicant. These three panel members persuaded the independent member of the panel to endorse the selection report.

To help prevent unethical decisions by selection panels, people need to know there are consequences for acting dishonestly. In this case, the ICAC advised the agency head to take disciplinary action against the departmental panel members. The agency head also complained to the independent's agency about his behaviour. As a result, the independent panel member was also disciplined.

Panel members can counter undue influence by clearly following set policy, processes and values. Another ICAC case further illustrates this.

Councillors approached the General Manager to influence a selection decision by the council. They wanted a particular applicant directly appointed or to have the selection decision referred to the full council for approval. Under law, the General Manager was responsible for the decision. The General Manager emphasised to the councillors that staff would make selection decisions in accordance with the council's policy, processes and values. The ICAC found that councillors had no right to attempt to influence the General Manager's decision-making.

In addition to clearly following set policy, processes and values, *Recruitment and Selection* illustrates the importance of:

- maximising the field of applicants to encourage competition
- keeping good records of recruitment and selection decisions
- avoiding perceptions of bias or favouritism
- setting a good corporate example.

It is vital for senior staff to set a good example in recruitment. In another case we considered, a corporate services director directly appointed his neighbour to a temporary position without advertising. Following this example, a supervisor then appointed his sister as a receptionist on a temporary basis. The supervisor did not confirm the appointment with the director. She presumed from the director's actions that management supported the employment of friends or relatives with the right skills in temporary positions. Managers encourage favouritism and nepotism when they set a poor example like this one. Clear agency policies and procedures help to prevent favouritism and nepotism. *Recruitment and Selection* explains a number of additional steps public officials can take in these situations.

FREE OFFERS – THERE’S ALWAYS A CATCH

One area that the ICAC has given a lot of advice on is when people should and shouldn’t accept gifts. We urge public officials to be very wary about accepting gifts and benefits. If you accept, then you will find it hard to overcome the impression that:

- you exploited your position for personal gain
- the gift giver made the gift with the intention of influencing you in your work
- you may be compromised in dealing with the gift giver’s interests
- the gift giver will benefit from giving the gift.

Last year, we had first hand experience of some of these issues. One of our staff received an offer in the mail promising a free dictaphone if he organised a demonstration of the offering company’s product.

Instead of accepting the offer, our officer made some inquiries of the company to see if similar offers had been made to other public officials. The company advised us that a number of public officials had taken up the offer.

We contacted each of the agencies involved and asked them to pursue the matter. We were pleased to find that in all but one case, the dictaphones had not been accepted as personal gifts. Rather, they had become part of the property of their agencies for use by staff. Many recipients officially declared the gift. But in some cases this wasn’t done. Even in these cases, it was still clear that the dictaphones were effectively a resource of the agency.

In a second case, a company asked us for advice about how to deal with free offers to public sector clients. We were pleased that the company recognised this is a problem area and happily gave them some help. We told them that if the free gifts were personal items, it was virtually impossible for public officials to accept them. We helped the company draft advice to accompany any promotional material stating that:

- the offers were not intended to compromise public officials in their duty to act impartially

- public officials cannot personally accept promotional giveaways from the company.

We encourage agencies to remind staff of the need to treat special offers, promotional giveaways and the like as they would treat any other offer of a gift or benefit. Agencies may consider informing their suppliers when these offers are made that they are not appropriate for public sector agencies.

MEETING THE NEEDS OF NON-METROPOLITAN NSW

Rural and Regional Outreach Strategy

The Rural and Regional Outreach Strategy (RAROS) is an important ICAC public affairs program. RAROS is aligned with other key ICAC programs such as corruption resistance reviews, the university program and the Local Government Strategy.

Each RAROS program of events includes activities that involve the community, public and private sectors. Non-government members of the local community are also engaged through organised events and media coverage.

This year, the RAROS visits took place in the Northern Rivers region (Lismore) in November 2001 and the Hunter region (Maitland) in May 2002. RAROS programs include:

- training workshops for public officials
- the launch of Local Government Strategy products
- meetings and discussions with regional managers/ directors and general managers of councils
- the conducting of corruption resistance reviews
- schools and community visits
- radio, TV and print interviews and stories.

Feedback from RAROS participants and media coverage from RAROS visits is captured and analysed to measure effectiveness. Evaluation information is also used to help revise and create new programs. All evaluations have measured increases in understanding of corruption issues in all sectors of the local community.

Two RAROS visits were evaluated this year: the Broken Hill program conducted in 2000-01 and the Lismore program conducted in November 2001. The evaluations show that the training aspect of RAROS is very much appreciated by those who attend. Overall, participants considered that the training sessions were pitched at the right level. Some considered that the sessions on risk management could be more treated in more depth. Representatives from a wide range of public authorities have attended the information sessions. 'Cold-calling' public officials after the event shows a high level of awareness, even amongst non-attending public officials.

Overall, the public officials involved in the two RAROS programs being evaluated were aware of the ICAC's visit. They said their levels of understanding of corruption, the ICAC and its role had improved as a result. They were satisfied with the range of activities provided during the visit. These visits have more impact on public authorities than on the community. This may merely illustrate the difference in relevance, interest or contact the community has with the ICAC when compared with public officials. Although they might not have noticed ICAC visits to their region, the community expressed faith in the ICAC and believe it is a good thing for the people of NSW.

The mere presence of the ICAC in regional NSW draws out complaints and information on potential corrupt conduct as well as building corruption resistance.

The amount of media coverage of ICAC events and visits has been variable but the coverage itself has been positive and informative. Radio and local papers are the most effective methods of publicising ICAC regional visits.

The Riverina-Murray region (Wagga) is scheduled for a RAROS visit in November 2002. The second RAROS for the year will be held in Dubbo/Orange in May 2003.

Lord Howe Island

As a part of the RAROS, Lord Howe Island was selected as the focus of a project to explore governance issues facing small and isolated communities. This is because the incidence of complaints from Lord Howe Island (LHI) was more than 300 times the State average.

Although none of the LHI complaints led to findings of corrupt conduct, their frequency and similarity was of great concern. It led the ICAC to consider taking a more proactive approach to LHI complaints in order to explore opportunities for addressing the root causes of complaints. The ICAC therefore commenced this project in the hope that it would raise awareness about the issues giving rise to the complaints, stimulate some reflection amongst those with an interest in the governance of LHI, and lead to a renewed emphasis on preventing these problems.

A discussion paper, *Trouble in Paradise? – Governance issues in small communities- Lord Howe Island* was released in June 2001 and sent to every LHI household, prompting many responses from residents and stakeholders.

In total, the ICAC received 22 written responses, met with two LHI residents and the LHI Board at the ICAC premises and took numerous phone calls. The majority of responses were totally or largely in support of the paper.

Building on this consultation, *Preserving Paradise – Good governance guidance for small communities* was released in November 2001. The first part of the report deals with issues specific to Lord Howe Island. The second part gives guidance on dealing with conflicts of interest, secondary employment and making complaints in small and isolated communities.

Responses from the LHI Board, the NSW Department of Transport, Waterways Authority and the NSW National Parks and Wildlife Service all indicate their broad support for the ICAC's endeavours in respect of Lord Howe Island.

The NSW Department of Transport advised that both it and Waterways Authority were committed to implementing strategies relating to activities on the Island as soon as possible.

FUTURE WORK

Corruption risks in the health sector

Area health services provide the bulk of health care administered by the NSW public health sector. Area health services include public hospitals, teaching campuses, community health centres, outpatient clinics and a range of public health and health promotion services.

Area health services are large organisations. On average they each have over 4,000 employees and spend over \$400 million annually. They are also highly decentralised. Some area health services manage over 20 hospital and other community-based sites.

Our research into corruption risks in the NSW public sector (see page 24) examines a number of public sector business functions that carry higher risks. Some of these higher risk functions are:

- receiving cash payments
- providing a service to the community where demand frequently exceeds supply
- providing care or assistance to the vulnerable or disabled
- inspecting, regulating or monitoring standards of premises, businesses, equipment or other products.

Our research has found that area health services perform a large number of these functions. The research identified that area health services also have a number of other organisational features that provide challenges in developing effective corruption resistance. These include:

- employing staff who do not consider themselves to be part of the public sector
- having a high proportion of temporary, casual and/or contract staff
- having private sector business practices, such as establishing business units that provide marketable services
- managing government grants
- procurement of specialised technology and equipment.

In 2001-2002 the ICAC received 85 complaints or reports of corrupt conduct in area health services. This is over four percent of the total number of enquiries dealt with by the ICAC and is consistent with the numbers received in 2000-01. These complaints and reports covered a wide range of misconduct and workplace activity reported to the Commission.

Almost 30 percent of enquiries in 2000-2001 were about misuse of public resources. Other common types of reported misconduct were harassment or discrimination (11 percent), fraud (10 percent) and favouritism (10 percent). The most common types of workplace behaviour associated with this misconduct were purchasing goods and services (12 percent), followed by the provision of consumer care (10 percent) and the use of public materials and equipment (8 percent).

Only a small proportion of complaints and reports involved corruption risks resulting from problems within organisational structures, policies and procedures. These systems-based risks include secondary employment, poor tendering and procurement procedures, acceptance of gifts and benefits and conflicts of interest.

Some complaints and referrals come from situations that are particular to area health services or the health sector generally. Examples of these include:

- clinical staff taking time away from their public hospital duties to work on a casual basis for a local private hospital
- hospital specialists using public hospital facilities and staff for their private practice
- internal tendering processes not being followed because of direct negotiations between hospital specialists and equipment suppliers
- clinical staff receiving donations, gifts and prizes from suppliers, with the implication that this would influence the products they prescribe or recommend to patients
- conflicts of interest where clinical staff have a pecuniary interest in hospital equipment supply companies.

Much of the misconduct that is reported to occur in area health services is the same as in any public sector organisation. However, the research conducted by the ICAC suggests that because of the characteristics of area health services and the importance of the services they provide, corruption risks in this sector deserve particular attention from the ICAC.

In 2002-2003, the ICAC will begin a project to look more closely at these issues.

THE YEAR AHEAD

- We will continue to implement the Local Government Strategy, with further work on planning and development controls, misuse of resources, and cash handling.
- We will finalise and release guidelines on managing corruption risks in the waste industry.
- We will finalise and release guidelines on managing fraud risks in the public sector.
- We will implement a tailored strategy for identifying and managing risks in the universities sector.
- We will work with the Department of Information Technology and Management on developing resources to assist public sector agencies to develop electronic security management plans.
- We will conduct Rural and Regional Outreach Strategy programs in Riverina Murray (Wagga) and Dubbo/Orange.

BUILDING CORRUPTION RESISTANCE THROUGH CAPACITY BUILDING



- Corruption Resistance Reviews
- Do-it-yourself Corruption Resistance Guide
- Corruption Prevention Advice
- Evaluation of the ICAC's Corruption Prevention Advice
- Improving Internal Investigations
- Seminars and Presentations
- ANU/ICAC *"Corruption and Anti-Corruption"* Course
- *"Corruption Matters"*
- The Year Ahead

BUILDING CORRUPTION RESISTANCE THROUGH CAPACITY BUILDING

NSW public sector agencies have a vital role in ensuring the integrity of the public sector. In addition to carrying out their day-to-day business with integrity, they have responsibility for preventing, identifying and addressing corrupt conduct. The ICAC assists agencies by providing advice, training and education on corruption issues. This enables these agencies to deal with many issues by means of internal controls and systems.

CORRUPTION RESISTANCE REVIEWS

One of the ICAC's most successful corruption prevention initiatives has been the Corruption Resistance Review (CRR) program, which commenced in 2000. On its own initiative or at the request of an agency, the ICAC conducts an assessment of the strength of an agency's key corruption resistance measures and suggests ways to fill gaps or improve performance.

The CRR looks at features of the organisation that help to prevent corruption including:

- risk management
- guidance on personal and professional conduct
- internal reporting
- human resource management
- complaints and grievance systems.

During the year CRRs were conducted with the Ambulance Service of NSW, Ballina Council, Hunter Area Health Service, Maitland Council, Sheriff's Office, a regional university, Tow Truck Authority and WorkCover (Accredited Assessors).

All these agencies worked cooperatively with the ICAC. Reports containing a number of recommendations for improvements were provided for each agency.

Each agency reviewed during 2001-02 accepted the reports and associated recommendations.

Progress reports were received from a number of agencies reviewed during this year and last year. The agencies reporting on this year's reviews were the Ambulance Service and Ballina Council, while the Registry of Births, Deaths and Marriages, Broken Hill Council and another regional university provided the ICAC with progress reports following reviews conducted last year. These reports indicate a commitment to developing and implementing strategies focussed on building corruption resistance.

DO-IT-YOURSELF CORRUPTION RESISTANCE GUIDE

To make Corruption Resistance Reviews more widely available to the public sector, the ICAC released a Do-It-Yourself, Corruption Resistance Guide (DIY Guide) in March 2002.

The DIY Guide describes the complete regime of codes, policies, procedures and control systems that a contemporary corruption resistant organisation should have in place. Further, the guide allows agencies to benchmark themselves against a five-step scale of achievement for all key corruption resistance elements.

The public sector was introduced to the guide at a well attended workshop conducted in May. The Director General of the Premier's Department issued a Circular endorsing the resource, saying that it was an "important and worthwhile initiative to assist agencies to carry out their public functions ethically and effectively" and commended it as a useful tool.

Subsequently, the ICAC has been approached by a number of agencies who plan to adapt the guide to suit their particular characteristics and use it as a basis for assessing their organisations from both a management and staff perspective.

CORRUPTION PREVENTION ADVICE

The Corruption Prevention, Education and Research Division provides advice on corruption-related matters. The aim of the advice function is to:

- assist public sector agencies and local councils with specific problems
- assist public sector agencies and local councils to build more corruption resistant cultures
- raise awareness and educate about corruption-related issues in general.

Advising public sector agencies and local councils on how to eliminate corrupt conduct is one of the ICAC's key statutory functions. The ICAC's corruption prevention officers perform this work, responding to requests for advice in person, by telephone, letter or e-mail. It is a vital function. Many agencies avoid or minimise corruption risks by acting on timely advice from the ICAC.

Last year, we responded to 158 telephone requests and 94 written requests for advice. We provided advice on 410 issues in response to these requests. We respond quickly and in detail to most of these requests. The ICAC's aim is to provide practical advice on the corruption risks for the agency or council involved in the matter. We also try to give some assistance to the agency in managing those risks.

Table 3 – Types of matters raised for advice (2001-02 compared to previous two years)

ISSUE	1999-2000	%	2000-2001	%	2001-2002	%
Procurement and disposal	104	30	108	26	98	24
Employment issues and practices	45	13	30	7	44	11
Conflict of interest	52	15	52	12	42	10
Corruption prevention planning (new category)					23	6
Codes of conduct	15	5	14	4	19	5
Gifts and benefits	27	7	22	5	17	4
Cash handling	-	-	-	-	15	4
General ICAC information			33	8	13	3
Public/private sector interface	9	3	15	4	8	2
Confidential information (new category)					7	2
Sponsorship	11	3	18	4.5	5	1
Government grants	4	1	5	1	4	1
Protected disclosures and internal reporting systems	3	1	18	5	4	1
Misappropriation/misuse of public resources	15	4	5	1	0	0
Election issues	5	1	2	0.5	0	0
Maladministration	7	2	5	1	0	0
Miscellaneous	52	15	89	21	111	27 ¹
Total	349	100	416	100	410	100

¹ There are a range of matters reported as “Miscellaneous”. In future years, we will further define these categories and improve reporting of these matters to provide a more complete picture of the issues raised for advice.

CASE STUDIES

Release of Confidential Information

We received a report about an employee of a metropolitan council providing a list of council's trade waste collection customers to a private waste collection company. This is commercially valuable information to the company, which provides a service in competition to that offered by the council.

Council investigated the allegations and found that a council employee had released the information. The employee claimed to have provided the report because the contractor "seemed to be doing it tough".

The employee did not appear to be aware that releasing commercially sensitive information:

- is potentially damaging to the council
- is contrary to the employee's duty to use the information only for the purposes of the council.

There are significant corruption risks associated with how agencies and councils manage confidential information. In this case, we felt the council needed to better manage the risk.

We advised the council to start by informing its staff of their public duty in managing sensitive information. Council were also advised to inform staff of the consequences of mishandling this information.

Like a lot of our work, we wanted to give the council advice to prevent the problem from recurring. We recommended that the council should provide staff and councillors with more information about:

- identifying confidential information
- the circumstances in which confidential information may be released to the public
- suggested responses for councillors and staff if asked to provide confidential information
- the council's obligations under relevant privacy and FOI legislation and the *Local Government Act*

- management of confidential information and the links to the public duties of councillors and staff
- actions that may be taken against those who breach their duty in relation to confidential information.

In response, the council reviewed the relevant provisions of its code of conduct with the involvement of councillors and all council staff. Council placed particular emphasis on improving staff awareness of how to properly handle confidential information. Council also ensured all staff were given a briefing on the revised code.

Advising on legislative changes

In August 2000 we released *The Greyhound Report – Investigation into aspects of the greyhound racing industry*. This investigation revealed serious corrupt conduct in the greyhound industry. The report also contained a number of recommendations. Some of those recommendations were for legislative change.

We make corruption prevention recommendations in investigation reports to address systemic issues. The implementation of these recommendations is a key measure of the impact of our investigations. So we were pleased when we were asked by the responsible agency to review two pieces of draft legislation to ensure that they implemented the legislative changes we recommended.

The draft legislation was intended to bring about major changes in the Greyhound Racing Authority and the Harness Racing Authority. We were asked to look at the bills and to make any suggestions for improvements.

We advised that the bills needed strengthening in two areas. First, we suggested strengthening the pecuniary interest provisions to ensure that the members of the governing boards of the new bodies did not participate in decisions in which they or their associates had a financial interest.

Second, we suggested that each body should develop and regularly review a code of conduct. We suggested that the relevant Minister should approve the codes and any changes to them.

As a result of acting on our advice, we believe the final draft legislation was significantly improved. The legislation passed through the Parliament in June 2002.

EVALUATION OF THE ICAC'S CORRUPTION PREVENTION ADVICE

In order to appraise the advice provided, an evaluation was undertaken to measure the quality, range, relevance and timeliness of topics and preferred method of receiving advice (telephone, written, meetings).

How did we evaluate the advice function?

An external research company, Taverner Research Company, was contracted to conduct a telephone survey of 245 public officials – some of whom had contacted the ICAC for advice in the past as well as some who had never contacted the ICAC for advice.

Those who had previously contacted the ICAC were asked their perceptions of the quality and usefulness of the ICAC's advice. Those who had never contacted the ICAC were asked their expectations of an advice function and their knowledge about the ICAC's functions.

What did we find?

The evaluation findings show that nearly all (95 percent) of those who have sought advice from the ICAC would do so again in the future and would recommend the ICAC advice function to their co-workers (96 percent). The evaluation revealed that the ICAC is the public sector's first choice for advice about ethics, probity and corruption related issues (nominated by 90 percent of respondents who have used our advice service and 77 percent of respondents who had not). The vast majority of respondents who had sought advice from the ICAC, rated the service they received highly:

- 97 percent said the ICAC staff were approachable
- 96 percent rated the ICAC advice as useful (71 percent said very useful)
- 96 percent rated the ICAC advice as clear (72 percent said very clear)
- 93 percent rated the ICAC advice as in-depth
- 92 percent rated the advice provision as timely (67 percent said very timely).

Of those surveyed who had never contacted the ICAC, 92 percent said they would contact the ICAC for advice if they needed it. There were significant gaps in the knowledge of those who had never contacted the ICAC. For example:

- 18 percent were unaware that the ICAC had an advice function

- 36 percent were unaware that they could get advice from the ICAC over the telephone
- 42 percent were unaware that the advice could be sought anonymously.

We found these results very encouraging. However, our evaluation also found that nearly one in five respondents who had not used our service did not know we provided advice. Over a third of this group did not know we provide advice over the phone. So while those "in the know" value our advice, we appreciate that we have to do more to promote this function.

If you need advice from the Commission on a corruption related issue, there are a number of simple ways to contact us:

Telephone – ring (02) 8281 5999. We have a corruption prevention officer rostered on duty every day to respond to calls.

Email – cp@icac.nsw.gov.au. We will try to respond quickly to e-mail requests. If the request is more complex, we may prefer to respond by letter.

Letter – write to the ICAC at GPO Box 500 Sydney NSW 2001 or by fax on (02) 9264 5364.

Advice is provided on a confidential basis and can be obtained anonymously.

IMPROVING INTERNAL INVESTIGATIONS

Guidelines

Fact-Finder: a 20-step guide to conducting an inquiry in your organisation was released in May 2002. The guide was written after a review of the Internal Investigation Handbook and Investigation Workshop.

The guide provides a snapshot of important issues including:

- confidentiality
- conducting interviews
- assessing information
- inquiry plans
- fact finding tools
- report writing.

Fact-Finder is freely available on www.icac.nsw.gov.au and in print form to all who take part in an ICAC Fact-Finders workshop.

Training and forums

The Fact-Finders workshop was introduced in March 2002. The Fact-Finders workshop replaces the Internal Investigation Workshop that has been held for the past five years by the ICAC. The new workshop is more in step with the needs of agencies and is based on holding an inquiry rather than an investigation.

ICAC officers held the final Internal Investigation Workshop as part of the northern rivers RAROS on 29-30 November 2001.

Four new Fact-Finders' workshops were held this year as in-house training and as part of the hunter region RAROS:

- 1 March – Illawarra Area Health Service
- 29 May – Illawarra Area Health Service
- 4 – 6 June (two workshops) RAROS Hunter region

Future Fact-Finders workshops are scheduled next year through Institute of Public Administration of Australia, NSW Division (IPAA). The first workshop is already filled. The workshop is planned for inclusion in the two RAROS visits scheduled for Wagga and Orange, and will be available to all local councils and NSW agencies. Local council and NSW agency in-house inquiry training is done under a cost recovery arrangement between the ICAC and the organisation that is receiving the training.

The ICAC, NSW Ombudsman and IPAA are holding the Fourth National Investigations Symposium: "Sherlock or Sheer Luck" on 7 and 8 November 2002 in Sydney. Planning for the gathering of public sector investigators has been underway since February this year. The speakers program was completed in June 2002.

The event attracts up to 200 delegates from all levels of government across Australia. Speakers are drawn from regulatory and investigative agencies, private sector, universities, police and the media. The symposium is an opportunity to learn about legislative changes, best practice, new trends and ideas that can be adopted in public sector agencies to improve their inquiry capacity.

The symposium is organised under a cost recovery basis/profit share arrangement between the ICAC, NSW Ombudsman and IPAA.

SEMINARS AND PRESENTATIONS

The ICAC is asked to speak to a range of organisations about our work. We see presentations at seminars and workshops as an important means of

communicating our work and providing advice and insights to individuals and organisations on dealing with corruption and corruption risks in their own environment. ICAC officers made presentations at over thirty conference, seminars, workshops and briefings during 2001-02. These are detailed at Appendix 13.

ANU/ICAC CORRUPTION AND ANTI CORRUPTION COURSE

For the past five years, the ICAC has worked in partnership with the Australian National University (ANU) to deliver a post graduate course unit in Corruption and Anti Corruption. This successful and internationally recognised course is designed for middle and senior managers from public sector agencies around the world. It aims to help participants to devise strategies to make organisations and countries more resistant to corruption.

A key element of the ICAC approach is to assist the senior management of public sector organisations to understand the causes of corruption and the measures that they can adopt to prevent it. From our perspective, its value is its practical focus and the participation of managers who, upon completion of the course, can incorporate these insights into their day to day work.

The unit can also count towards a Masters Degree at the ANU's Asia Pacific School of Economics and Management.

This year the ICAC has continued its program of scholarships for senior NSW public officials to attend the course. The ICAC received a large number of applications for scholarships. Priority was given to senior employees of NSW State and Local Government sectors. Two of the five scholarships were targeted at employees from rural and regional NSW. Five scholarships for the 2002 course were awarded to:

Mr Gregory Cousley, Principal Auditor,
Investigation & Special Projects
Department of Public Works & Services
Mr Geoff Murphy, Director Executive Services
Wentworth Area Health Service
Stuart Liddell, General Manager,
Organisational Development, Country Energy
Marion O'Connell, Manager, Professional Standards
and Conduct Unit, Ambulance Service of NSW
Phillip Higgins, Director of Corporate Services
Leeton Shire Council.

It is anticipated that NSW public sector graduates will have a positive and pervasive impact on the ethical culture of the NSW public service.

CORRUPTION MATTERS

Corruption Matters, the ICAC's newspaper, is distributed to about 12,000 readers across the NSW public sector. Two editions were published in 2001-02.

In August 2001, the newspaper's effectiveness was evaluated. A one-page questionnaire was distributed to just over 300 recipients.

Overall, the responses to the evaluation were positive. Each copy was read by an average of six people, suggesting a total public sector readership of approximately 72,000 – a substantial number.

The newspaper was used for staff training and articles were reprinted in internal publications. The feedback indicated that it met the aim of increasing understanding about corruption and alerting public officials to events. It was judged reasonably positively in terms of contributing to changes in agencies.

As a result of the evaluation, it was decided to continue production of *Corruption Matters*, although it will now be distributed twice a year rather than the three previously produced.

THE YEAR AHEAD

- We will continue to conduct Corruption Resistance Reviews for public sector agencies, and monitor the implementation of recommendations.
- We will promote awareness of our corruption prevention advice function to increase use of the function.
- We will continue to provide training and resources to improve the capacity of agencies to handle internal investigations and their outcomes.
- We will co-host the Fourth National Investigation Symposium to provide an opportunity for leading practitioners to share their insights into best practice investigations.

ACCOUNTABILITY AND GOVERNANCE



- Parliamentary Joint Committee on the ICAC
- Performance Measurement
- Operations Review Committee
- Other Accountability Measures
- The Year Ahead

Significant powers and discretion are conferred on the ICAC and its officers. To safeguard the use of these, the ICAC is both independent and accountable.

Public confidence in the integrity of the ICAC and its operations rests on the ICAC being able to exercise its powers, discretion and judgement independently of those it oversees and investigates. However, to prevent and guard against the potential abuse or misuse of those powers, it is necessary for the ICAC to be held to account.

The ICAC is independent in that our management and operations are not subject to direction from elected representatives, bureaucrats or any other organisation. Unlike most other public funded organisations, we do not report directly to a Government Minister.

Instead, we are accountable to the NSW Parliament, which established the ICAC through legislation, by means of a Parliamentary Joint Committee on the Independent Commission Against Corruption (the Parliamentary Joint Committee, or PJC). We also account for decisions made on complaints from the public through the Operations Review Committee (ORC).

We also regard our public reports and our new practice of providing more detailed information and explanations to complainants, as important means of being held to account by the community on our day to day work. We are also subject to audit and scrutiny from other oversight bodies on various aspects of our work.

PARLIAMENTARY JOINT COMMITTEE ON THE ICAC

The Parliamentary Joint Committee (PJC) is established under the *ICAC Act*. It consists of eleven Members of Parliament, selected from both Houses, and presently consists of representatives from the government and opposition parties, and the crossbench (the minor parties and independents).

Under the *ICAC Act*, the PJC is responsible for monitoring and reviewing the ICAC's activities and reports and can examine trends in corruption. It is prohibited from investigating particular conduct and

reconsidering decisions made by the ICAC on individual matters.

The PJC undertakes its role through general meetings and briefings with the ICAC, discussion papers and hearings on issues where the views of interested parties are sought and regular liaison on matters brought to the attention of the PJC by other Members of Parliament or members of the public.

During 2001-2002, the ICAC met with the PJC on three formal occasions to discuss various issues relating to the jurisdiction and management of the ICAC.

In Camera Briefing

On 31 August 2001, at our initiative, we provided the PJC with an *in camera* (confidential) briefing on the change management program being undertaken by the ICAC. The meeting was held *in camera* because of the operational sensitivity of material put to the PJC, and to enable extensive discussion to occur on the improvements to the management of ICAC's operations, which meant providing details on sensitive aspects of our work.

The briefing dealt with the Functional Review and the Investigative Capacity Review undertaken for the ICAC in 2000-2001, as well as the ICAC's response to those reviews and other internal evaluations of management and planning. These reviews were described in the Annual Report for 2000-2001.

In subsequent commentary, the PJC described these reviews as "detailed and wide ranging" and noted that the ICAC had "responded positively to the structural changes recommended", bringing about an extended capacity and a more strategic focus.

General Meeting

On 30 November 2001, following the release of the Annual Report for 2000-2001, the ICAC met with the PJC at a general meeting to consider the overall management and administration of the ICAC. At the General Meeting, the Commissioner, the Deputy Commissioner and the Executive Directors represented the ICAC.

Prior to the meeting, the PJC raised a number of issues by way of questions on notice, including investigation, management reviews, use of powers,

complaints profile, corruption prevention and education, procurement, and internal audit.

The PJC's report on this meeting noted that they had obtained "a great deal of useful information about the activities and management of the Commission". It noted that the ICAC was "going through a significant period of reform and consolidation", and had implemented "important new initiatives" of which the PJC was fully supportive.

Second and Third Stage of the Review of Jurisdiction

Over the past three years, the PJC has conducted a staged review of the ICAC Act. The first stage looked at the accountability mechanisms for the ICAC, while the second stage examined the definition of "corrupt conduct" and the jurisdiction of the ICAC. The ICAC's submission on this review was reported in last year's Annual Report.

During 2001-2002, the PJC reported on the jurisdiction review. It adopted the ICAC's recommendation that consideration be given to refining the definition of corrupt conduct to emphasise that the conduct under investigation had to meet threshold tests of seriousness, such as constituting a criminal or disciplinary offence. The PJC also accepted that there were gaps in the jurisdiction affecting elected Local Government officials and boards and committees and made recommendations to remedy these deficiencies.

Following the second stage, the PJC commenced the third stage of the review, issuing a discussion paper dealing with the conduct of hearings by the ICAC and seeking submissions from interested parties. The NSW Bar Association and the ICAC gave further evidence in hearings.

The ICAC submitted that it was necessary to appreciate that it is an investigative agency, and that hearings, whether conducted in public or private, are a means to assist the investigation. We noted that amendments to the *ICAC Act* were passed in 1991 to make it clear that the ICAC has discretion as to whether it holds hearings in public or private, and that the primary test for deciding this was in the public interest.

We acknowledged the trend towards more private hearings, but this was justified by the increasing tendency of witnesses in public hearings to provide evidence consistent with what had already been heard in public, the desire to obtain admissible evidence to create additional opportunities to pursue criminal and disciplinary charges and a concern not to cause unnecessary harm to individual's reputations before it was clear that the evidence could sustain a finding of corrupt conduct.

The PJC acknowledged these issues and recommended that the ICAC retain its discretion regarding public and private hearings but give consideration to only going into public hearings when the evidence was capable of sustaining findings of corruption. It made recommendations on other procedural and technical matters.

PERFORMANCE MEASUREMENT

As part of our public accountability framework, we provide information about our performance in the ICAC Annual Report. We provide case studies as well as information and statistics on performance measures to give an indication regarding our activity and performance throughout the year.

While we have the capacity to produce qualitative reporting in this form about the outcomes of ICAC activities, we are looking at ways of providing reporting on key performance indicators that provide useful quantitative information about the efficiency and effectiveness of our operations.

Previously, we have worked closely with the PJC to develop draft performance indicators. These draft indicators were developed prior to the extensive reviews of the ICAC's functions, investigative capacity and information management systems. While they provide guidance as to the aspects of our organisation that we should be measuring and reporting, the draft indicators failed to take into account such difficulties as the inadequate systems for recording and tracking internal performance. These reviews have resulted in significant changes to the ICAC's operating environment, which affects the validity of the current draft indicators and the capacity of the systems in place to capture relevant information and data.

In discussing performance reporting with peer agencies such as the Audit Office, we have canvassed the difficulties in providing meaningful reporting about key features of the ICAC's work, particularly in the areas of corruption investigation and prevention. We appreciate that we are not alone among our peer agencies in having difficulty in settling on key indicators that adequately reflect the nature of our work and the impact of our activities.

In future years, we are likely to move to a mixture of indicators to report performance. In addition to the qualitative reporting featured in this and recent Annual Reports, we are moving to develop systems that capture data for meaningful internal performance reporting. This has been addressed by a number of projects. For instance, the ICAC engaged KPMG Consulting to undertake a business process redesign study that required consideration of the internal systems and technology needed to support the case management and performance tracking.

The final report was handed down in March 2002 and emphasised the importance of aligning internal systems to ensure the capture of relevant performance information. Further work on the ICAC case management system also highlights the need to consider and develop information management systems when developing performance measures.

When developing the earlier performance indicators, insufficient importance was placed on the role of the internal management and information systems. With the benefit of hindsight and with the completion of the above two reviews, it is timely for the ICAC to reconsider the draft performance indicators to ensure that what is implemented is meaningful, transparent and useful and can be efficiently supported by the internal systems. This will also be assisted by ongoing improvements to our internal governance arrangements.

Over the next year, the ICAC will be finalising the set of performance indicators to be reported on in future years. It is anticipated that next year we will report on the projected targets for each performance indicator, with full performance reporting commencing for the 2003-2004 financial year.

OPERATIONS REVIEW COMMITTEE

The *ICAC Act* establishes the Operations Review Committee (ORC) and its functions, membership and procedures. The primary function of the ORC is to ensure that the ICAC is accountable for decisions about whether or not to investigate complaints of corruption made by members of the public. This is done by the ORC advising the ICAC Commissioner as to whether the ICAC should not commence or discontinue an investigation into an allegation of corrupt conduct. Consultation with the ORC is required before the ICAC can close a matter.

Over time, the ORC has also assumed a broader role in the ICAC's activities. It also:

- advises the Commission at least every three months as to whether the ICAC should continue an investigation that is underway
- advises the Commissioner on whether the ICAC should discontinue an investigation dealing with matters commenced on the ICAC's own initiative or reported from another agency
- advises on other matters referred to the ORC by the Commissioner
- brings to the attention of the Commissioner any matters relating to the operations of the ICAC which the ORC considers important.

The Commissioner is required by the *ICAC Act* to consult with the ORC on a regular basis and at least once every three months. During 2001-2002, the ORC resolved to meet every two months as a means of streamlining the administration of the ORC.

In advance of their meetings, the ORC is provided with a report containing a summary of allegations, the actions and inquiries undertaken and an assessment of the matter. At the meeting, ORC members may accept, reject or modify recommendations made in the reports, as well as request further information.

ORC Members

By law, the ORC consists of eight members:

- Ms Irene Moss AO, Commissioner of the ICAC and Chair of the ORC
- Mr Kieran Pehm, Deputy Commissioner of the ICAC, as an Assistant Commissioner nominated by the Commissioner
- Mr Peter Ryan QPM (until April 10 2002) and then Mr Ken Moroney APM, the Commissioner of Police, NSW Police
- Mr Laurie Glanfield AM, Director General, Attorney General's Department, appointed by the Governor on the recommendation of the Attorney General, with the concurrence of the Commissioner
- Four persons appointed by the Governor on the recommendation of the Minister responsible for the *ICAC Act*, with the concurrence of the Commissioner, to represent community views:
 - Ms Yvonne Grant, lawyer
 - Reverend Harry Herbert, Executive Director, Uniting Care
 - Dr Suzanne Jamieson, Department of Work and Organisational Studies, The University of Sydney
 - Ms Merrilyn Walton, Department of Medical Education, Faculty of Medicine, The University of Sydney.

ORC Decisions During the Year

In 2001-2002, the ORC met on 11 occasions and considered 934 matters. Of these, the ORC:

- accepted the recommendation made in relation to 666 matters (71 percent) without any alteration or comment
- made specific comment or alteration to the recommendation before accepting the report on 40 matters (4 percent)
- did not accept the recommendation but sought further information and required further reports to be prepared for 14 matters (2 percent)
- accepted reports on the status of 214 matters (23 percent).

Furthermore, there were 183 matters considered by way of a Schedule of Information.

Compliance with Duty to Report

To ensure that it is complying with its reporting obligations and ensure the quality of reports made to the ORC, the ICAC undertakes regular reviews and audits of the matters reported to the ORC.

Following the independent audit of ORC proceedings carried out at the end of 2000-2001, the Executive Director, Legal, reviewed the policies and procedures of the ORC to implement the recommendations of the audit.

Among the recommendations put in place were procedures for the regular auditing of matters reported to the ORC. The first of these audits occurred in June 2002. The purpose of the audit was to check the report submitted to the ORC against the file to ensure that the allegations were presented accurately and that the material on file supported the recommendation. In all, 21 reports were audited, and while minor issues were picked up with three reports, all reports contained an accurate summary of the inquiries undertaken and the outcome of those inquiries supported the assessment.

OTHER ACCOUNTABILITY MEASURES

To ensure compliance with statutory requirements, the NSW Ombudsman inspects the ICAC's records of telephone interceptions and controlled operations (see Appendix 2).

By law, the ICAC reports on its use of listening devices to the Attorney General of New South Wales.

Under the *Law Enforcement and National Security (Assumed Identities) Act 1998*, the ICAC is required to report on matters relating to its use of assumed identities. This is done in Appendix 2.

NSW Freedom of Information and Privacy laws apply to the ICAC with exemptions for operational matters.

The ICAC is accountable to the Treasury and the Audit Office for the proper expenditure of funds.

The ICAC's actions are reviewable by the Supreme Court to ensure the proper exercise of function and proper use of powers.

THE YEAR AHEAD

- We will improve internal and external reporting and accountability by implementing improved governance arrangements and improved transparency in internal management and decision making.
- We will review the administration and support of the Operations Review Committee to ensure adequacy of reporting to the ORC.
- We will continue to provide adequate and timely information to the Parliamentary Joint Committee and following the 2003 State elections will provide a briefing to new members of the Committee.

OUR PEOPLE – OUR ORGANISATION



- Executive Management
- Appointment of Assistant Commissioners
- Staffing and Human Resource Issues
- Learning and Development Program
- Performance Management
- Relocation
- Business Process Review
- The Year Ahead

During 2001-02, we employed the full time equivalent of 112 staff under the *ICAC Act* of whom six were Senior Executive Service officers. Towards the end of the reporting year, extensive recruitment was underway for over 20 positions in the Strategic Operations and Corruption Prevention, Education and Research Divisions following a restructure that commenced in April 2002. A restructure of the Corporate Services Division took place in October 2001.

The ICAC is divided into an executive and four divisions (Strategic Operations, including the Strategic Risk Assessment Unit; Corruption Prevention, Education and Research; Legal; and Corporate Services). An organisational chart can be found at Appendix 15.

EXECUTIVE MANAGEMENT

At 30 June 2002, the Executive Management team comprised:

- Irene Moss AO, Commissioner, BA LLB (Sydney), LL.M (Harvard)
- Kieran Pehm, Deputy Commissioner, BA, LLB (Sydney)
- Mal Brammer APM, Executive Director, Strategic Operations, Associate Dip. Police Management (Macquarie)
- Grant Poulton, Executive Director, Corruption Prevention, Education and Research, BA LLB (Auckland), LL.M (London), MPS (UNSW)
- John Pritchard, Executive Director, Legal and Solicitor to the Commission, BA, LLB (UNSW), LL.M (Sydney)
- Lynne Chester, Executive Director, Corporate Services, B.Comm (Melbourne), MPP (Sydney), FAICD, FICS.

Statistics on the comparison of the number of executive positions with previous years and remuneration for Senior Executive officers level five and above is included in Appendix 16.

APPOINTMENT OF ASSISTANT COMMISSIONERS

The *ICAC Act* permits the Governor to appoint Assistant Commissioners with the Commissioner's concurrence, to assist the ICAC as the Commissioner requires.

The Deputy Commissioner, Kieran Pehm, was appointed as an Assistant Commissioner under the *ICAC Act* for the period 12 February 2001 to 11 February 2003. In this capacity he presides over hearings, among other duties.

During the year, the following Assistant Commissioners presided over particular investigations:

- The Hon. Jerrold Sydney Cripps QC – who conducted hearings in the ICAC's investigation concerning the National Parks and Wildlife Service (*Operation Meteor*)
- Nigel Cotman SC – who conducted hearings in the ICAC's investigation into the NSW Grains Board (*Operation Agnell*).

STAFFING AND HUMAN RESOURCE ISSUES

In October 2001, the Corporate Services Division was restructured. This streamlined seven business units into three (Planning and Human Resources, Finance and Administration, and Information Technology), bringing about more effective and efficient delivery of services to the rest of the organisation.

In April 2002, a restructure of the Strategic Operations Division and the Corruption Prevention, Education and Research Division commenced. The Strategic Operations restructure produced a flatter management structure, established a strong core of financial investigators and refocused the existing analytical capacity into a Strategic Risk Assessment Unit with a defined core of intelligence and financial analyst positions.

These restructures built on the findings and recommendations of the various reviews undertaken by the ICAC during 2000-01. The objective was to provide the ICAC with more streamlined structures and with operational staff equipped with the latest in skills and technology.

Negotiations with the PSA and staff representatives concerning a new ICAC Award took place, with staff receiving a three percent salary increase in January 2002. A new Award was agreed to during the year.

A project plan for the review of all Human Resources' policies was developed for the period 2001 –2003. Policies that were reviewed during the year included the Job Evaluation Policy, Recruitment and Selection Policy and Managing Displaced Employees Policy. In addition to the review of the ICAC's existing policies, two new policies were developed: an Employee Assistance Program Policy and Corporate Induction Policy.

LEARNING AND DEVELOPMENT PROGRAM

As a consequence of the Functional Review that was undertaken in early 2001, we adopted a new strategic management framework to ensure the alignment of our vision and Corporate Strategic Direction targets with both the 2001-04 Corporate Operational Plan and the individual Divisional plans.

Having determined the future vision and direction coupled with its core competencies, our next step was to assess its capacity to achieve these aims and objectives. This required an assessment of the existing skills and competencies of the ICAC workforce, as well as future skilling requirements. The gap analysis undertaken by Ernst and Young in July and August 2001 identified the skills shortfall for the ICAC and explored the alternatives available for the organisation to acquire these skills such as training, development, education and recruiting staff with the desired skills and competencies.

As a result, we have established a Learning & Development (L&D) program that has been built on five basic principles:

- Sustain workforce capability and enable the strategic direction of the ICAC to be achieved
- Ensure the learning and development undertaken by the ICAC workforce readdresses the gap in core skills and competencies as identified by the Skills Audit
- Deliver a program that is equitable
- Deliver a program that occurs within the allocated budget

- Ensure that learning and development is embedded within individual performance agreements and align the ICAC's development driven performance management system to our corporate direction.

The Skills and Competencies Audit revealed that risk assessment and leadership were the two competencies ranked lowest by both staff and managers. Ernst and Young recommended that we structure the L&D program specifically to address these two areas as well as project management and information technology and the organisational development competencies.

Training was provided to ICAC staff in the latter half of the financial year on risk assessment, project management principles and MS Project Management, time management, as well as performance management training. In addition, managers also attended performance review training and four managers were enrolled in and are undertaking the Public Sector Management Course.

Specialised training was provided to units within the organisation. For instance, training was undertaken in computer forensics, investigative techniques, technical surveillance and risk management.

PERFORMANCE MANAGEMENT

In 2001, the ICAC established a new performance management system that was development driven in association with the planning cycle of the organisation. The new system now directly links individual performance agreements to the achievement of the ICAC's strategic objectives reflected in its 2001-2004 Operational Plan.

The new system focuses on staff development and is designed to encourage managers to support and facilitate the growth and advancement of their staff. Upon adoption of a new policy on performance management, all ICAC staff attended sessions in late 2001 on the operation of the new system.

Under the new system, staff performance agreements were aligned to the relevant Divisional Plan and formally reviewed by their managers in May/June of this year. By March 2002, all managers had attended training on performance review and feedback.

RELOCATION

In December 2001, the ICAC relocated from Redfern to new premises at Level 21, 133 Castlereagh Street, Sydney. The relocation followed an internal assessment of the ICAC's medium to long term accommodation needs and preparation of an accommodation strategy plan with the Department of Public Works and Services (DPWS). The internal assessment and strategy plan identified a number of issues for the ICAC's accommodation planning including less than optimal use of space, insufficient space to fully integrate operational units, urgently needed upgrades and repairs, problems with disability access and limited access to peer and other centrally located agencies.

The relocation was achieved with minimal disruption to the ICAC's operational capacity and service levels. The new premises have overwhelmingly realised the objectives of greater spatial efficiency, closer proximity and better access to peer and other agencies, better accommodation for staff resulting in improved integration of operational units and better and more central access for people visiting the ICAC including people with disabilities.

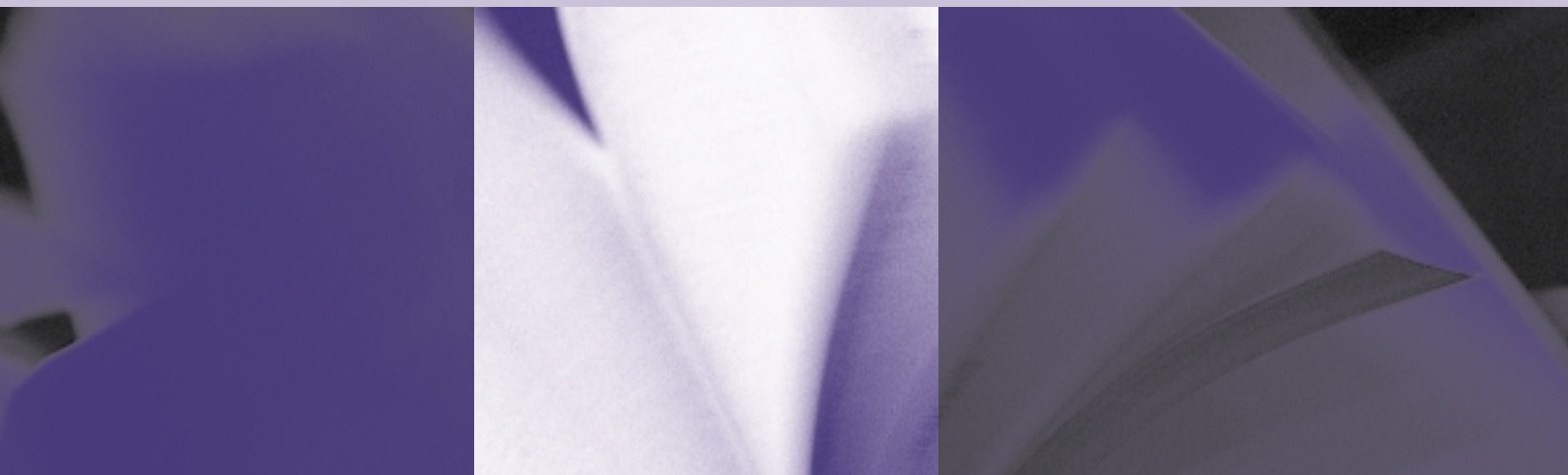
As part of the relocation arrangements, DPWS was responsible for identifying potential tenants to take a sub-lease for the remainder of the ICAC lease. In accordance with Australian Accounting Standards, provision has been made in the financial statements for 2001-02 for a shortfall arising from the sub-lease entered into for the Redfern premises. The difference between the expected and realised sub-lease rental is largely explained by adverse conditions in the commercial property market, exacerbated by unfavourable international conditions, particularly in late 2001. Other factors included the shortcomings in the functionality of the building that led to our relocation as well as a less than favourable location on the city fringe.

BUSINESS PROCESS REVIEW

As a result of internal reviews of the ICAC's case management capacity, KPMG was commissioned to undertake a project to improve the ICAC's Corporate System (ICS) database. The objective of this project was to map the business processes employed by the various units within the ICAC and redevelop the ICS to provide a better support capacity for the management of our investigative work. Further information on this project is detailed in "Performance Measurement" (see page 61).

THE YEAR AHEAD

- We will fully implement the new Learning and Development Program and fully align it with the performance management system.
- We will review our human resource policies and update them to reflect best practice.
- We will introduce a new human resource and payroll system that will provide electronic self-service for all staff.
- We will implement a new Occupational Health, Risk and Safety Management Plan.
- We will reduce the number of workers compensation incidents through improved understanding of OHS legislation and risk assessment.



The financial statements that follow consist of:

- Statement by Commissioner
- Independent Audit Report
- Statement of Financial Performance for year ended 30 June 2002
- Statement of Financial Position as at 30 June 2002
- Statement of Cash Flows for year ended 30 June 2002
- Summary of Compliance with Financial Directives for year ended 30 June 2002
- Notes to the Financial Statements
 1. Summary of Significant Accounting Policies
 2. Expenses
 3. Revenues
 4. Gain on Disposal of Non-current Assets
 5. Appropriations
 6. Individually Significant Items
 7. Acceptance by the Crown Entity of Employee Entitlements and Other Liabilities
 8. Program/Activities of the Commission
 9. Current Assets – Receivables
 10. Current Assets – Other
 11. Non-current Assets – Plant and Equipment
 12. Current Liabilities – Payables
 13. Current Liabilities – Interest Bearing Liabilities
 14. Current/Non Current Liabilities – Employee Entitlements and Other Provisions
 15. Changes in Equity
 16. Commitments for Expenditure
 17. Contingent Liabilities
 18. Budget Review
 19. Reconciliation of Cash Flows from Operating Activities to Net Cost of Service



INDEPENDENT COMMISSION AGAINST CORRUPTION

FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2002

Pursuant to Section 45F of the Public Finance and Audit Act 1983, I state that:

- a. the accompanying financial statements have been prepared in accordance with the provisions of the Public Finance and Audit Act 1983, the Financial Reporting Code for Budget Dependent Agencies, the applicable clauses of the Public Finance and Audit (General) Regulation 2000 and the Treasurer's Directions;
- b. the statements exhibit a true and fair view of the financial position and transactions of the Commission; and
- c. there are no circumstances which would render any particulars included in the financial statements to be misleading or inaccurate.

A handwritten signature in cursive script, reading "Irene Moss".

Irene Moss AO
Commissioner

16th September, 2002.



GPO BOX 12
SYDNEY NSW 2001

INDEPENDENT AUDIT REPORT

INDEPENDENT COMMISSION AGAINST CORRUPTION

To Members of the New South Wales Parliament

Scope

I have audited the accounts of the Independent Commission Against Corruption for the year ended 30 June 2002. The Commissioner is responsible for the financial report consisting of the accompanying statement of financial position, statement of financial performance, statement of cash flows, program statement-expenses and revenues and summary of compliance with financial directives, together with the notes thereto, and information contained therein. My responsibility is to express an opinion on the financial report to Members of the New South Wales Parliament based on my audit as required by the *Public Finance and Audit Act 1983* (the Act). My responsibility does not extend to an assessment of the assumptions used in formulating budget figures disclosed in the financial report.

My audit has been conducted in accordance with the provisions of the Act and Australian Auditing Standards to provide reasonable assurance whether the financial report is free of material misstatement. My procedures included examination, on a test basis, of evidence supporting the amounts and other disclosures in the financial report, and the evaluation of accounting policies and significant accounting estimates.

These procedures have been undertaken to form an opinion whether, in all material respects, the financial report is presented fairly in accordance with the requirements of the Act, Accounting Standards and other mandatory professional reporting requirements, in Australia, so as to present a view which is consistent with my understanding of the Commission's financial position, the results of its operations and its cash flows.

The audit opinion expressed in this report has been formed on the above basis.

Audit Opinion

In my opinion, the financial report of the Independent Commission Against Corruption complies with section 45E of the Act and presents fairly, in accordance with applicable Accounting Standards and other mandatory professional reporting requirements, the financial position of the Commission as at 30 June 2002 and the results of its operations and its cash flows for the year then ended.

R J Sendt
Auditor-General

SYDNEY
18 September 2002

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STATEMENT OF FINANCIAL PERFORMANCE
FOR THE YEAR ENDED 30 JUNE 2002

	Notes	Actual 2002 \$'000	Budget 2002 \$'000	Actual 2001 \$'000
Expenses				
Operating Expenses				
Employee related	2(a)	11,171	10,536	9,830
Other operating expenses	2(b)	6,941	4,418	4,777
Maintenance	2(c)	180	258	289
Depreciation and amortisation	2(d)	609	530	552
Total Expenses		18,901	15,742	15,448
Less:				
Retained Revenue				
Sale of goods and services	3(a)	51	35	27
Investment income	3(b)	6	10	23
Grant and Contributions	3(c)	1,170	-	-
Other revenue	3(d)	19	15	7
Total Retained Revenue		1,246	60	57
Gain on disposal of non-current assets	4	24	-	(25)
Net Cost of Services	18	17,631	15,682	15,416
Government Contributions				
Recurrent appropriation	5	15,524	14,124	13,816
Capital appropriation	5	250	520	153
Acceptance by the Crown Entity of employee entitlements and other liabilities	7	919	1,050	1,037
Total Government Contributions		16,693	15,694	15,006
DEFICIT FOR THE YEAR FROM ORDINARY ACTIVITIES		(938)	12	(410)
TOTAL REVENUES, EXPENSES AND VALUATION ADJUSTMENTS RECOGNISED DIRECTLY IN EQUITY				
		-	-	-
TOTAL CHANGES IN EQUITY OTHER THAN THOSE RESULTING FROM TRANSACTIONS WITH OWNERS AS OWNERS				
	15	(938)	12	(410)

STATEMENT OF FINANCIAL POSITION
AS AT 30 JUNE 2002

	Notes	Actual 2002 \$'000	Budget 2002 \$'000	Actual 2001 \$'000
ASSETS				
Current Assets				
Cash	13	10	106	50
Receivables	9	80	185	190
Other	10	32	69	49
Total Current Assets		122	360	289
Non-Current Assets				
Plant and Equipment	11	1,327	1,556	1,566
Total Non-Current Assets		1,327	1,556	1,566
Total Assets		1,449	1,916	1,855
LIABILITIES				
Current Liabilities				
Payables	12	415	548	549
Interest bearing liabilities	13	242	-	-
Employee entitlements and other provisions	14	1,525	1,019	1,019
Other			64	64
Total Current Liabilities		2,182	1,631	1,632
Non Current Liabilities				
Employee entitlements and other provisions	14	-	68	18
Total Liabilities		2,182	1,699	1,650
Net Assets		(733)	217	205
EQUITY				
Accumulated funds	15	(733)	217	205
Total Equity		(733)	217	205

STATEMENT OF CASH FLOWS
FOR THE YEAR ENDED 30 JUNE 2002

	Notes	Actual 2002 \$'000	Budget 2002 \$'000	Actual 2001 \$'000
CASH FLOWS FROM OPERATING ACTIVITIES				
Payments				
Employee related		(11,197)	(9,756)	(9,549)
Other		(6,690)	(5,056)	(5,065)
Total Payments		(17,887)	(14,812)	(14,614)
Receipts				
Sale of goods and services		23	34	80
Interest received		16	15	15
GST Refund received		661	-	367
Other		1,218	375	
Total Receipts		1,918	424	462
Cash Flows From Government				
Recurrent appropriation	5	15,524	14,124	13,863
Capital appropriation	5	250	520	170
Cash reimbursements from the Crown Entity		341	320	670
Cash transfers to the Consolidated Fund		(64)	-	(4)
Net Cash Flows from Government		16,051	14,964	14,699
NET CASH FLOWS FROM OPERATING ACTIVITIES		82	576	547
CASH FLOWS FROM INVESTING ACTIVITIES				
Proceeds from sale of plant and equipment		24	-	9
Purchases of plant and equipment		(388)	(520)	(153)
NET CASH FLOWS USED IN INVESTING ACTIVITIES		(364)	(520)	(144)
NET INCREASE/(DECREASE) IN CASH				
Opening cash and cash equivalents		(282)	56	(403)
		50	50	(353)
CLOSING CASH AND CASH EQUIVALENTS	13	(232)	106	50

SUMMARY OF COMPLIANCE WITH FINANCIAL DIRECTIVES
FOR THE YEAR ENDED 30 JUNE 2002

	2002				2001			
	Recurrent Appropriation \$'000	Expenditure/ Net Claim on Consolidated Fund \$'000	Capital Appropriation \$'000	Expenditure/ Net Claim on Consolidated Fund \$'000	Recurrent Appropriation \$'000	Expenditure/ Net Claim on Consolidated Fund \$'000	Capital Appropriation \$'000	Expenditure/ Net Claim on Consolidated Fund \$'000
Original Budget Appropriation/ Expenditure								
• Appropriation Act	14,124	14,124	520	250	13,872	13,816	450	153
• Additional Appropriations	-	-	-	-	-	-	-	-
• S21A PF&AA – special appropriation	-	-	-	-	-	-	-	-
• S24 PF&AA – transfer of functions between departments	-	-	-	-	-	-	-	-
• S26 PF&AA – Commonwealth specific purpose payments	-	-	-	-	-	-	-	-
	14,124	14,124	520	250	13,872	13,816	450	153
Other Appropriations/ Expenditure								
• Treasurer's Advance	1,400	1,400	-	-	-	-	-	-
• Section 22 – expenditure for certain works and services	-	-	-	-	-	-	-	-
• Transfers from another agency (Section 26 of the Appropriation Act)	-	-	-	-	-	-	-	-
	1,400	1,400	-	-	-	-	-	-
Total Appropriations Expenditure/Net Claim on Consolidated Fund (includes transfer payments)	15,524	15,524	520	250	13,872	13,816	450	153
Amount drawn down against Appropriation		15,524		250		13,863		170
Liability to Consolidated Fund		Nil		Nil		47		17

The Summary of Compliance is based on the assumption that Consolidated Fund moneys are spent first (except where otherwise identified or prescribed). The "Liability to Consolidated Fund" represents the difference between the "Amount drawn down against Appropriation" and the "Total Expenditure / Net Claim on Consolidated Fund".

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

(a) Reporting Entity

The Commission is constituted by the *Independent Commission Against Corruption Act 1988*. The main objective of the Commission is to minimise corrupt activities and enhance the integrity of NSW public sector administration. These financial statements report on all the operating activities under the control of the Commission.

The reporting entity is consolidated as part of the NSW Total State Sector and as part of the NSW Public Accounts.

(b) Basis of Accounting

The Commission's financial statements are a general-purpose financial report, which has been prepared on an accruals basis and in accordance with:

- applicable Australian Accounting Standards;
- other authoritative pronouncements of the Australian Accounting Standards Board (AASB);
- Urgent Issues Group (UIG) Consensus Views;
- the requirements of the *Public Finance and Audit Act 1983* and Regulations; and
- the Financial Reporting Directions published in the *Financial Reporting Code for Budget Dependent General Government Sector Agencies* or issued by the Treasurer under section 9(2)(n) of the Act.

Where there are inconsistencies between the above requirements, the legislative provisions have prevailed.

In the absence of a specific Accounting Standard, other authoritative pronouncement of the AASB or UIG Consensus View, the hierarchy of other pronouncements as outlined in AAS 6 "Accounting Policies" is considered.

The financial statements are prepared in accordance with the historical cost convention.

All amounts are rounded to the nearest one thousand dollars and expressed in Australian currency.

The accounting policies adopted are consistent with those of the previous year. Where applicable, previous years figures have been recast to facilitate comparison.

(c) Revenue Recognition

Revenue is recognised when the Commission has control of the good or right to receive, it is probable that the economic benefits will flow to the Commission and the amount of revenue can be measured reliably. Additional comments regarding the accounting policies for the recognition of revenue are discussed below.

(i) Parliamentary Appropriations

Parliamentary appropriations are generally recognised as revenues when the Commission obtains control over the assets comprising the appropriations. Control over appropriations is normally obtained upon the receipt of cash.

An exception to the above is when appropriations are unspent at year-end. In this case, the authority to spend the money lapses and generally the unspent amount must be repaid to the Consolidated Fund in the following year. As a result, unspent appropriations are now accounted for as liabilities rather than revenue.

The liability is disclosed in Note 5 as part of "Other current liabilities". This amount will be repaid and the liability will be extinguished next financial year.

(ii) Sale of Goods and Services

Revenue from the sale of goods and services comprises revenue from the provision of products and services including user charges. User charges are recognised as revenue when the Commission obtains control of the assets that result from them.

(iii) Investment income

Interest revenue is recognised as it accrues.

(d) Employee Entitlements

(i) Wages and Salaries, Annual Leave, Sick Leave and On Costs

Liabilities for wages and salaries and annual leave are recognised and measured as the amount unpaid at the reporting date at current pay rates in respect of employees' services up to that date.

Unused non-vesting sick leave does not give rise to a liability, as it is not considered probable that sick leave taken in the future will be greater than the entitlements accrued in the future.

The outstanding amounts of payroll tax, workers compensation insurance premiums and fringe

benefits tax, which are consequential to employment, are recognised as liabilities and expenses where the employee entitlements to which they relate have been recognised.

(ii) Long Service Leave and Superannuation

The Commission's liabilities for long service leave and superannuation are assumed by the Crown Entity. The Commission accounts for the liability as having been extinguished resulting in the amount assumed being shown as part of the non-monetary revenue item described as "Acceptance by the Crown Entity of Employee Entitlements and other Liabilities".

Long service leave is measured on a nominal basis. The nominal method is based on the remuneration rates at year-end for all employees with five or more years of service. It is considered that this measurement technique produces results not materially different from the estimate determined by using the present value basis of measurement.

The superannuation expense for the financial year is determined by using the formulae specified in the Treasurer's Directions. The expense for certain superannuation schemes (i.e. Basic Benefit and First State Super) is calculated as a percentage of the employees' salary. For other superannuation schemes (i.e. State Superannuation Scheme and State Authorities Superannuation Scheme), the expense is calculated as a multiple of the employee's superannuation contributions.

(e) Insurance

The Commission's insurance activities are conducted through the NSW Treasury Managed Fund Scheme of self-insurance for Government agencies. The expense (premium) is determined by the Fund Manager based on past experience.

(f) Accounting for the Goods and Services Tax (GST)

Revenues, expenses and assets are recognised net of the amount of GST, except:

- the amount of GST incurred by the agency as a purchaser that is not recoverable from the Australian Taxation Office is recognised as part of the cost of acquisition of an asset or as part of the item of expense; and
- receivables and payables are stated with the amount of GST included.

(g) Acquisitions of Assets

The cost method of accounting is used for the initial recording of all acquisitions of assets controlled by the Commission. Cost is determined as the fair value of the assets given as consideration plus the costs incidental to the acquisition.

Fair value means the amount for which an asset could be exchanged between a knowledgeable, willing buyer and a knowledgeable, willing seller in an arm's length transaction.

(h) Plant and Equipment

Plant and equipment acquired with an expected life in excess of one year and with a value of \$5,000 or more are capitalised. Values are determined on an asset-by-asset basis, although items that form part of a network are aggregated as a single asset and depreciated if their total value exceeds \$5,000.

(i) Depreciation of Non-Current Physical Assets

Depreciation is provided for on a straight-line basis for all depreciable assets so as to write off the depreciable amount of each asset as it is consumed over its useful life to the Commission. The Commission's leasehold improvements when constructed were projected to have a useful life of fifteen years or the unexpired period of the lease. The Commission's computer equipment, plant and equipment, when purchased, are projected to have a useful life of five years.

(j) Maintenance and repairs

The costs of maintenance are charged as expenses as incurred, except where they relate to the replacement of a component of an asset, in which case the costs are capitalised and depreciated.

(k) Leased Assets

A distinction is made between finance leases, which effectively transfer from the lessor to the lessee substantially all the risks and benefits incidental to ownership of the leased assets, and operating leases under which the lessor effectively retains all such risks and benefits.

Where a non-current asset is acquired by means of a finance lease, the asset is recognised at its fair value at the inception of the lease. The corresponding liability is established at the same amount. Lease payments are allocated between the principal

component and the interest expense. The Commission has no finance lease arrangements.

Operating lease payments are charged to the Statement of Financial Performance in the periods in which they are incurred.

(l) Receivables

Receivables are recognised and carried at the original invoice amount less a provision for any uncollectable debts. An estimate for doubtful debts is made when collection of the full amount is no longer probable. Bad debts are written off as incurred.

(m) Other assets

Prepayments are recognised on a cost basis.

(n) Payables

These amounts represent liabilities for the goods and services provided to the Commission and other amounts, including interest. Amounts owing to suppliers (which are unsecured) are settled in accordance with the policy set out in Treasurer's Direction 219.01. If trade terms are not specified, payment is made no later than the end of the month following the month in which an invoice or a statement is received. Treasurer's Direction 219.01 allows the Minister to award interest for late payment. No interest was applied during the year (30 June 2001 - \$Nil).

(o) Budgeted amounts

The budgeted amounts are drawn from the budgets as formulated at the beginning of the financial year and with any adjustments for the effects of additional appropriations, s21A, s24 and/or s 26 of the Public Finance and Audit Act 1983.

The budgeted amounts in the Statement of Financial Performance and the Statement of Cash Flows are generally based on the amounts disclosed in the NSW Budget Papers (as adjusted above). However, in the Statement of Financial Position, the amounts vary from the Budget Papers, as the opening balances of the budgeted amounts are based on the carried forward actual amounts i.e. per the audited financial statements (rather than carried forward estimates).

2. EXPENSES

	2002 \$'000	2001 \$'000
(a) Employee related expenses comprise the following specific items:		
Salaries and wages (including Recreation Leave)	9,673	8,199
Superannuation	667	688
Long service leave	211	306
Workers Compensation Insurance	46	54
Payroll tax and fringe benefits tax	574	583
	11,171	9,830
(b) Other operating expenses		
Auditor's remuneration – audit or review of the financial reports	17	16
Bad and doubtful debts	-	2
Operating lease rental expense – minimum lease payments	2,321	1,435
Insurance	54	59
Cleaning	35	60
Electricity	68	73
Travelling, air fares and subsistence	86	145
Motor vehicles	112	100
Consultancies	28	267
External Legal fees	552	567
Transcript fees	82	65
Contractor Fees	449	-
Fees for services	427	792
Contract security services	331	288
Training	119	140
Advertising and publicity	140	125
Books and subscriptions	85	92
Postal and telephone	224	195
Printing	82	111
Stores and specialised supplies	99	71
Minor computer software purchase	60	27
Relocation	1,426	-
Other	144	147
	6,941	4,777

	2002 \$'000	2001 \$'000
(c) Maintenance		
Repairs and maintenance	180	289
	180	289
(d) Depreciation and amortisation expense		
Depreciation		
Computer equipment	134	92
Plant and equipment	135	121
	269	213
Amortisation		
Leasehold improvements	340	339
	609	552
3. REVENUES		
(a) Sale of goods and services		
Sale of transcripts	29	8
Presentation and Seminar Fees	22	19
	51	27
(b) Investment Income		
Interest	6	23
	6	23
(c) Grants & Contributions		
Voluntary redundancy program funding	1,170	-
	1,170	-
(d) Other revenue		
Other	19	7
	19	7

4. GAIN/(LOSS) ON DISPOSAL OF NON-CURRENT ASSETS

Gain on disposal of plant and equipment		
Proceeds from disposal	24	9
Written down value of assets disposed	-	34
	24	(25)

5. APPROPRIATIONS

	2002 \$'000	2001 \$'000
Recurrent appropriations		
Total recurrent drawdowns from Treasury (per Summary of Compliance)	15,524	13,863
Less: Liability to Consolidated Fund * (per Summary of Compliance)	-	47
	15,524	13,816
Comprising:		
Recurrent appropriations (per Statement of Financial Performance)	15,524	13,816
Transfer payments	-	-
Total	15,524	13,816

Capital appropriations

Total capital drawdowns from Treasury (per Summary of Compliance)	250	170
Less: Liability to Consolidated Fund * (per Summary of Compliance)	-	17
	250	153
Comprising:		
Capital appropriations (per Statement of Financial Performance)	250	153
Transfer payments	-	-
Total	250	153

* The liability to Consolidated Funds is recognised in the Statement of Financial Position as a Current Liability ("Other")

6. INDIVIDUALLY SIGNIFICANT ITEMS

During 2001-2002 the Commission relocated its offices from Redfern to 133 Castlereagh Street, Sydney. The Commission also substantially completed its organisational restructure including a voluntary redundancy program. Both of these initiatives were funded by the NSW Treasury.

	2002 \$'000	2001 \$'000
Relocation	1,426	-
Redundancy payments	1,170	-
	2,596	-

7. ACCEPTANCE BY THE CROWN ENTITY OF EMPLOYEE ENTITLEMENTS AND OTHER LIABILITIES

The following liabilities and/or expenses have been assumed by the Crown Entity:

	2002 \$'000	2001 \$'000
Superannuation	667	688
Long service leave	211	306
Payroll tax	41	43
	<u>919</u>	<u>1,037</u>

8. PROGRAM/ACTIVITIES OF THE COMMISSION

The Independent Commission Against Corruption operates under a single program for Treasury reporting purposes. For the 2001 - 2002 financial year this program was identified as 5.1.1 Investigation, Community Education and Prevention of Corruption.

Program Objective

To minimise corrupt activities and enhance the efficiency and integrity of government administration.

Program Description

Investigation of possible corrupt conduct, advice for public authorities on ways in which to prevent corrupt conduct and education of the community about the detrimental effects of corruption.

9. CURRENT ASSETS – RECEIVABLES

	2002 \$'000	2001 \$'000
Sale of goods and services	20	7
Other receivables	60	183
Less: Provision for doubtful debts	-	-
	<u>80</u>	<u>190</u>

10. CURRENT ASSETS – OTHER

Prepayments	32	49
	<u>32</u>	<u>49</u>

11. NON-CURRENT ASSETS – PLANT AND EQUIPMENT

Plant and Equipment		
At Cost	6,880	7,823
Accumulated Depreciation at Cost	5,553	6,257
	<u>1,327</u>	<u>1,566</u>

Reconciliations

Reconciliations of the carrying amounts of each class of plant and equipment at the beginning and end of the current and previous financial year are set out below.

	Leasehold Improvements \$'000	Computer Equipment \$'000	Plant & Equipment \$'000	Total \$'000
2002				
Carrying amount at start of year	900	396	270	1,566
Additions	37	106	214	357
Disposals	-	(384)	(915)	(1,299)
Depreciation w/b on disposal	-	397	915	1,312
Depreciation expense	(340)	(134)	(135)	(609)
Carrying amount at end of year	597	381	349	1,327
2001				
Carrying amount at start of year	1,245	359	375	1,979
Additions	-	129	44	173
Disposals	(6)	-	(28)	(34)
Depreciation expense	(339)	(92)	(121)	(552)
Carrying amount at end of year	900	396	270	1,566

Included in the above figures are assets that have been fully depreciated comprising \$472,750 of plant and equipment (30 June 2001 - \$1,335,000) and \$89,542 of computer equipment (30 June 2001 - \$403,000). The Commission continues to derive service potential and economic benefit from these fully depreciated assets.

12. CURRENT LIABILITIES – PAYABLES

	2002 \$'000	2001 \$'000
Creditors	11	188
Accrued Expenses	404	361
	<u>415</u>	<u>549</u>

13. CURRENT LIABILITIES – INTEREST BEARING LIABILITIES

Bank Overdraft	242	-
	<u>242</u>	<u>-</u>

Cash assets recognised in the Statement of Financial Position are reconciled to cash at the end of the financial year as shown in the Statement of Cash Flows as follows:

	2002 \$'000	2001 \$'000
Cash (per Statement of Financial Position)	10	50
Bank overdraft	(242)	-
Closing Cash and Cash Equivalents (Per Statement of Cash Flows)	<u>(232)</u>	<u>50</u>

During the year, the Commission's bank balance was overdrawn on three occasions without the Treasurer's approval. This occurred due to the time lag between expenses attributable to the Commission's relocation being incurred and reimbursement being received from the NSW Treasury. The maximum overdraft was \$130,966. As a consequence of this, the Commission did not comply with the *Public Authorities (Financial Arrangements) Act 1987* on those occasions.

14. CURRENT / NON CURRENT LIABILITIES – EMPLOYEE ENTITLEMENTS AND OTHER PROVISIONS

	2002 \$'000	2001 \$'000
Current		
Recreation leave	568	634
Accrued salaries and wages	209	203
Payroll tax and fringe benefits tax payable	105	182
Provision for Redfern lease	643	-
	<u>1,525</u>	<u>1,019</u>
Non Current		
Recreation leave	-	18
Aggregate employee entitlements	<u>1,525</u>	<u>1,037</u>

15. CHANGES IN EQUITY

Accumulated funds		
At 1 July	205	615
<u>Changes in equity – other than transactions with owners as owners</u>		
Deficit for the year	(938)	(410)
At 30 June	<u>(733)</u>	<u>205</u>

There were no transactions during the year with owners as owners.

16. COMMITMENTS FOR EXPENDITURE

(a) Capital Commitments

There was no capital expenditure contracted for at balance date and not provided for (30 June 2001 - \$nil).

(b) Other Expenditure Commitments

There was no other expenditure commitments (30 June 2001 - \$22,000) contracted for at balance date and not provided for.

(c) Operating Lease Commitments

	2002 \$'000	2001 \$'000
Future non-cancellable operating lease rental not provided for and payable:		
Not later than one year	1,571	1,012
Later than one year and not later than 5 years	5,918	2,579
Later than 5 years	3,398	-
Total (including GST)	10,887	3,591

The total "operating lease commitments" above includes potential input tax credits of \$0.989M (30 June 2001 - \$326,000) that are expected to be recoverable from the Australian Taxation Office.

The operating lease commitments represent the eight-year lease for the current premises, IT equipment, photocopiers and varying motor vehicle lease arrangements.

17. CONTINGENT LIABILITIES

There are no known significant contingent liabilities at the balance date (30 June 2001 – Nil).

18. BUDGET REVIEW

Net cost of services

There was a variance between budgeted and actual net cost of services of \$1,949,000 which can be primarily attributed to the relocation and redundancy expenses which were not budgeted for. Other contributing factors were decreases in employee entitlement expenses as a consequence of the voluntary redundancy program that reduced the variance to lower than expected.

Assets and liabilities

Non current assets were \$229,000 less than budgeted because of the Commission deferring expenditure on a new records management system until next financial year.

Current liabilities were \$551,000 higher than budget. This is due to the provision for the lower than anticipated rental for the Redfern sub-lease over the next three (3) years.

Employee entitlement provision was \$205,000 below budget as a result of entitlements paid out during the year as part of the voluntary redundancy program.

Cash flows

The variance in net cash flows from investing activities represents the deferral of planned capital expenditure.

19. RECONCILIATION OF CASH FLOWS FROM OPERATING ACTIVITIES TO NET COST OF SERVICE

	2002 \$'000	2001 \$'000
Net Cash Used on Operating Activities	82	547
Depreciation and amortisation	(609)	(552)
Acceptance by Crown Entity of employee entitlements and other liabilities	(919)	(1,037)
Decrease/(increase) in provision for employee entitlements	(488)	58
Increase/(decrease) in prepayments and other assets	(145)	17
Decrease/(increase) in payables	134	(391)
Net gain/(loss) on sale of assets	24	(25)
Consolidated Fund Recurrent Allocation	15,524	(13,863)
Consolidated Fund Capital Allocation	(250)	(170)
Liability to Consolidated Fund	64	-
Net Cost of Services	(17,631)	(15,416)

END OF AUDITED FINANCIAL STATEMENTS

APPENDICES



- Functions and Outcomes Profiles
- Legal Reporting
- Code of Conduct
- Liaison, Awareness and Education
- Organisation Profile
- Access and Equity
- Corporate Management

FUNCTIONS AND OUTCOMES PROFILES

APPENDIX 1 COMPLAINTS PROFILE

Table 4: Allegations contained in complaints and notifications (Section 10, Section 11 and Protected Disclosures) received during 2001-02.

	s.10	s.11	PD	Total	%
Favouritism/nepotism	191	43	65	299	16.1
Misuse of Public Resources	85	140	44	269	14.5
Fabricating or falsifying information/fraud/ forgery	72	70	24	166	9
Bribery/gifts/secret commissions	88	49	8	145	7.8
Breach of policy/procedures	80	40	23	143	7.7
Failure to disclose conflict of interest	85	23	16	124	6.7
Harassment/victimisation/discrimination	67	26	24	117	6.3
Collusion	77	13	10	100	5.4
Failure to take action on corruption	65	14	11	90	4.8
Improper use of information	40	29	7	76	4.1
Failure to advertise properly eg tenders, employment, DA/BA	27	11	4	42	2.3
Failure to document systems/lack of internal documents/lack of systems	27	12	2	41	2.2
Perverting the course of justice/ evidence tampering	25	14	0	39	2.1
Threats/extortion/blackmail/undue influence	16	10	9	35	1.9
Negligence	19	8	3	30	1.6
Sexual assault/sexual misconduct/ sexual harassment	12	10	3	25	1.3
Traffic and/or use of drugs and/or alcohol	15	8	2	25	1.3
Assault	12	3	3	18	1
Other illegal behaviour	9	7	0	16	0.9
Perjury	2	2	0	4	0.2
Other	18	6	4	28	1.5
Unspecified/not applicable	15	3	2	20	1.1
Total	1047	541	264	1852	100

Table 5: Allegations of Suspected Corruption by type received 2001-02 compared to 2000-01 and 1999-2000

	1999- 2000	%	2000- 2001	%	2001- 2002	%
Favouritism/nepotism	216	11.3	268	13.0	299	16.1
Misuse of Public Resources	316	16.5	360	17.5	269	14.5
Fabricating or falsifying information/ fraud/forgery	183	9.6	211	10.3	166	9
Bribery/gifts/secret commissions	127	6.6	122	5.9	145	7.8
Breach of policy/procedures	130	6.8	124	6.0	143	7.7
Failure to disclose conflict of interest	124	6.5	159	7.7	124	6.7
Harassment/victimisation/discrimination	121	6.3	166	8.0	117	6.3
Collusion	63	3.3	86	4.2	100	5.4
Failure to take action on corruption	123	6.4	119	5.8	90	4.8
Improper use of information	74	3.9	86	4.2	76	4.1
Failure to advertise properly eg tenders, employment, DA/BA	65	3.4	50	2.4	42	2.3
Failure to document systems/lack of internal documents/lack of systems	41	2.9	81	3.9	41	2.2
Perverting the course of justice/ evidence tampering	46	2.4	29	1.4	39	2.1
Threats/extortion/blackmail/ undue influence	68	3.6	52	2.5	35	1.9
Negligence	29	1.5	35	1.7	30	1.6
Sexual assault/sexual misconduct/ sexual harassment	9	0.5	15	0.7	25	1.3
Traffic and/or use of drugs and/or alcohol	17	0.9	11	0.5	25	1.3
Assault	36	1.9	16	0.8	18	1
Other illegal behaviour	43	2.2	18	0.9	16	0.9
Perjury	5	0.3	2	0.1	4	0.2
Other	54	2.8	22	1.1	28	1.5
Unspecified/not applicable	22	1.2	26	1.3	20	1.1
Total	1912	100	2058	100	1852	100

Table 6: Types of workplace activity described for complaints and notifications (section 10, section 11 and Protected Disclosures) received, and all matters considered during 2001-02.

	S.10	S.11	PD	All Matters Considered
Building and development	292	48	17	415
Staff matters	132	93	134	376
Use of public resources	107	165	54	341
Law enforcement	122	31	6	193
Purchase of goods	90	68	21	187
Government services	93	50	10	169
Use of information	47	31	4	97
Licensing/qualifications/certificates	46	10	2	61
Disposal of public assets	31	9	5	50
Elections	18	3	1	24
Reporting corruption	12	6	4	24
Other/unspecified	57	27	6	126
Total	1047	541	264	2063

Table 7: Types of workplace activity for all matters considered during 2001-02 compared to 2000-01 and 1999-2000.

	Total 1999-2000	%	Total 2000-01	%	Total 2001-02	%
Building and development	277	12.6	294	12.8	415	20.1
Staff matters	402	18.3	489	21.2	376	18.2
Use of public resources	384	17.5	455	19.8	341	16.5
Law enforcement	285	13.0	196	8.5	193	9.4
Purchase of goods	176	8.0	232	10.1	187	9.1
Government services	256	11.7	222	9.6	169	8.2
Use of information	56	2.6	108	4.7	97	4.7
Licensing/qualifications/certificates	59	2.7	67	.9	61	3
Disposal of public assets	38	1.7	53	2.3	50	2.4
Elections	26	1.2	23	1.0	24	1.2
Reporting corruption	76	3.5	81	3.5	24	1.2
Other/unspecified	167	7.6	85	3.7	126	6.1
Total	2191	100	2303	100	2063	100

APPENDIX 2 – EXERCISE OF SPECIAL POWERS

Power	1999-2000	2000-01	2001-02
Summonses to give evidence or produce documents or both at a hearing (section 35 of the <i>ICAC Act</i>)	154	140	112
Warrant for arrest of a witness (section 36)	0	0	0
Order the prisoner appear before ICAC (section 39)	1	0	0
Search warrant (section 40)	24	11	51
Notice for public authority/official to produce statement of information (section 21)	7	3	11
Notice requiring production of documents (section 22)	92	193	197
Notice authorising ICAC officer to enter premises occupied by public authority/official, inspect any document or thing and copy any document (section 23)	3	9	7
Listening device warrant (subject to the <i>Listening Devices Act 1984</i>)	16	2	76
Telephone interception warrant (subject to the <i>Telecommunications (Interception) Act 1979</i>)	7	14	55
Controlled operation authorised (subject to the <i>Law Enforcement (Controlled Operations) Act 1997</i>).	2	1	4
Acquisition and use of assumed identities (subject to the <i>Law Enforcement and National Security (Assumed Identities) Act 1998</i>).	1	6	0

APPENDIX 3 – PROSECUTIONS AND DISCIPLINARY ACTION

This Appendix sets out disciplinary and prosecution action taken by other authorities in response to recommendations from the ICAC. As noted in Chapter 2, *Investigating Corruption*, during the term of the current Commissioner there has been a more vigorous approach to gathering admissible evidence relating to substantive charges against individuals investigated by the ICAC. This is reflected in those matters reported since November 1999.

This Appendix also reports matters that were prosecuted that did not arise from formal investigations, again reflecting a change of approach where briefs of evidence are provided to the DPP in some matters where there has not necessarily been a formal investigation or public report.

No investigation reports – direct referral of prosecution brief

Name:	Carroll, Stephen
Nature of offences recommended:	1 x s.188 <i>Crimes Act</i> (attempting to dispose of stolen property); 1 x s.188 <i>Crimes Act</i> (receiving stolen property); 1 x s.527C(1)(a) <i>Crimes Act</i> – goods in custody
Date of action/advice received:	18 June 2002 – Informations laid
Result:	For plea/mention 23 September 2002
Name:	Connell, Benjamin
Nature of offences recommended:	1 x s.112(1) <i>Crimes Act</i> (break enter and steal); 1 x s.156 <i>Crimes Act</i> (larceny as a servant)
Date of action/advice received:	18 June 2002 – Informations laid
Result:	For plea/mention 26 September 2002

Name: Russell, Leanne
Nature of offences recommended: 1 x s.178BA *Crimes Act* (obtain benefit by deception); 1 x s.309(2)(b) *Crimes Act* (access program or data for benefit); 1 x s.310 *Crimes Act* (alter data in a computer.)
Date of action/advice received: 4 April 2002
Result: Sentenced by Nicholson J in District Court. Ordered to enter into good behaviour bond for a period of three years. Entered undertaking to repay outstanding amount of \$8,547.33.

Name: Schmitzer, Terry
Nature of offences recommended: 1 x s.249B *Crimes Act* (corrupt commissions).
Date of action/advice received: 20 December 2001. DPP advice sufficient evidence to prosecute.
Result: For hearing 30 September 2002

Prosecution proceedings during 2001-2002 arising from investigation reports

Investigation into the matters concerning John Kite and the National Parks and Wildlife Service (Report tabled in December 2001)

Name: Kite, John
Nature of offences recommended: 2 x s.319 *Crimes Act 1900* (attempt to pervert the course of justice); 2 x s.327 *Crimes Act* (perjury); 3 x s.87 *ICAC Act 1988* (false or misleading evidence)
Date of action/advice received: Preliminary brief forwarded to DPP 29 May 2002
Result: Awaiting outcome

Name: Ryan, Susanne.
Nature of offences recommended: 2 x s.87 *ICAC Act* (false or misleading evidence)
Date of action/advice received: Preliminary brief forwarded to DPP 29 May 2002
Result: Awaiting outcome

Investigation into Conduct of a Technical Specialist in the State Rail Authority (Report tabled in April 2001)

Name: Thorndyke, David Andrew
Nature of offences recommended: S.178BB *Crimes Act* (obtain money by deception).
Date of action/advice received: 31 May 2002
Result: (Plea of guilty) s.9 good behaviour bond 2 years. Fine \$5,000. Pecuniary Penalty Order of \$5,000.

Investigation into the conduct of staff of the Roads and Traffic Authority and others (Report tabled in November 2000)

Name: Grech, Oscar
Nature of offences recommended: S.87 *ICAC Act* (false or misleading evidence)
Date of action/advice received: Brief forwarded to DPP 5/4/01. Requisitions received May 02. ICAC provided replies to DPP on 13/8/02. Certain material in possession of NSW Police as a result of Operation Marwar. These have been requested from police and will be forwarded to DPP upon receipt.
Result: Awaiting outcome

Name: Henderson, David
Nature of offences recommended: S.87 *ICAC Act* (false or misleading evidence)
Date of action/advice received: Listed for mention on 16/9/02. (Other charges from Operation Marwar listed for trial on same day)
Result: Awaiting outcome

Name: Jovellanos, Erwina
Nature of offences recommended: S.87 *ICAC Act* (false or misleading evidence)
Date of action/advice received: Brief forwarded to DPP 5/4/01. Requisitions received May 02. ICAC provided replies to DPP on 13/8/02. Certain material in possession of NSW Police as a result of Operation Marwar. These have been requested from police and will be forwarded to DPP upon receipt.
Result: Awaiting outcome

Name: Manalansang, Levi
Nature of offences recommended: S.87 *ICAC Act* (false or misleading evidence)
Date of action/advice received: Brief forwarded to DPP 5/4/01. Requisitions received May 02. ICAC provided replies to DPP on 13/8/02. Certain material in possession of NSW Police as a result of Operation Marwar. These have been requested from police and will be forwarded to DPP upon receipt.
Result: Awaiting outcome

Name: Manning, Howard
Nature of offences recommended: S.87 *ICAC Act* (false or misleading evidence)
Date of action/advice received: Brief forwarded to DPP 5/4/01. Requisitions received May 02. ICAC provided replies to DPP on 13/8/02. Certain material in possession of NSW Police as a result of Operation Marwar. These have been requested from police and will be forwarded to DPP upon receipt.
Result: Awaiting outcome

Name: Maskaleh, Hatem
Nature of offences recommended: S.87 *ICAC Act* (false or misleading evidence)
Date of Action/advice Received: Brief forwarded to DPP 5/4/01. Requisitions received May 02. ICAC provided replies to DPP on 13/8/02. Certain material in possession of NSW Police as a result of Operation Marwar. These have been requested from police and will be forwarded to DPP upon receipt.
Result: Awaiting outcome

Name: Salameh, Fadi
Nature of offences recommended: S.87 *ICAC Act* (false or misleading evidence)
Date of action/advice received: Brief forwarded to DPP 5/4/01. Requisitions received May 2002. ICAC provided replies to DPP on 13/8/02. Certain material in possession of NSW Police as a result of Operation Marwar. These have been requested from police and will be forwarded to DPP upon receipt.
Result: Awaiting outcome

Name: Salameh, Jamal
Nature of offences recommended: S.87 *ICAC Act* (false or misleading evidence)
Date of action/advice received: Brief forwarded to DPP 5/4/01. Requisitions received May 2002. ICAC provided replies to DPP on 13/8/02. Certain material in possession of NSW Police as a result of Operation Marwar. These have been requested from police and will be forwarded to DPP upon receipt.
Result: Awaiting outcome

Name: Skaf, Rayed
Nature of offences recommended: S.87 *ICAC Act* (false or misleading evidence)
Date of action/advice received: Brief forwarded to DPP 5/4/01. Requisitions received May 02. ICAC provided replies to DPP on 13/8/02. Certain material in possession of NSW Police as a result of Operation Marwar. These have been requested from police and will be forwarded to DPP upon receipt.
Result: Awaiting outcome

Name: Tandog, Purisima
Nature of offences recommended: S.87 *ICAC Act* (false or misleading evidence)
Date of action/advice received: Brief forwarded to DPP 5/4/01. Requisitions received May 2002. ICAC provided replies to DPP on 13/8/02. Certain material in possession of NSW Police as a result of Operation Marwar. These have been requested from police and will be forwarded to DPP upon receipt.
Result: Awaiting outcome

Investigation into Conduct of Officers of the Greyhound Racing Authority (Report tabled in August 2000)

Name: Gill, Ronald
Nature of offences recommended: Possess unlicensed firearm; deface a firearm.
Date of Action/advice received: 7 December 2001
Result: (Plea of guilty). 12 months good behaviour bond.

Investigation into Conduct of Mr Sam Masri, Former Purchasing Officer, Liverpool City Council (Report tabled in November 1999)

Name: Rogerson, Roger
Nature of offences recommended: Common Law Conspiracy
Date of action/advice received: 27 August 2001
Result: DPP advice – insufficient evidence

Investigation into Conduct of Local Council Waste Depot Weighbridges at St Peters and Elsewhere
(Report tabled in June 1999)

Name:	Collis, Terence John
Nature of offences recommended:	S.249B(1) <i>Crimes Act</i>
Date of Action//advice received:	25 March 2002
Result:	DPP advice – insufficient evidence
Name:	Hogden, Mark William
Nature of offences recommended:	S.249B(1) <i>Crimes Act</i>
Date of action/advice received:	25 March 2002
Result:	DPP advice – insufficient evidence
Name:	Laing, Jayson Dean
Nature of offences recommended:	S.249B(1) <i>Crimes Act</i>
Date of action/advice received:	25 March 2002
Result:	DPP advice – insufficient evidence
Name:	Connelly, Maxwell Frederick
Nature of offences recommended:	S.249B(1) <i>Crimes Act</i>
Date of action/advice received:	25 March 2002
Result:	DPP advice – insufficient evidence
Name:	Lynch, Terence Gabriel
Nature of offences recommended:	S.249(B2) <i>Crimes Act</i>
Date of action/advice received:	25 March 2002
Result:	DPP advice – insufficient evidence

Investigation into the Conduct of an Alderman on Fairfield City Council (Report tabled in November 1998)

Name:	Dent, Gary
Nature of offences recommended:	S.87 <i>ICAC Act</i> (false or misleading evidence)
Date of action/advice received:	9 November 2001
Result:	DPP advice – insufficient admissible evidence.
Name:	Green, Russell John
Nature of offences recommended:	Bribery and s.249B <i>Crimes Act</i>
Date of action/advice received:	9 November 2001
Result:	DPP advice – insufficient admissible evidence.
Name:	Morizzi, Giuseppe
Nature of offences recommended:	Common law bribery and s.249B <i>Crimes Act</i> (corrupt commissions or rewards and s.87 <i>ICAC Act</i> (false or misleading evidence).
Date of action/advice received:	9 November 2001
Result:	DPP advice – insufficient admissible evidence.
Name:	Morizzi, Vincent
Nature of offences recommended:	S. 87 <i>ICAC Act</i> (false or misleading evidence)
Date of action/advice received:	9 November 2001
Result:	DPP advice – insufficient admissible evidence.

Investigation into Corruption in the Former State Rail Authority of New South Wales (Report tabled in June 1998)

Name:	Brown, Laurence
Nature of offences recommended:	2 x s.249B <i>Crimes Act</i> (giving and receiving benefits. Alternatively s.178BA <i>Crimes Act</i> (obtain by deception). 3 x s.87 <i>ICAC Act</i> (giving false or misleading evidence)
Date of action/advice received:	24 October 2001
Result:	DPP advice – insufficient evidence.
Name:	Elton, Brian
Nature of offences recommended:	1 x s.31 <i>Financial Transaction Reports Act 1988 (Commonwealth)</i> ; 2 x s.249B <i>Crimes Act</i> (giving or receiving a corrupt commission or reward); 3 x s.87 <i>ICAC Act</i> (giving false or misleading evidence).
Date of action/advice received:	24 October 2001
Result:	DPP advice – insufficient evidence.

Name: Pett, John
Nature of offences recommended: S.249B *Crimes Act* (corruptly receive a benefit). Alternatively, 1 x s.178BA *Crimes Act* (dishonestly obtain financial advantage by deception).
Date of action/advice received: 24 October 2001
Result: DPP advice – insufficient evidence

Name: Schreiber, Damon Charles
Nature of offences recommended: Section 249B *Crimes Act* (corruptly receive a benefit). Alternatively 1 x s.178BA *Crimes Act* (dishonestly obtain financial advantage by deception). 1 x pursuant to *Financial Transaction Reports Act* or alternatively pursuant to s.5 *Crimes Act 1914 (Commonwealth)* in that Schreiber knowingly was concerned in an offence against s.31 *Financial Transaction Reports Act*. 5 x s.87 *ICAC Act* (giving false or misleading evidence).
Date of action/advice received: 24 October 2001
Result: DPP advice – insufficient evidence

Name: Willard, Barry
Nature of offences recommended: 1 x s.249B(1) *Crimes Act* (receiving corrupt benefit). 1 x s.31(1) *Financial Transaction Reports Act* (conducting reportable cash transactions in a manner that would not give rise to a significant cash transaction).
Date of action/advice received: 24 October 2001
Result: DPP advice – insufficient evidence

Investigation into Corruption in the former State Rail Authority (Report tabled in June 1998)

Name: Christopher, Philip Alan
Nature of offences recommended: 1 x s.156 *Crimes Act* (larceny by clerk or servant); 2 x s.249B(1) *Crimes Act* (corrupt commissions or rewards); 1 x s.87 *ICAC Act* (false testimony).
Date of action/advice received: 31 July 2002.
Result: Proceedings commenced for 2 x s.87 *ICAC Act* charges. Mentioned on 27 September 2002 Downing Centre Local Court.

Investigation into Medina-Cruz Cleaning Services & State Rail Authority (Report tabled in June 1998)

Name: Kojic, Branislav
Nature of offences recommended: 1 x s.87 *ICAC Act* (false or misleading evidence)
Date of action/advice received: 16 May 2001
Result: Set down for hearing 10 September 2002

Investigation into the Disposal of Waste and Surplus Assets in Transgrid, Pacific Power and Integral Energy (Report tabled in June 1998)

Name: Galantai, Bilat
Nature of offences recommended: S.249B(2) *Crimes Act* (offer).
Date of action/advice received: 14 June 2002
Result: (Plea of guilty) s.9 good behaviour bond for two years.

Name: Goldsmith, Barry
Nature of offences recommended: S.249B *Crimes Act* x 2.
Date of action/advice received: 23 April 2002
Result: (Plea of guilty) s.9 good behaviour bond for two years. Confiscation of proceeds of crime \$1,200.

Name: Thomas, Peter
Nature of offences recommended: S.87 *ICAC Act* x 2 (false/misleading evidence)
Date of action/advice received: 26 July 2002
Result: (Plea of guilty). Sentenced to six months home detention.

Name: Williams, Jamie
Nature of offences recommended: S.87 *ICAC Act* (false/misleading evidence)
Date of action/advice received: 23 April 2002
Result: (Plea of guilty). Sentenced to nine months imprisonment, to be served by way of periodic detention.

Investigation into Parliamentary and Electorate Travel (Report tabled in April 1998)

Name:	Langton, Brian
Nature of offences recommended:	2 x s.178BB <i>Crimes Act</i> (obtaining money etc. by false or misleading statement).
Date of action/advice received:	22 March 2002
Result:	DPP advised sufficient evidence for 2 offences but as matter of discretion declined to prosecute.

Investigation into Aboriginal Land Councils in New South Wales (Reports tabled in April 1998, June 1999 and October 1999)

Name:	Ishaq, Mohammed
Nature of offences recommended:	1 x s.175 or 176A <i>Crimes Act</i> ; 1 x s.87 <i>ICAC Act</i> (giving false or misleading evidence).
Date of action/advice received:	25 January 2002
Result:	DPP appealed original sentence of six months home detention imposed in Local Court. Judge Twigg, on appeal in District Court, quashed that sentence and imposed a sentence of nine months full time imprisonment with a non-parole period of six months to commence on 25 January 2002, expiring 24 July 2002.

Investigation into Conduct of Officers of Department of Corrective Services (Reports tabled in February 1998, November 1998 and June 1999)

Name:	Assad, Michael
Nature of offences recommended:	S.87 <i>ICAC Act</i> (false or misleading evidence)
Date of action/advice received:	24 July 2002.
Result:	DPP advised no charges recommended.
Name:	Attallah, Joseph
Nature of offences recommended:	2 x s.87 <i>ICAC Act</i> (false or misleading evidence)
Date of action/advice received:	Matter remitted to Local Court for determination following successful DPP appeal. For hearing 15 August 2002
Result:	Awaiting outcome
Name:	Brown, Robert
Nature of offences recommended:	S.87 <i>ICAC Act</i> (false or misleading evidence)
Date of action/advice received:	DPP sought requestions with a view to consider alternate charges (24/7/02). ICAC to review and provide response.
Result:	Awaiting outcome
Name:	Cunningham, Johanna
Nature of offences recommended:	2 x section 87 <i>ICAC Act</i> (false or misleading evidence)
Date of action/advice received:	15 January 2002
Result:	On 14 December 2001, convicted on two charges under s.87 <i>ICAC Act</i> (false or misleading evidence). On 15 January 2002 DPP determined not to order appeal on basis of insufficient prospects of success and thus not in the public interest. Appeal against inadequacy of sentence not to be pursued.
Name:	Kalache, Nasser
Nature of offences recommended:	S.87 <i>ICAC Act</i> (false or misleading evidence)
Date of action/advice received:	Alternate charge suggested by DPP subject to availability of evidence. ICAC to review and reply (24/7/02).
Result:	Awaiting outcome
Name:	Kelly, Leslie
Nature of offences recommended:	Perjury – Knowingly Provide Wrong Information to Court for compensation
Date of action/advice received:	Listed for Mention on 20/9/02
Result:	Awaiting outcome

Investigation Concerning the 1993 Byron Residential Development Strategy and Associated Matters (Report tabled in April 1997)

Name:	McMahon, Paul Joseph
Nature of offences recommended:	Conspiracy to commit public mischief; commit a public mischief; 3 x s.87 <i>ICAC Act</i> (giving false or misleading evidence)
Date of action/advice received:	25 March 2002
Result:	DPP advice – insufficient evidence

Disciplinary action proceedings during 2001-2002

Investigation into Conduct of Officers of the Greyhound Racing Authority

Name:	Gill, Ron
Nature of Action:	Breaches of Greyhound Racing Authority Rule 9(4)(a) (misconduct) x 4; 1 charge yet to be determined.
Date of action/advice received:	
Result:	On all other charges: Permanent disqualification. Fine \$2,200.
Name:	Howe, Kenneth Edward
Nature of Action:	5 x breach of Greyhound Racing Authority Rule 9(4)(a) (misconduct)
Date of action/advice received:	21 December 2001
Result:	Supreme Court appeal arguing Regulatory Committee biased dismissed by Adams J. Appeal lodged with Court of Appeal.
Name:	King, Raymond Thomas
Nature of Action:	4 x breach of Greyhound Racing Authority Rule 9(4)(a) misconduct
Date of action/advice received:	21 December 2001
Result:	Supreme Court appeal arguing Regulatory Committee biased dismissed by Adams J. Appeal lodged with Court of Appeal.

Investigation into the matters concerning John Kite and the National Parks and Wildlife Service

Name:	Susanne Ryan
Nature of offences recommended:	2 x s.66(1)(b) and/or (f) of the <i>Public Sector Management Act 1988</i>
Date of action/advice received:	January 2002
Result:	Suspended without pay pending disciplinary action

APPENDIX 4 – IMPLEMENTATION OF RECOMMENDATIONS FOR REFORM ARISING FROM ICAC INVESTIGATIONS

Since 2000, the ICAC has sought information from agencies regarding the implementation of recommendations from previous ICAC investigation reports. This appendix sets out the number of recommendations implemented by the affected agency or agencies for the relevant investigation report. The table sets out advice received from agencies since last year's Annual Report or not reported in last year's Report.

Report	No. of Recs.	Fully Imp.	Partly Imp.	Not Imp.
State Agencies – Roads and Traffic Authority – Report on investigation into Driver Licensing. December 1990	40	35	3	2
State Agencies – Police Service, NSW – Investigation into the relationship between police and criminals: Second report. April 1994	15	14	0	1
State Agencies – Police Service, NSW – Report on the investigation into matters relating to police and confidential information. June 1994	7	6	1	0
State Agencies – Illawarra Development Board – Report on an Investigation into the disposition of funds remaining in the Accounts of the former Illawarra Development Board (1987 – 1990). October 1999	7	7	0	0
State Agencies – Roads and Traffic Authority – Investigation into the conduct of staff of the Roads and Traffic Authority and others. November 2000	16	15	1	0
Total	85	77 (91%)	5 (6%)	3 (3%)

APPENDIX 5 – FREEDOM OF INFORMATION

Statement of Affairs

Each agency covered by the *Freedom of Information Act 1989* (FOI Act) is required by the FOI Act to publish an Annual Statement of Affairs.

The ICAC's administrative, research and educational roles are covered by the FOI Act, while our corruption prevention, complaint handling, investigative and report functions are exempt.

The ICAC is committed to public awareness and involvement in its activities. General inquiries by post, telephone, e-mail or visit are welcome. Where an enquiry cannot be satisfied through such contact, then formal application can be made to the Solicitor to the Commission who is the ICAC's FOI Officer.

ICAC contact details are shown at the front of this Annual Report.

Freedom of Information Procedures

Arrangements can be made to obtain or to inspect copies of available documents at the ICAC by contacting the Solicitor to the Commission. Formal requests made under the FOI Act for access to documents held by the ICAC should be accompanied by a \$30.00 application fee, and be sent to the Solicitor to the Commission. Persons wishing to be considered for a reduction in fees should set out reasons with their applications. Those holding a current Health Care Card are eligible for a 50% reduction.

Structure and Functions

The ICAC's organisational structure is shown on page 108. The ICAC's functions are broadly to investigate allegations of corruption, to prevent corruption and to educate the public. They are described comprehensively in the body of this Annual Report.

Effect of functions on the public and arrangements for public participation

The public can participate directly in the ICAC's work by providing information to the ICAC about suspected corrupt conduct in or affecting the NSW Public Sector. This information can be provided by telephone, letter, e-mail or personal visit.

Four members of the public are appointed to the ICAC's Operations Review Committee. This has the role of ensuring that the ICAC properly deals with complaints received from the public.

Members of the public can attend and observe the ICAC's public hearings, which are advertised in metropolitan newspapers for Sydney hearings and metropolitan and regional or country newspapers for public hearings outside Sydney.

Members of the public can obtain ICAC reports on investigations and view most transcript and documentation evidence from public hearings. Anyone wishing to read such transcripts is welcome to contact the ICAC and make arrangements to visit the premises for this purpose.

The ICAC is accountable to the public through the Parliament, specifically through the

Parliamentary Joint Committee on the ICAC. The functions and membership of this Committee are described in this Annual Report. Members of the public can make comments to the Committee about how the ICAC does its work and suggest changes. Members of the public can also make such comments directly to the ICAC by writing to the Commissioner.

Documents held by the ICAC

The following categories of ICAC documents are covered by the FOI Act:

- research reports
- administrative policy documents (such as Personnel policies)
- general administration documents (such as accounts and staff records).

Members of the public may contact the Solicitor to the Commission to clarify which documents may be available under FOI legislation.

ICAC publications produced in 2001-02 are listed in Appendix 12. They include investigation reports, corruption prevention reports and educational material. The ICAC also publishes brochures about the ICAC's activities and procedures.

Freedom of Information Requests for 2001-2002

The FOI requests received in 2001-2002 are summarised in the tables below.

Section A Numbers of new FOI requests –

Information relating to numbers of new FOI requests received, those processed and those incomplete from the previous period.

FOI Requests	Personal	Other	Total
A1 New (including transferred in)	0	4	4
A2 Brought forward	0	0	0
A3 Total to be processed	0	0	4
A4 Completed	0	4	4
A5 Transferred out	0	0	0
A6 Withdrawn	0	0	0
A7 Total processed	0	4	4
A8 Unfinished (carried forward)	0	0	0

Section B What happened to completed requests? –

(Completed requests are those on Line A4 above)

Result of FOI Request	Personal	Other
B1 Granted in full	0	3
B2 Granted in part	0	1
B3 Refused	1	0
B4 Deferred	0	0
B5 Completed	0	4

Section C Ministerial Certificates – number issued during the period.

C1 Ministerial Certificates issued	0
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Section D Formal consultations – number of requests requiring consultations (issued) and total number of formal consultation(s) for the period.

	Issued	Total
D1 Number of requests requiring formal consultation(s)	0	0

Section E Amendment of personal records – number of requests for amendment processed during the period.

Result of Amendment Request	Total
E1 Result of amendment – agreed	0
E2 Result of amendment – refused	0
E3 Total	0

Section F Notation of personal records – number of requests for notation processed during the period.

F3 Number of requests for notation	0
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Section G FOI requests granted in part or refused

– Basis of disallowing access – Number of times each reason cited in relation to completed requests which were granted in part or refused.

Basis of disallowing or restricting access	Personal	Other
G1 Section 19 {application incomplete, wrongly directed}	0	0
G2 Section 22 {deposit not paid}	0	0
G3 Section 25(1) (a1) {diversion of resources}	0	0
G4 Section 25(1) (a) {exempt}	0	1
G5 Section 25(1) (b), (c), (d) {otherwise available}	0	0
G6 Section 28(1) (b) {documents not held}	0	0
G7 Section 24(2) – deemed refused, over 21 days	0	0
G8 Section 31(4) {released To Medical Practitioner}	0	0
	0	1

Section H Costs and fees of requests processed during the period.

	Assessed Costs	FOI Fees Received
H1 All completed requests	\$ NIL	\$NIL

Section I Discounts allowed – numbers of FOI requests processed during the period where discounts were allowed.

Type of Discount Allowed	Personal	Other
I1 Public interest	0	0
I2 Financial hardship – Pensioner / Child	0	0
I3 Financial hardship – Non profit organisation	0	0
I4 Totals	0	0
I5 Significant correction of personal records	0	0

Section J Days to process – Number of completed requests (A4) by calendar days (elapsed time) taken to process.

Elapsed Time	Personal	Other
J1 0 – 21 days	0	4
J2 22 – 35 days	0	0
J3 Over 35 days	0	0
J4 Totals	0	4

Section K Processing time – Number of completed requests (a4) by hours taken to process.

Processing Hours	Personal	Other
K1 0 – 10 hrs	0	4
K2 11 – 20 hrs	0	0
K3 21 – 40 hrs	0	0
K4 Over 40 hrs	0	0
K5 Totals	0	4

Section L Reviews and Appeals – number finalised during the period.

L1 Number of internal reviews finalised	0
L2 Number of Ombudsman reviews finalised	0
L3 Number of District Court appeals finalised	0

Details of Internal Review Results – in relation to internal reviews finalised during the period.

Bases of Internal Review	Personal		Other	
	Upheld	Varied	Upheld	Varied
Grounds on which internal review requested				
L4 Access refused	0	0	0	0
L5 Deferred	0	0	0	0
L6 Exempt matter	0	0	0	0
L7 Unreasonable charges	0	0	0	0
L8 Charge unreasonably incurred	0	0	0	0
L9 Amendment refused	0	0	0	0
L10 Totals	0	0	0	0

Comparison with 2000-2001

In 2001-02, the ICAC received four FOI requests concerning other matters. No matters were brought forward from 2000-01. In 2000-2001 the ICAC received one FOI request relating to personal matters and three requests concerning other matters, with one request relating to other matters being brought forward from 1999-2000.

Impact on the ICAC

The impact on the ICAC of these requests was minimal.

APPENDIX 6 – PRIVACY AND PERSONAL INFORMATION

In accordance with the *Privacy and Personal Information Protection Act 1998*, the ICAC developed a Privacy Management Plan. The ICAC continues to operate against that Management Plan.

No reviews have been required or conducted pursuant to Part 5 of the Act.

APPENDIX 7 – THE ICAC AND LITIGATION

The ICAC has been involved in three litigation matters during the reporting year.

ICAC & Ors *ats Paramasivam*

On 18 May 2000, the ICAC was served with an application under the *Human Rights and Equal Opportunity Commission Act 1986 (Cth)* alleging unlawful discrimination. Ms Paramasivam alleged that the ICAC had failed to investigate her allegation of corrupt conduct by reason of her

race, colour or national or ethnic origin. The ICAC, the ICAC Commissioner, and the other members of the Operations Review Committee were named as respondents.

Similar applications were lodged on other oversight bodies and administrative tribunals. The ICAC and a number of these parties made an application to the Federal Court to summarily dismiss the complaint. Justice Moore of the Federal Court made orders in 2000 that the complaints be dismissed. The full bench of the Federal Court refused leave to

appeal Justice Moore's decision in February 2001. Ms Paramasivam sought special leave to appeal to the High Court and this was heard in March 2002. Gaudron and Hayne JJ refused the application. An order for costs was made against Ms Paramasivam.

Complaint under the *Anti-Discrimination Act 1977 (NSW)*

A former Special Constable employed by the NSW Police Service and rostered to perform duties at the ICAC filed a complaint alleging that the ICAC discriminated against her on the ground of sex in relation to her employment.

The complaint was referred to the Administrative Decisions Tribunal (ADT) for conciliation in June 2001. As conciliation proved unsuccessful, the matter was referred to the ADT for mediation in April 2002. The matter was settled at mediation, with a payment to the officer of compensation without admission of liability. The compensation costs were jointly borne by the ICAC and NSW Police and paid out of the Treasury Managed Fund.

ICAC *ats Hagan*

Patricia Hagan filed a Summons in the NSW Court of Appeal on 28

May 2001. She sought declaratory relief against a decision by the ICAC, on the advice of the Operations Review Committee, to discontinue the investigation of an allegation she had made concerning corrupt conduct by a public official. The matter was remitted by consent to the Common Law Division of the NSW Supreme Court in June 2001.

On 3 August 2001, the ICAC filed a Notice of Motion that a subpoena for production filed by the plaintiff and addressed to the ICAC be set aside, *inter alia*, as irrelevant to the proceedings. The matter was heard on 17 September

2001 and on 11 October 2001 judgement was made to set aside the subpoena.

On 18 January 2002, the plaintiff filed a Notice of Motion seeking an order that the matter be determined, *inter alia*, by a Justice/s not of the Supreme Court of New South Wales. The matter was heard on 8 March 2002. On 9 August 2002 His Honour Justice Dunford delivered judgement dismissing the plaintiff's Notice of Motion except to the extent of making a declaration that the proceedings were not suitable for hearing by an Acting Judge.

APPENDIX 8 – LEGAL CHANGES

ICAC Act

Arising from the investigation concerning Rockdale Council, the *ICAC Act* was amended by the insertion of a new Section 74A. These amendments commenced on 17 June 2002. They permit the ICAC to include in a report under Section 74 recommendations that consideration be given to:

- (a) a proclamation under the *Local Government Act 1993* that all civic offices in relation to a local government authority be declared vacant
- (b) suspension of a councillor from civic office with a view to his or her dismissal
- (c) suspension of a member of staff of a local government authority with a view to the institution of disciplinary or criminal proceedings.

These recommendations may be made when the ICAC is of the opinion that prompt action is required in the public interest and that there is systemic corruption in the local government authority or that the affected councillor or a

member staff has engaged in serious corrupt conduct.

Additional amendments to Section 74C of the *ICAC Act* commenced on 5 July 2002. These permit the ICAC to include recommendations that consideration be given to the appointment of an administrator under Section 118 of the *Environmental Planning and Assessment Act 1979* and/or the suspension of a development consent with a view to its revocation because of serious corrupt conduct by a councillor or staff member in connection with the grant or modification of the consent.

Assumed identities

The Commonwealth *Crimes Act 1914* has recently been amended to permit officers of state law enforcement agencies, including the ICAC, to obtain approval under that Act for the use of an assumed identity. It will enable ICAC officers to obtain evidence of identity from Commonwealth agencies and indemnify them against breaches of Commonwealth laws resulting from the use of an assumed identity. These provisions commenced operation on 12 October 2001. They are intended to operate concurrently with the *Law Enforcement and*

National Security (Assumed Identities) Act 1998.

Telecommunications Interception

There were also minor amendments to the *Telecommunications (Interception) Act 1979*, which did not commence operation until 5 July 2002. These included:

- (a) an amendment to the definition of "certifying officer" to enable the ICAC Commissioner to authorise officers occupying positions at an equivalent level to the SES to sign evidentiary certificates
- (b) an amendment to Section 68 permitting telephone interception material collected by another agency that may give rise to an ICAC investigation to be disseminated to the ICAC.

Proposed changes affecting the ICAC

The NSW Law Reform Commission publicly released its interim report on surveillance during the year. The ICAC has liaised with other law enforcement agencies in developing a response to the recommendations contained in that report.

APPENDIX 9 – REVISED CODE OF CONDUCT

During 2001-02, a review of the ICAC Code of Conduct was completed. The purpose of the review was to revise the Code to ensure continuing relevance and effective communication of the personal and professional obligations on officers of the Commission.

The revised Code of Conduct and Ethics is reproduced here:

ICAC Code of Conduct and Ethics

1. Policy Statement

As an officer of the Independent Commission Against Corruption, you hold a special position of trust.

The Commission was established to take on corruption in the New South Wales public sector, and has three principal functions - investigation, corruption prevention and public education. These functions can only be properly and effectively carried out if every Commission officer acts in accordance with their public duty, and the trust placed in them by the community.

The Independent Commission Against Corruption is constituted under the *Independent Commission Against Corruption Act 1988* (ICAC Act). Accountable to the public of New South Wales, through the Parliament, it stands independent of the government of the day.

In carrying out their duties, individuals employed as officers of the Commission are obliged to:

"...regard the protection of the public interest and the prevention of breaches of public trust as (their) paramount concerns." (s.12, ICAC Act)

The ICAC Act confers extraordinary powers on the Commission, and on you as one of its officers. With these powers comes a responsibility to apply and enforce these powers properly, fairly and with integrity.

The work of the Commission may be seriously undermined if any of its officers are seen to be acting in a way which the Commission itself, or right-thinking members of the community, would find reprehensible in any other public organisation.

This Code sets out the principles you are expected to uphold, and prescribes specific conduct in areas considered central to the exercise of the Commission's functions. It will be reviewed regularly, and updated and expanded to reflect changes both within and outside the Commission.

The Code should not be read as a set of rules, where each word is scrutinised for its legal meaning. It is intended to convey in plain words the obligations placed on, and the behaviour expected of, all officers of the Commission.

If you are confronted with an ethical dilemma, or a question regarding your own conduct or the conduct of your colleagues you should use this code to inform your response. If the code does not provide sufficient guidance, you should seek advice from a suitable colleague.

This Code applies to every individual engaged as an officer of the Commission, whether by way of employment contract, term employment (appointment or secondment), temporary arrangement or on a fee for service basis.

2. What principles guide the Code of conduct?

The Code of Conduct is guided by the following principles, which should also assist you in guiding your conduct and informing decisions made in your day to day work:

- At all times, you should be aware that your employment carries an obligation to have due regard to the impact of your professional and personal

conduct on the Commission's standing and reputation.

- The reputation of the Commission and the standing of its officers bears on its ability to speak with authority on issues relating to integrity in the New South Wales public sector.
- At a minimum, you must meet the standards of ethical behaviour and accountability that the Commission promotes in its dealings with other government organisations.
- You have an obligation to carry out your work professionally, impartially, with integrity and in the best interests of the Commission.
- You are also required to deal with individuals and organisations fairly, properly and with integrity, recognising their rights as citizens. Discrimination and partiality, either within the Commission or in dealings with people and organisations outside the Commission, are unacceptable.
- The name and powers of the Commission must be used with restraint, and with an awareness of their potential effect on the lives of individuals. These must never be used to gain personal advantage or pursue personal issues.
- The work of the Commission must not be compromised or affected by any personal interest.
- Public resources must be used efficiently and effectively.
- The security of information and the protection of persons working with or dealing with the Commission must be assured.
- When dealing with an issue of ethics and conduct, you are obliged to be mindful of the principles and guidance given by this Code. Where you are

still uncertain about what course of action to take, advice should be sought from another appropriate officer of the Commission.

When you are faced with an ethical dilemma, ask yourself the following questions:

- Is it legal?
- Is it consistent with Commission values, principles and policies?
- Do I think it's the right thing to do?
- What will the consequences be for my colleagues, the Commission, other parties, and me?
- Can I justify my actions?
- What would be the reaction of my family and friends if they were to find out?
- What would happen if my conduct became front page news?

The following parts of the Code provide detailed guidance on how you are expected to apply these principles in practice.

Employment

3. What does our employment contract require of Commission staff?

Appointment as a Commission officer is made under the *Independent Commission Against Corruption Act*, with conditions of employment governed by an award and policies and practices issued from time to time.

The Award includes a commitment from the parties to advance certain values in our interactions with other public sector agencies, other organisations, individuals and our staff. These commitments include advancement of the public interest; acting ethically and with integrity; being fair, impartial and accountable; striving for excellence

in our work, being tenacious and professional in our aims and respecting colleagues and working collaboratively.

As an employee of the Commission, you have an obligation to be aware of and comply with this Code of Conduct. By accepting employment with the Commission, you have undertaken:

- not to engage in personal or professional conduct that may bring the Commission into disrepute;
- to abide by the secrecy and confidentiality provisions of the ICAC Act; and
- to fully and openly disclose your personal particulars and your financial and other interests to the Commission, and to alert the Commission of any significant changes to your personal or financial status.

Members of staff who are seconded to the Commission from other agencies, or who are engaged temporarily through an employment agency, have an equal responsibility to abide by the standards and behaviour outlined in the Code.

Officers should be continually alert to their individual employment obligations to ensure they are acting ethically, responsibly and productively.

4. What are my obligations regarding employment outside the Commission?

Engaging in outside, or secondary, employment can produce difficulties for ICAC officers. It may not always be immediately apparent to you how a second job might conflict with your duties. A second job with a provider of services to, or which are monitored by, government agencies has the potential to compromise your ability to be, and be seen to be, objective in your duties.

The consequences would be unfortunate or worse if the secondary employer came to the attention of the ICAC in some adverse way. You might not know that a potential employer was of interest to the ICAC or to any other agency. Nor might you be aware of the full implications of being employed in a particular industry or organisation.

In the interests of ensuring that ICAC officers do not engage, unwittingly or otherwise, in inappropriate outside employment, you must ensure that you do not engage in outside employment, paid or unpaid, without the formal authorisation of the Commission.

For details of the Secondary employment policy and information concerning how to apply for authority, see the Secondary Employment policy.

5. What are my obligations to the Commission when I leave to work elsewhere?

If you have been offered, and intend to accept, a position with close or sensitive links to work you perform for the Commission, you should advise your supervisor as soon as possible so that any conflict or potential conflict of interest can be managed.

If you leave the Commission to work elsewhere, you are obliged by the Act to respect the confidentiality of information that you have come across in your work, and you should respect the Commission's intellectual property rights over material produced by the Commission.

Unless otherwise authorised, when you cease duty with the Commission, you cannot take any in house resources such as manuals, processes and materials produced as official functions of the Commission, or download information. These are the property of the Commission.

Conduct

6. What personal and professional behaviour is expected of Commission officers?

You are expected to treat members of the public, officers of the Commission and other public officials with respect, courtesy, honesty and fairness, and have proper regard to their interests, rights, safety, health and welfare.

You should ensure that your work habits, behaviour and personal and professional relationships at the workplace contribute to a harmonious and productive work environment.

You should perform your work honestly, diligently and with commitment.

You should appreciate that the nature of Commission business requires prudence and discretion about what we do, who we speak to and what we say.

You should make decisions in a fair and timely manner, giving due attention to relevant information and proper regard to legislation and internal Commission policies and procedures.

You should recognise and respect individual and cultural differences amongst staff, the rest of the public sector and the community, and not engage in discrimination or harassment.

You should value diversity of thought, experience and skills.

You should observe common courtesies and etiquette in terms of day-to-day relationships with other staff.

You should encourage and contribute to a safe and healthy work environment.

You must comply with lawful instructions given by an authorised colleague.

You should provide and accept supervision appropriate to individual situations.

You have an obligation to ensure that personal use of alcohol or other legal drugs does not affect your performance or safety or the performance or safety of others. You should be aware that the consumption of alcohol or other drugs can adversely affect the image of the Commission in its dealings with others.

7. Where might I face a conflict of interest, and how do I deal with it?

Conflicts of interest, or the perception that they have arisen can do great damage to the reputation of both the Commission and its staff. They may also interfere with your ability to do your job with detached objectivity. While you have to take responsibility for identifying and managing any conflict of interest you may have, this needs to be done with the knowledge and advice of your manager.

The potential for conflicts of interest to develop arises when an individual with two or more interests in a matter has to take decisions concerning that matter. In the case of an ICAC officer they are of concern when one interest is a public interest, his or her duty, and another is a private interest.

The conflict arises when the public interest that you must serve comes into conflict with a private interest that you may have. Where this occurs it must always be managed in such a way as to ensure public faith in the process of government. The public interest must come first on all such occasions.

Financial conflicts of interest might arise out of association with business interests, ownership of shares or finding out information that could be of financial benefit to you or someone else.

Other ICAC officer private interests which might arise include those arising out of a member of

your family, a family member's business associates, a friend, a current or past work mate, a person who dislikes or is disliked by you and many other relationships.

In order to ensure that conflicts of interests do not interfere with the work of the Commission or of its staff, and in order to ensure that the public has confidence in the impartiality of the Commission, all your interests must be declared at the point of commencement with the Commission. You must also check your declaration of interests at regular intervals, and make amendments to reflect any changes in your interests as they occur.

You should advise your manager if you become aware of a potential conflict of interest, or anything that may appear to be a conflict of interest, that arises in the course of your duties. If in any doubt, seek advice from your manager, the Manager, Planning and Human Resources, the Risk Assessment Manager or an Executive Director. It is preferable to err on the side of caution and disclose any interest that you might consider could affect, or be seen to affect, the impartial and fair performance of your duties.

8. What if I am offered gifts, benefits or bribes?

As a Commission officer you may be offered gifts, benefits, travel or hospitality during the course of your work. The acceptance of gifts and other benefits has the potential to compromise your position by creating a sense of obligation in the receiver and so undermining your impartiality. It may also affect the public perception of the integrity and independence of the Commission and its officers. As a general rule such offers should be declined. The only benefits that Commission officers, and public officials generally, should gain from their jobs are their salary and job satisfaction.

It is important that you ensure that the appearance not be created that any person or body is securing or attempting to secure the influence or favour of the Commission or any of its officers.

You should never solicit any money, gift or benefit and should never accept any offer of money. To do so may involve the common law offence of bribery. That is defined as receiving or offering any undue reward by, or to, any person in public office in order to influence his or her behaviour in that office, and to incline that person to act contrary to the known rules of honesty and integrity. Such conduct may also be an offence under the *Crimes Act* and/or the *Independent Commission Against Corruption Act*.

A key notion in the offence of bribery is that of "undue reward." That is, something that is intended to be of value to the public official. A reward can encompass anything of value and is not limited to money or tangible goods. The provision of services may amount to a reward.

There are some circumstances when to refuse a gift would be perceived as rude or offensive. You must exercise sound judgement when deciding whether or not to accept a gift or other benefit. For example:

- you must decline any offer from an individual or organisation you know to be the subject of an investigation by the Commission, or the subject or originator of a complaint or report to the Commission,
- you must decline any offer which is individually targeted and not available to colleagues or associates who share a common task and purpose. For example, you may accept a modest lunch which is offered to a working group, but should pay for your own when you are

the only person to whom an offer is made,

- you may accept an item which relates to the work of the Commission, such as a book on a relevant topic, but you must refuse items which are unrelated to your work, for example travel or sporting goods,
- you may accept a gift, benefit, travel or hospitality only if it is of a token kind, and when to refuse would be unnecessarily rude.

Officers who have agreed to speak officially at functions, should where possible, notify their hosts in advance of the occasion that it is inappropriate to offer gifts or rewards.

Officers should ensure that records are kept of any gifts or other benefits of more than nominal value that have been offered or received. You should inform your supervisor as soon as possible if such an event occurs, preferably in writing. Any evidence of an unsolicited gift should not be destroyed as it may be important. If you believe that you or a colleague has been offered a bribe you must provide a detailed written report to the Commissioner immediately that you become aware of this. A public register of gifts and other benefits is maintained by the Executive Director, Corporate Services.

Commission officers may obtain further guidance on this subject by reading "Gifts, Benefits or Just Plain Bribes? Guidelines for Public Sector Agencies and Officials," published by the Commission in June 1999. That publication is available from the Education and Public Affairs Unit and is also on the ICAC website.

9. What are my obligations in using public resources?

The Commission's resources can be generally categorised into three

areas; equipment, people and finances. All three are funded from public monies. Because they are publicly funded, the use of those resources needs to be both efficient and appropriate. Whilst seeking to ensure that Commission resources are directed toward the performance of public duty, the Commission allows some flexibility in these areas.

In general terms, equipment resources are provided for the work of the Commission, however, a limited degree of private use may be acceptable. For example, staff may utilise Commission phones and facsimile machines for private use if that use is short, infrequent and does not interfere with the work of the Commission.

Similarly, in certain circumstances staff may be authorised to use Commission motor vehicles and computer equipment for private purposes. As the equipment resources of the Commission are shared amongst a number of staff however, any private use needs to take account of competing work priorities and maintaining equipment in good working order.

Also, whilst staff are remunerated for time spent in performing Commission work, it is recognised that they occasionally have pressing commitments which require their attention. Although the Commission's flexible working hours policy will enable staff to deal with most private matters in their own time, staff are permitted to attend to pressing private business (e.g. a telephone call or posting a letter) during work time, so long as it is short, infrequent, and does not interfere with Commission work.

Further guidance on these issues can be found in the Commission's Phone Policy; Private Use of Commission Property; External Systems Access; and Internet Access Policy.

The expenditure of financial resources is subject to the provisions of the *Public Finance and Audit Act 1983*. This legislation and the Purchasing Policy and Procedure provide guidance to staff on this issue. Generally, staff require prior approval to incur expenditure.

10. Can I participate in political activities?

The Commission recognises that individuals attracted to working at the Commission may be interested or involved in issues or activities of a political nature. However, the Commission can be required to deal with matters that are politically controversial and sensitive.

Generally you have the right to participate in party political activities provided you do so in a private capacity and do not allow a conflict of interest to arise. However, you should be aware that involvement in or association with a political party may limit or prevent your involvement in particular Commission investigations and projects.

In participating in any political activity you must ensure that:

- Any comment or discussion does not cast doubt on your ability or willingness to implement Commission policies and guidelines objectively;
- You do not participate in private political activities in the work environment;
- You do not use Commission resources to assist you in your personal political activities;
- You do not use information obtained through your work at the Commission to assist your political activities, or make such information known to any other person;
- You do not misrepresent the position of the Commission on any issue, or allow the Commission's position to be misrepresented.

It is your obligation to take all reasonable steps to ensure that any such involvement is understood to represent your personal views as a private citizen.

It is also your responsibility to ensure that your manager is made aware of any political association that may affect, or be possibly seen to affect, a matter that you encounter in your day to day work.

Information

11. What obligations are there on my use of Commission information?

Commission work often involves access to sensitive or confidential information. For example, during the course of an investigation the Commission may obtain information relating to government policy that would not normally be available to the public. The Commission may also obtain personal or commercial information relating to individuals or companies.

You must ensure that information is dealt with appropriately and only used for the purposes of the Commission. The Commission is often entrusted with sensitive information by other agencies to enable it to carry out its investigative functions or to provide advice on corruption prevention. As a rule you must not disclose any information that you acquire during the course of your work except in the exercise of the Commission's functions. To do so is an offence under s111 of the ICAC Act and may result in your prosecution.

If you believe that disclosure of information is justified you must document the details and the reasons for the disclosure. That material should be submitted through one of the executive directors to the Commissioner. Information may be disclosed if the Commissioner certifies that it is necessary in the public interest to do so.

Improper use of information could result in harm to another person, interfere with the integrity of an investigation or otherwise reduce the effectiveness of the Commission. You must not use information to gain a personal or commercial advantage for yourself or another person.

When handling sensitive information you should abide by the Commission's Security of Sensitive Material Policy. You should also exercise caution and sound judgment in discussing such information with other officers. Normally information should be limited to those who need it to conduct their duties or who can assist you to carry out your work because of their expertise.

Commission files and other confidential documents and information are not to be removed from the premises except in accordance with the Commission's security policies and procedures. If in any doubt as to how to manage or secure sensitive material, please contact the Risk Assessment Manager.

12. How should I respond if asked to publicly comment on the Commission's work?

The Commission's work is often sensitive and requires confidentiality. The very sensitivity of the Commission's activities often makes it of interest to the community, and in particular, the media.

The unauthorised or improper release of information to the media may have the effect of compromising an investigation, adversely and unnecessarily affecting the reputation of individuals, or undermining public confidence in the Commission.

It is important, therefore, that you ensure that only information considered appropriate for public comment is released. This is generally done by co-ordinating public comment through the Commissioner and the media

manager, with advice from appropriate officers of the Commission. Media management responsibilities are presently shared by the Executive Officer to the Commissioner and the Senior Project Officer – Media and Publications.

The Commissioner will authorise officers to make public comment on behalf of the Commission. You must only make public comment with this authorisation. If you receive any media inquiries, these should be referred to the media manager who is the official spokesperson of the Commission. Even if you do not provide any information to the journalist, advise the media manager of any approaches from the media for information or comments.

Except when making authorised comment, discussions about the Commission's work should be confined to material that is already in the public domain. Public domain material includes published reports and discussion papers, annual reports, public relations material, transcripts of public hearings, media releases, and public addresses. If you are uncertain as to whether information is in the public domain you must consult the media manager.

To avoid the appearance that you may be providing information that is confidential, you should ensure that others are aware that you are discussing only material in the public domain. This is also a good rule to observe in discussing public domain material in social settings, such as with friends or informal gatherings.

No comment should be made about any other material relating to the work of the Commission unless the Commissioner or the media manager has given permission.

You are entitled to make personal comment on issues of public and social interest. You should ensure,

however, that your personal views are not presented or interpreted as official comment.

If you are aware that comments you have made socially or inadvertently may be used to harm the Commission's reputation or compromise its work, you should notify your supervisor or the media manager immediately.

For more information see **Policy and Practice in relation to the Media.**

Accountability and Enforcement

13. What if I become aware of or suspect corrupt conduct outside the Commission?

In order to inform its investigation, prevention and education initiatives, the Commission seeks to be well informed about corruption trends and issues. The *Protected Disclosures Act (1994)* makes it an offence for detrimental action to be taken against a person for making a protected disclosure.

The fact that you are an employee of the Commission and the very nature of your work means that from time to time you may become aware of suspected corrupt conduct which has not been otherwise reported. For example, you may personally observe a public official engage in a suspect act; you may overhear a worrying conversation at a conference or seminar; a friend may report something to you because you are a Commission employee; or it may be that a public official seeks to enlist you into an improper arrangement during the course of conducting government business.

It is important therefore, that any act of suspected corrupt conduct encountered by staff in the course of their official duties is promptly reported. This should be done in writing and addressed to your supervisor or to the Solicitor to the Commission. Although there is no general obligation on members of the public to notify

suspected corrupt conduct, staff are encouraged to report any such conduct they become aware of outside of their work.

14. What if I become aware of or suspect corrupt conduct inside the Commission?

If the Commission is to be successful at improving public sector integrity, it is critical that it practices the conduct it expects of others. It therefore follows that, if the Commission or any of its employees engage in conduct that was unlawful, unethical or unfair, its own integrity and public image could be seriously compromised. To this end, it is critical that any such conduct is promptly disclosed.

If you become aware of an instance of corrupt conduct, maladministration or serious and substantial waste at the Commission, it is important that it be promptly reported. The report can be made direct to your supervisor, or alternatively to the Solicitor to the Commission or the Commissioner. If the report concerns your supervisor, then it may be reported direct to the Solicitor to the Commission or the Commissioner. If the report concerns the Solicitor to the Commission, it may be reported direct to the Commissioner.

The *Protected Disclosures Act* recognises the difficulty facing public sector employees in notifying cases of suspected corrupt conduct, maladministration or serious and substantial waste within the public sector. To this end, the *Protected Disclosures Act* makes it an offence for detrimental action to be taken against a person for making a protected disclosure.

Similarly, the Commission recognises that reporting the actions of colleagues, and in particular one's superiors, is a difficult thing to do; especially in situations where the parties may have been friends or workmates

for some time. It is natural to have mixed emotions in such situations and to be reluctant to report. In fact, it is one of the most personally challenging "conflict of interest" situations one is likely to experience.

Whilst all three types of conduct may be reported to the Commission, cases of suspected corrupt conduct or maladministration can be reported direct to the N.S.W. Ombudsman, whilst matters of serious and substantial waste can be reported direct to the Audit Office.

Any such report by staff which conforms with the *Protected Disclosures Act* will be treated as a 'protected disclosure' and be handled in accordance with the Commission's Protected Disclosure Reporting Policy. Staff can make a protected disclosure in the knowledge that it is an offence to take detrimental action against a person in reprisal for making a protected disclosure. The Commission is committed to ensuring there will be no such recriminations against staff. If you believe that you may have been detrimentally treated for having made a protected disclosure, you should report this directly to the Commissioner.

For further advice on this issue and how to make a protected disclosure, refer to the *Protected Disclosures Act* and the

Commission's Protected Disclosure Reporting Policy.

The internal investigation of complaints against staff is the responsibility of the Solicitor to the Commission, reporting to the Commissioner. Internal investigations are ordinarily conducted by a member of the Executive and a report submitted to the Commissioner for consideration of appropriate action. In the case of more serious or difficult investigations, outside assistance may be engaged.

Further information can be found in:

- Procedures Relating to the Handling of Complaints of Misconduct Against Staff;
- Grievance Mediation;
- Reporting of Protected Disclosures by Commission Officers;
- Workplace Harassment Policy and Procedure; and
- Discipline Policy and Procedures for the Management of Breaches of Discipline.

15. How will this Code of Conduct be enforced?

This Code represents a guide to staff as to their obligations as Commission employees and the personal and professional behaviour expected of them.

As individuals, officers are responsible for their own acts and omissions. In the event that an officer witnesses or becomes aware of unsatisfactory acts or omissions by other staff members, an obligation rests with the officer to report the acts or omissions to a senior staff member or to the Solicitor to the Commission.

In exercising appropriate levels of leadership, management and supervision, it is the responsibility of supervisors to ensure that staff under their control understand their duties, know what expectations are placed upon them and that their performance is continually reviewed.

Commission officers that are unsure of any aspect of this Code or who seek clarification in respect of any issue are encouraged to consult their supervisor, a member of executive management or the Manager, Planning and Human Resources.

A breach of this Code may lead to the taking of disciplinary action by the Commission. Disciplinary action may include counselling, official notification of unsatisfactory performance, dismissal or prosecution.

APPENDIX 10 – COMPLAINTS ABOUT THE ICAC

In line with the objectives for the *Protected Disclosures Act*, the ICAC has internal procedures for reporting and dealing with protected disclosures made by ICAC staff. The Code of Conduct and other policies and procedures make it clear that the ICAC is committed to ensure that those who make protected disclosures do

not suffer detrimental action as a result of making such disclosures.

One anonymous complaint concerning an ICAC officer was received during 2001-02. It was treated as a Protected Disclosure, and was handled by the Commissioner with the assistance of the Executive Director, Legal. No disciplinary action resulted from the inquiries.

Four complaints were received from persons outside the organisation. In accordance with the ICAC's complaints policy, the Solicitor to the Commission handled these complaints. There was no evidence found to sustain the allegations made in the complaints.

APPENDIX 11 – PARTICIPATION IN SIGNIFICANT COMMITTEES

AUSTRAC client liaison meetings

Liaison with financial transactions tracking agency. This meeting is held half-yearly and is organised by the Australian Transaction Reports and Analysis Centre. Representatives from the ICAC and other Federal and State agencies attend this meeting to discuss matters in relation to the *Financial Transaction Reports Act*.

Controlled Operations Review Working Party

Comprised of representatives of a number of law enforcement agencies. Ongoing role in identifying and recommending further legislative changes to facilitate the conduct of controlled operations and other covert operations.

Heads of Criminal Intelligence Agencies

Comprising a broad range of heads of law enforcement agencies from Australasia held half yearly and chaired by the Australian Bureau of Crime Intelligence. Discussions are centred upon issues of national intelligence interest.

Inter-Agency Fraud Committee

The Committee meets quarterly and is comprised of agencies, both State and Federal, which conduct fraud or fraud-type investigations, e.g. Commercial Crime Agency of NSW Police, Australian Securities and Investment Commission, Australian Federal Police.

Interception Consultative Committee

Comprised of representatives of a number of law enforcement and investigative agencies. Deals with legal, policy and technical issues relating to the administration of interceptions. The ICAC is also

represented on sub-committees providing technical advice to the Consultative Committee.

NSW Corruption Prevention Committee Inc

A committee of public sector officers to promote corruption prevention strategies through corruption prevention forums and by encouraging formal and informal networks of practitioners.

Ombudsman's Liaison Network Group

This Committee was established to ensure appropriate liaison between similar oversight bodies.

Protected Disclosures Act Implementation Steering Committee

The Committee develops strategies to promote effective implementation of the Act.

APPENDIX 12 – ICAC PUBLICATIONS 2001-02

Publications

Investigation reports

Report on investigation into matters concerning John Kite and the National Parks and Wildlife Service (December 2001)

Report on investigation into matters arising from a Ministerial Statement to the Legislative Assembly on 10 April (August 2001)

Garbage drains and other things: An examination of conduct of two Liverpool City Council workers (July 2001)

Corruption Prevention publications

No excuse for misuse: Preventing the misuse of council resources (May 2002)

Taking the devil out of development: Exploring corruption risks in local government administration of

development applications. Interim report (May 2002)

Fact-Finder: A 20-step guide to conducting an enquiry in your organisation (May 2002)

Responding to fraud: An ICAC Discussion Paper (April 2002)

Taking the whiff out of waste: Identifying the potential corruption risks in the waste sector (April 2002)

Do-It-Yourself Corruption Resistance Review (March 2002)

Codes of conduct: The next stage (March 2002)

Recruitment and selection: navigating the best course of action (March 2002)

Taking the devil out of development: Exploring corruption risks in administration of development applications by local councils. Discussion paper (November 2001)

Preserving paradise: Good governance guidance for small communities - Lord Howe Island (November 2001)

Members of non-English speaking background communities: Obstacles to reporting corrupt conduct. Discussion paper. November 2001)

ecorruption: eCrime vulnerabilities in the NSW public sector. Summary report (September 2001)

Managing risk: Reducing corruption risk in local government. Guidelines 1. Taking the con out of contracting (September 2001)

Annual Report

ICAC Annual Report 2000-2001 (October 2001)

ICAC Annual Report 2000-2001 summary (October 2001)

Corruption Matters

Corruption Matters No 20 April 2002

Corruption Matters No 19 November 2001

APPENDIX 13 – SUMMARY OF SPEECHES AND PRESENTATIONS BY ICAC OFFICERS DURING 2001-02

Date	Organisation	Speaker	Subject	Venue
25/7/01	Local Government Rangers – Annual seminar	Stephanie Cooke	Roles of the ICAC and the local government research	Sunnybrook Convention Centre, Warwick Farm
2/8/01	Professor Sung-Don Hwang, Hankuk University of Foreign Studies, Seoul, Korea	Angela Gorta Bronwen Dalton	Presentation on the ICAC, its role, functions and research	ICAC
13/8/01	Korean Parliamentary visitors	Grant Poulton	Overview on role and functions of CPER Division and the Commission's organisation and functions	ICAC
14/8/01	Supervision Office of State Family Planning Committee of China	Grant Poulton Yvonne Miles Stephen Osborne	ICAC overview on role and functions and briefing on investigative processes	ICAC
31/8/01	Criminal Justice Commission, QLD.	Grant Poulton	Managing the Impact of an investigation – panel session	CJC, Brisbane
12/9/01	Heads of Criminal Intelligence Agencies Conference	Mal Brammer	Panel Discussions	Canberra
26/9/01	Public Sector Quality Network Conference	Grant Poulton	Knowledge Management – the real meaning behind the buzz	The Blaxland Hotel, Ryde College of TAFE, Ryde
9/10/01	10th International Anti-Corruption Conference	Angela Gorta	Four ICAC Tools for Measuring Corruption Resistance	Prague, Czech Republic
11/10/01	Convocation University of Sydney	Commissioner Irene Moss	"Integrity and the Enterprise University"	Parliament House Sydney
17/10/01	Office of Inspector General, East Timor	Mal Brammer Yvonne Miles	Welcome, overview and briefing session on the Commission's functions, role and organisation	ICAC
25/10/01	Hunter Region Organisation of Councils General Managers Advisory Committee, Singleton	Grant Poulton, Stephanie Cooke	Presentation on the work being conducted by Corruption Prevention Education and Research Division	Singleton
26/10/01	Centre for Research and Training in Civics, University of Sydney	Angela Gorta	Understanding Corruption: Its Nature, Ongoing Problems and Approaches to Control	University of Sydney
29/10/01	Australian Federal Police Officers	Jock Lang John Pritchard	Pre-embarkation briefing prior to overseas posting	ICAC
30/10/01	Indonesian delegation, Local Autonomy Bureau, Jakarta	Jock Lang Grant Poulton	ICAC overview on role and functions and briefing on investigative processes	ICAC
19/11/01	CEO's of Small Agencies Forum	Commissioner Irene Moss	"Managing Change in a Challenging Environment"	Sydney
28/11/01	Mr Park Won-Soon, Secretary-General, People's Solidarity for Participatory Democracy, Korea	Yvonne Miles Jock Lang Jay Lawrence	Presentation on the ICAC and its role and functions	ICAC
10/12/01	Executive and Senior Management Workshop, SRA	Commissioner Irene Moss	Ethical Leadership	Sydney

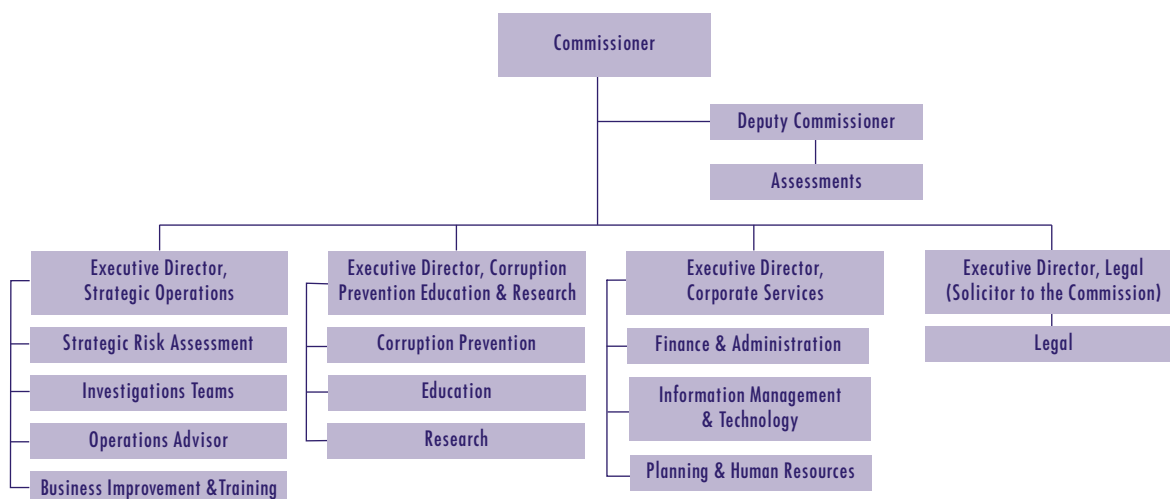
Date	Organisation	Speaker	Subject	Venue
12/12/01	Chinese delegation, Taizhou Supervisory Bureau	Yvonne Miles Mike Enders John Pritchard	Presentation on the ICAC and its role and functions	ICAC
20/12/01	Chinese delegation, Hubei Province Procuratorial Bureau	Ray Kent John Warburton John Pritchard	Welcome, overview and briefing session on the Commission's functions, role and organisation	ICAC
22/1/02	Australian Federal Police Officer	Steve Osborne Roy Waldon	Pre-embarkation briefing to officer prior to overseas posting	ICAC
11 & 12/2/02	Australian Federal Police Officers	Steve Osborne John Pritchard	Pre-embarkation briefing to eight officers prior to overseas postings	ICAC
15/2/02	AusAid delegation of journalists from Mindanao	Steve Osborne	Briefing on roles and functions of ICAC	ICAC
21/2/02	IIR	Grant Poulton	9th Annual Conference on Preventing Fraud & Corruption in : Government "Corruption Risk Management – Going beyond what comes in the door"	Parkroyal Hotel, Darling Harbour
5/3/02	National Ombudsman Commission of Indonesia	Wingo Chan Tony Marsden David O'Sullivan	Presentation on the ICAC and its role and functions	ICAC
15/3/02	Australian Federal Police Officer	Andrew Patterson John Pritchard	Pre-embarkation briefing to officer prior to overseas posting	ICAC
26/3/02	Indonesian Judges delegation	Grant Poulton	The roles and function of ICAC	Parliament House
April	Fraud Issues in the 21st Century Conference	Andrew Patterson	Participant in group discussions	
11/4/02	Australian Federal Police Officer	Andrew Patterson John Pritchard	Pre-embarkation briefing to officer prior to overseas posting	ICAC
21/5/02	Ada Evans Memorial Lecture, Sydney University Law Society	Commissioner Irene Moss	The Health of the Body Politic: Restoring Confidence in Our Institutions	University of Sydney
12/6/02	Property Council of Australia (NSW Division)	Commissioner Irene Moss	"Taking the Devil Out of Development"	Sydney
26/6 – 5/7/02	Department of Women (in conjunction with Premier's Council for Women's rural and regional outreach program Women on Wheels)	Stephanie Cooke, Jane Coulter	Spoke to over 500 women in the North and North Western regions of NSW about the role and functions of the ICAC	Various – North and North Western region of NSW

APPENDIX 14 – OVERSEAS TRAVEL BY ICAC OFFICERS DURING 2001-02

Officer	When	Countries Visited	Purpose	Cost
Angela Gorta	7-11 October 2001	Czech Republic	To attend and present at the 10th International Anti- Corruption Conference in Prague.	The Conference organisers funded the air fares, conference fees and two nights accommodation. The cost of remaining accommodation and incidentals (\$1628.00) was met by the ICAC.

ORGANISATIONAL PROFILE

APPENDIX 15 – ORGANISATIONAL STRUCTURE (AS AT 30 JUNE 2002)



APPENDIX 16 – CHIEF EXECUTIVE OFFICER AND SENIOR EXECUTIVE SERVICE

Statistics regarding the comparison of the number of executive positions with previous years and remuneration for executive officers level five and above are included in the following tables.

Executive remuneration, Commissioner and Executive Officers, Level 5 and above

The Commissioner, Irene Moss AO, was appointed for a five year term commencing 13 November 1999. The Commissioner's conditions of employment are contained in her instrument of appointment, made in November 1999. The salary is calculated at 160% of the remuneration of a

NSW Supreme Court puisne judge. The total remuneration package (inclusive of superannuation contributions) is currently \$374,784. No fringe benefits were paid for the relevant reporting period.

The Deputy Commissioner, Kieran Pehm, was appointed for a two year term commencing 12 February 2001. He is remunerated at the Senior Executive Service Level 5. The total current remuneration package for the Deputy Commissioner is \$200 615.

Increases to the Commissioner's remuneration are in line with those provided by decisions of the Statutory and Other Offices Remuneration Tribunal for puisne judges, normally effective from 1 October. On 1 October 2001, the effect of the determination for Supreme Court judges was to

award the Commissioner a 3.7% increase in salary while the Deputy Commissioner and Executive Directors were separately awarded a 3% increase.

Commissioner's Review of Performance of Deputy Commissioner

The Commissioner reviewed the Deputy Commissioner's performance at the end of 2001-02. In her review, the Commissioner stated that she was of the view that Mr Pehm had delivered on his performance objectives to a high degree, and exercised a pivotal role in all aspects of management of the ICAC. He was responsible for substantial improvements in systems, structures and productivity. He continues to be an invaluable member of the executive management team.

Table 8: Total Number of Executive 2001-2002 compared to previous two years

SES Level	1999-2000	2000-2001	2001-2002
Commissioner	1	1	1
Level 5	1	1	1
Level 3		1	1
Level 2	1	1	1
Level 1	1	1	2
Total	5	5	6

Table 9: Number of Female Executive officers 2001-2002 compared to previous two years

Year	Number
2001-2002	2
2000-2001	2
1999-2000	2

APPENDIX 17 – ACCESS AND EQUITY

In July 2001, to reflect the full scope of the EEO Committee's role, staff nominated to change the name of the Committee to the Access and Equity Committee. The Committee has representatives from each Division as well as two representatives from Planning and Human Resources and the Executive Director of Corporate Services.

A major function performed by the Committee during the year was the review of the Commission's draft Disability Action Plan prior to its ratification by the Executive and submission to the Department of Aging, Disability and Home Care and the Commonwealth Human Rights and Equal Opportunity Commission.

As a means of achieving the ICAC's EEO Management Plan's key aims, the Access and Equity Committee reviewed and updated the statistics associated with EEO groups across the Commission. In addition, the Committee devised strategies to enable the Commission to increase its staff numbers in areas such as Aboriginal and Torres Strait Islanders, people whose first language isn't English, people with a disability and people with a disability requiring adjustment in line with Government benchmarks and targets.

The Committee also reviewed recruitment statistics for the previous twelve month period to

Table 10: Benchmarks

Representation	ICAC	Benchmark or Govt Target
Women	52%	50%
Aboriginal People & Torres Strait Islanders	0%	2%
People Whose Language First Spoken as a Child was not English	18%	19%
People with a Disability	7%	12%
People with a Disability Requiring Work-related Adjustment	1.9%	7%

Distribution Index	ICAC	Benchmark
Women	83	100
Aboriginal People & Torres Strait Islanders	n/a	100
People Whose Language First Spoken as a Child was not English	n/a	100
People with a Disability	n/a	100
People with a Disability Requiring Work-related Adjustment	n/a	100

determine the number of women applicants that were successful in securing positions. The strategies formulated by the Committee for increasing position specific gender balances have been forwarded to Planning and Human Resources for incorporation into a revised Recruitment and Selection Policy.

The Committee, in conjunction with the Planning and Human Resources Section, continued to oversee the implementation and adherence to the strategies

previously developed to ensure the execution of the ICAC's EEO Plan. A review of all draft advertisements to ensure that they were discrimination free and designed to encourage the widest pool of candidates was undertaken during the year.

NSW Government Action Plan for Women

The ICAC's EEO Management Plan encompasses all activities in relation to women.

APPENDIX 18 – DISABILITY PLAN

The ICAC has a strong commitment to equity and diversity, in both the workplace and in dealings with our clients. As such, the ICAC is committed to the inclusion of people with disabilities in all aspects of its operations and service delivery. To ensure that this commitment is

realised, the ICAC developed a Disability Action Plan (2002 – 2005) in accordance with the NSW Government's Disability Policy Framework (1998) and in consultation with the Commission's Executive and Access and Equity Committee as well as the Department of Aging, Disability and Home Care. The development of three yearly Disability Action Plans by Government Agencies is a

requirement of Section 9 of the NSW *Disability Services Act 1993*.

The Plan's key result areas ensure that people with disabilities:

- have equal opportunities to work and career development within the ICAC
- have equal opportunities for consultation and to attend training when employed within the ICAC

- have access to a complaints handling mechanism
- have access to generic services managed, provided or funded by the ICAC and

- have an ongoing role in the development and monitoring of this Plan.

The Disability Action Plan demonstrates the ICAC's

commitment to minimising and, where possible, eliminating discriminatory practices and increasing access to services and premises for people with disabilities.

APPENDIX 19 – ETHNIC AFFAIRS PRIORITIES STATEMENT

The ICAC not only supports the principles of cultural diversity, it also strives to observe these principles in conducting its affairs. The ICAC recognises that approximately 16% of the NSW population do not speak English well or at all. Accordingly, the ICAC has taken steps to ensure that the whole of the NSW community is aware of its functions and how they can report corrupt activities.

As part of its ongoing operations, the ICAC will:

- Inform people from ethnic communities about significant developments by translating at least three media releases per year into five languages or more and circulating these to the ethnic press.

- Communicate with individuals who do not speak English well or at all by using the Telephone Interpreting Service or accredited interpreters whenever necessary to respond to callers and/or to establish communication.
- Make the website accessible to speakers of five major languages by placing the pamphlet 'Serving the NSW Community' on the website.
- Assist public sector agencies with significant numbers of clients who do not speak English well or at all to communicate with them about what to expect from public officials.
- Provide interpreters for hearings as required.
- Develop and maintain a directory of staff who speak

languages other than English to assist in emergency and informal situations.

- Ensure that staff are able to take leave for observance of holy days and essential religious duties as required.
- Ensure that a specific staff position is responsible for ethnic affairs matters both within the ICAC and to implement this Plan.

Strategies and objectives for implementing these outcomes were reflected in the ICAC's Ethnic Affairs Priorities Statement and Management Plan for 2001-02.

A key element in delivering these strategies was our work in promoting the ICAC to non-English speaking backgrounds. This initiative is described in detail at page 14.

Table 11: Staff numbers by Level 2001 - 2002

Level	Number								
	Total Staff	Respondents	Men	Women	Aboriginal People & Torres Strait Islanders	People from Racial, Ethnic, Ethno-Religious Minority Groups	People Whose Language First Spoken as a Child was not English	People with a Disability	People with a Disability Requiring Work-related Adjustment
< \$27,606		0	0	0	0	0	0	0	0
\$27,606 - \$36,258		0	0	0	0	0	0	0	0
\$36,259 - \$40,535	1	1	0	1	0	1	1	0	0
\$40,536 - \$51,293	32	32	4	28	0	9	6	2	1
\$51,294 - \$66,332	22	22	12	10	0	4	3	1	0
\$66,333 - \$82,914	33	33	23	10	0	12	7	1	1
> \$82,914 (non-SES)	18	17	12	6	0	4	2	3	0
> \$82,914 (SES)	6	6	4	2	0	1	0	0	0
Total	112	111	55	57	0	31	19	7	2

Table 12: Staff Numbers by Employment Basis 2001 - 2002

Employment Basis	Number								
	Total Staff	Respondents	Men	Women	Aboriginal People & Torres Strait Islanders	People from Racial, Ethnic, Ethno-Religious Minority Groups	People Whose Language First Spoken as a Child was not English	People with a Disability	People with a Disability Requiring Work-related Adjustment
Permanent Full-time	76	76	38	38	0	22	14	5	1
Permanent Part-time	9	9	0	9	0	2	1	1	1
Temporary Full-time	16	16	10	6	0	4	3	0	0
Temporary Part-time		0	0	0	0	0	0	0	0
Contract – SES	6	6	4	2	0	1	0	0	0
Contract – Non SES	5	4	3	2	0	2	1	1	0
Training Positions		0	0	0	0	0	0	0	0
Retained Staff		0	0	0	0	0	0	0	0
Casual		0	0	0	0	0	0	0	0
Total	112	111	55	57	0	31	19	7	2

Table 13: Employment Basis for 2001-02 Compared to Previous Three Years

Employment Basis -		1998-1999	1999-2000	2000-2001	2001-2002
Permanent	Full-time	112	102	87	76
	Part-time	12	14	15	9
Temporary	Full-time	8	8	21	16
	Part-time	1	2	3	0
Contract	SES	4	4	3	6
	Non SES	9	0	0	5
Total		146	130	129	112

This table is calculated using data provided to the Premier's Department for the NSW Public Sector Workforce Profile. The data are reported on a census date, meaning the figures reflect a headcount of staff on that particular day. The census date for 2001-02 occurred while recruitment was underway following the restructure of the Strategic Operations Division, Strategic Risk Assessment Unit and Corruption Prevention, Education and Research Division.

For a more accurate indication of staff trends over time, the following table sets out the reported average equivalent full time staffing over the year for the equivalent period.

Table 14: Average Full Time Equivalent Staffing 1998-99 to 2001-02

1998-99	1999-00	2000-01	2001-02
130	131	125	126

APPENDIX 20 – RISK MANAGEMENT AND INSURANCE ACTIVITIES

In 2001-2002, the ICAC engaged Deloitte Touche Tohmatsu (Deloitte) to facilitate a high-level business risk assessment of the ICAC'S operations. The main objective of the risk assessment was to produce a three-year strategic internal audit plan for the ICAC. The Business Risk Assessment and Strategic Audit Plan was completed in April 2002. A number of strategies and actions identified are now being

implemented.

Additional risk management initiatives undertaken in 2001-02 include the appointment of a Risk Management Adviser to develop and implement risk management principles and strategies for the ICAC. A number of ICAC officers have also attended Risk Management Workshops conducted by Standards Australia on the practical implementation of *AS/NZS 4360:1999 - Risk Management* in all areas of the ICAC's day-to-day activities.

The NSW Treasury Managed Fund (TMF), through the GIO,

provides insurance cover for our workers compensation, motor vehicles, public liability, property and miscellaneous items.

Premiums payable for 2001/2002 were \$105,000 compared to \$98,403 for the previous year.

Client reporting systems have been developed and implemented between TMF management and the ICAC to ensure long-term claims management processes are consistent and current.

The emphasis over the last reporting year has been on good management of workers compensation.

APPENDIX 21– OCCUPATIONAL HEALTH AND SAFETY

To allow members of the Occupational Health and Safety Committee obtain an understanding of the requirements of the *OHS Act 2000* and the OHS Regulation 2001, refresher training was provided. In-service sessions on the new Act and its accompanying Regulation were also provided to the ICAC'S senior managers.

Prior to relocating to the Piccadilly Building, the OHS Committee met to discuss the implications of the move and the identification of any known hazards. The Committee organised a Public Service Association (PSA) OHS representative to undertake a workplace inspection of the new premises to identify any potential problems that would need immediate redress.

As part of the ICAC'S OHS relocation planning, ergonomic assessment and training on the

new work stations was arranged for all staff. HealthQuest was also employed to undertake visual display screen testing and postural assessment of all staff to assist with a safe transition into the new work environment.

Both the OHS Committee and the First Aid Committee have met on a regular basis since moving from Redfern to the Piccadilly Building. They have undertaken such tasks as updating signage and situating the First Aid boxes and evacuation/emergency procedures around the two floors and basement area of the ICAC. New Floor and Area Wardens were nominated to service the two floors. They attended the training provided by Building Management on the Piccadilly Evacuation procedures.

The OHS Committee also participated in a review of the ICAC'S draft OHS and Risk Management Plan. The feedback from the Committee was incorporated into the Plan's final draft, which was subsequently put

forward for ratification by the Executive in July 2002.

All ICAC Senior Managers were provided by GIO with a session on the new Workers Compensation legislation and the impact of the changes on their roles as managers.

During the year there were 38 work-related incidents. Three became workers compensation claims and two were accepted by the GIO. Details of these incidents are included in Table 15.

Table 15 – Occupational Health and Safety Incidents, Injuries and Claims

Body Stress.	Mental Stress	Fall, Trip, Slip	Hit by Object	MVA	Other/ Un-specified	Heat, Rad. Elec.	Hitting Objects	Sound, Pressure	Chem.	Bio.	Total Injuries	No. of Workers Comp Claims	No. of Workers Comp Claims accepted
14	1	10	5	1	2	1	3	0	0	1	38	3	2

APPENDIX 22 – PAYMENT PERFORMANCE INDICATORS**TABLE 16: Accounts Payable**

	Current \$	30 Days \$	60 Days \$	90 Days \$
1st Quarter	43,837	-	-	-
2nd Quarter	4,693	300	-	-
3rd Quarter	59,077	8,253	-	-
4th Quarter	10,746	-	-	-

TABLE 17: Payments on Time

	Accounts Paid on Time		Amount Paid on Time \$	Amount Paid \$
	Target	Actual		
1st Quarter	95%	91%	1,693,466	1,865,412
2nd Quarter	95%	83%	2,233,052	2,682,523
3rd Quarter	95%	90%	2,316,476	2,579,424
4th Quarter	95%	93%	2,696,218	2,884,009
Annual Average	95%	89%		

Commentary

The ICAC sets targets of 95 per cent and problem level indicators of 90 percent in relation to the prompt payment of accounts. As indicated above, the ICAC's performance regarding the prompt payment of accounts is lower than established targets but generally higher than the problem level indicator of 90 percent. Late payments eventuated due to:

- suppliers only offering seven day credit terms
- delays in receipt of invoices from suppliers, which reduces the amount of time in which the Commission has to make payment

- disputed invoice amounts and amendments to subsequent invoices
- internal delays in the certification of performance of services / approvals prior to payment
- 100 percent staff turnover in Finance during the second quarter.

Action taken to improve performance:

1. invoices are stamped on the day it is received in Finance. This determines if late payment is due to late receipt
2. invoices are distributed for certification for services / performances with a date

specified to be returned to Finance

3. invoices are tracked in Finance to ensure all invoices are returned on time.

Interest expenses paid:

The ICAC incurred interest expenses of \$1,436, charged on two payments not made on time:

1. \$1,174 was paid to the SAS Trustee Corporation for Superannuation payments back-dated from October 2001
2. \$262.00 was paid to the Commissioner of State Revenue on 22 January 2002 for the December 2001 period, due to staff absences over the Christmas / New Year period.

APPENDIX 23 – CONSULTANCIES

In 2001-2002, the ICAC Spent \$30,584.26 on consulting services from Doug Pearson and Associates.

Doug Pearson and Associates was engaged to review implementation of the Commission's revised procurement policy and practices.

APPENDIX 24 – ELECTRONIC SERVICE DELIVERY

The ICAC met the target of having all appropriate electronic services delivered by 31 December 2001. The ICAC interconnectivity project, allowing secure connection to other agency databases, was completed ahead of the December 2001 target. All reporting targets in the period have been met.

APPENDIX 25 – ENERGY MANAGEMENT

The ICAC has continued its practice of buying an energy mix of 10 percent SEDA-accredited Greenpower and 90 per cent Hydropower. This is a practical initiative to reduce greenhouse emissions for electricity consumed by the organisation.

Energy consumption by the ICAC has been reduced with the organisation's relocation from Cleveland Street, Redfern to Castlereagh Street in Sydney in December 2001.

Additional practical initiatives within the ICAC include the use of power-saver enabled IT and general office equipment. Staff

awareness on energy conservation and greenhouse emission reduction has been heightened with the labelling of illumination light switches within the Commission with "Please Turn Off After Use" labels.

APPENDIX 26 – WASTE REDUCTION AND PURCHASING POLICY

The ICAC is committed to implementing the NSW Government's Waste Reduction and Purchasing Policy (WRAPP). During 2001-02, the ICAC undertook the following initiatives in response to WRAPP.

Reducing the generation of waste (waste avoidance and minimisation)

- Use of internal emails and attachments to reduce the number of hardcopy documents
- Increased use of the ICAC's Intranet for the storage of and access to electronic copies of files, reports and studies etc (Corporate Information)
- Online access to journals, periodicals, law reports and other publications via the Internet
- Provision of published ICAC reports on the ICAC's web-site (www.icac.nsw.gov.au)

- Staff training in electronic management.
- Resource recovery (waste reuse and recycling)

- Small "individual" paper recycling bins situated at all workstations
- Large recycling bins situated in all printer/photocopier rooms
- All office paper is either recycled or shredded and recycled
- All cardboard containers and products are collected for recycling
- All used toner cartridges are recycled.

During 2001-02, 412 240 litre recycling bins of non-confidential material were identified and transferred for recycling at the Redfern premises. During the ICAC's relocation in December 2001, expanded recycling capacity was obtained to recycle a considerable volume of surplus material identified prior to the move.

As a result of the relocation, 160 240 litre recycling bins of non-confidential material were identified and transferred for recycling. The present leasing arrangements at our CBD premises includes building management responsibility for waste and recycling services, so no calculation of the amount of material recycled is possible.

The use of recycled material (purchase of recycled-content materials)

- All A3 and A4 paper purchased by the ICAC is 50% recycled
- All ICAC reports are printed on "Plantation" grade recycled paper
- All toner cartridges used by the ICAC, with the exception of colour and photocopier toners, are recycled.

During 2001-02, we purchased 1728 reams of paper, which was 50% recycled.

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HOW TO USE THE ICAC'S SERVICES

Our work involves:

- *the public sector of NSW*, which includes all NSW government departments, statutory authorities, local councils and councillors, judicial officers and Members of the NSW Parliament. The ICAC receives reports of corruption allegations, provides prevention and education assistance, and can investigate public sector agencies and individuals
- *private sector organisations and individuals* who, by interacting with the public sector, may fall within the ICAC's jurisdiction. The ICAC can receive corruption allegations from or about these organisations and individuals, and can investigate them. Corruption prevention and education assistance is also available
- *the people of NSW*, who can report instances of alleged corruption to the ICAC.

Giving information to the ICAC about corruption

You may write to, visit or phone the ICAC with information about possible corruption. Information about possible corruption may also be provided through our website, www.icac.nsw.gov.au. Enquiries and reports should be addressed to the Assessment Section. We can provide guidance on how to supply the information and explain how the information will be used.

Obtaining advice and education assistance

Corruption prevention advice is available by phoning the ICAC or by requesting it in writing. Advice is freely available to all members of the NSW public service, and any individual or agency interacting with the public sector. Assistance is provided for individuals and for agencies interested in developing their corruption resistance. Initial enquiries can be directed to the ICAC by phone.

Publications and resources

All our publications are available free of charge on our website, www.icac.nsw.gov.au. To obtain printed copies, phone the ICAC. All other matters can be directed to the ICAC receptionist, who will direct your enquiry to the relevant area of the ICAC.

What you can expect from the ICAC

You can expect the ICAC will:

- maintain as its primary concern the protection of the public interest and the prevention of breaches of the public trust
- be tenacious in fighting corruption and maintaining its independence
- deliver services which are useful, practical, strategically targeted and appropriate to needs
- respond to customer needs in a way which maximises the impact of ICAC activities and makes the best use of resources
- carry out its duties impartially and with integrity
- meet the standards of ethical behaviour and accountability that the ICAC promotes in its dealings with other government organisations
- have regard for the impact of its work on organisations and individuals.

Feedback about service

The ICAC welcomes your input about the service you have received. Comments about your experience can help improve ICAC responsiveness. Comments may be made by phone or in writing to the manager of the area you dealt with or to the Executive Director, Corporate Services.

Complaints about ICAC staff

If you have a complaint about the conduct of ICAC staff, this information should be made in writing or by phone to the Solicitor to the Commission. The ICAC treats such matters seriously. Depending on their seriousness, complaints may be either investigated by a member of senior management or a person from outside the ICAC. The ICAC Commissioner will usually personally review the investigation and any proposed action. The investigation of any matters involving corrupt conduct will be reported to the Operations Review Committee.

One thousand copies of this Annual Report were printed at a cost of \$7.65 per copy. Three thousand summaries were produced at a cost of 32 cents per copy.

ISSN Number: 0 642 19652 4.

WHAT IS THE ICAC AND WHAT DO WE DO?

The Independent Commission Against Corruption (ICAC) is a New South Wales public sector organisation, created by the *Independent Commission Against Corruption Act 1988 (ICAC Act)*.

Although a public authority, it is independent of the government of the day, and is accountable to the people of NSW through the NSW Parliament.

In order to build and sustain integrity in the NSW public sector, the ICAC:

- Assesses and identifies corruption risks through the analysis of complaints made by individuals and reports made by Chief Executive Officers of public authorities and through research into the nature of corruption risks
- Investigates corrupt conduct not just to make findings about individuals, but to examine the circumstances that allowed the corruption to occur. Recommendations are made and guidance is given to prevent these circumstances recurring
- Builds corruption resistance by providing advice, information and training to remedy potential or real problems, by tailoring solutions to address major risks or assist targeted sectors and by working with the public sector to build their capacity to identify and deal with corruption risks.

To ensure the proper and effective performance of these functions, the ICAC:

- Is accountable to the people of NSW, through the Parliament, and meets statutory and other reporting requirements
- Manages, supports and develops its staff in support of these activities.

The Annual Report is structured around the five key functions outlined above.