



INDEPENDENT
COMMISSION
AGAINST
CORRUPTION

ANNUAL REPORT
TO 30 JUNE 1992

ISSN 1033 - 9973

© This work is copyright.



INDEPENDENT COMMISSION AGAINST CORRUPTION

The Hon Max Willis, MLC
President
Legislative Council
Parliament House
SYDNEY NSW 2000

The Hon K R Rozzoli, MP
Speaker
Legislative Assembly
Parliament House
SYDNEY NSW 2000

Dear Gentlemen

In accordance with section 76 of the Independent Commission Against Corruption Act 1988, the Commission hereby furnishes to each of you its Annual Report for the year ended 30 June 1992.

The Report was prepared in accordance with the requirements of section 76 Independent Commission Against Corruption Act 1988 and the requirements of the Annual Reports (Departments) Act 1985.

If Parliament is not in session when this Report is ready for publication I recommend, pursuant to section 78 of the Independent Commission Against Corruption Act 1988, that the Report be made public forthwith.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Ian Temby', followed by a period. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Ian Temby QC
Commissioner

INDEPENDENT COMMISSION AGAINST CORRUPTION

ADDRESS: 191 Cleveland Street (Cnr George Street)
REDFERN NSW 2016

POSTAL: GPO Box 500
SYDNEY NSW 2001
DX 557 SYDNEY

TELEPHONE: (02) 318 5999
(008) 463 913
(008) 463 909

FACSIMILE: (02) 699 8067

Members of the public wishing to communicate with the Commission can write, ring (the switch is open for the purpose between 8am and 6pm Monday to Friday) or call in to the Commission premises. All public hearings of the Commission are advertised in the Law Notices, and anyone interested can attend.

Senior Commission personnel as at 30 June 1992 are listed below:

Ian Temby QC	Commissioner
Peter Lamb APM	Director of Operations
Ann Reed	Director of Corruption Prevention
Deborah Sweeney	Solicitor to the Commission
Stela Walker	Director of Administration and Education
Simon Stretton	General Counsel
Carolyn Davenport	General Counsel

CONTENTS

COMMISSIONER'S OVERVIEW	vii
Chapter 1: CHARTER AND MANAGEMENT	1
Establishment	1
Legislation, Aims and Objectives	1
Statutory Appointments	2
Senior Management	3
Operations Review Committee and the Parliamentary Committee on the ICAC	4
Corporate Plan	7
Chapter 2: OPERATIONS AND COMPLAINTS	8
Investigative teams	8
Security	8
Technical Services	9
Assessments	9
Complaints and Reports	9
Matters Referred to the Commission	11
Reports by Schedule	12
Analysis of Complaints	13
Section 11 Reports - Comment	13
Operations Review Committee	14
Complainant Response	16
Information Furnished to Law Enforcement Agencies	17
Chapter 3: INVESTIGATIONS, HEARINGS AND REPORTS	18
Investigations - Statutory Framework	18
Powers	18
Hearings	20
Reports	21
The Planning and Building Department of South Sydney Council	22
Roadworks in the Shire of Kyogle	24
The New South Wales Film Corporation and Pepper Distribution	25

Local Government, Public Duties and Conflicting Interests	25
The Sydney Water Board and Sludge Tendering	27
The Metherell Resignation and Appointment	27
The Conduct of Peter Blackmore	30
Analysis of the Commission's Formal Work	31
Public Hearings Not Yet Reported	33
Unauthorised Release of Government Information	33
Informers	34
State Rail Authority - Trackfast and Plant Hire in the Northern Region	35
Other Investigations	36
Other Prosecutions	40
Recommendations in Reports - Prosecutions Not Commenced	41
Litigation	42
Costing of Investigations	42
Chapter 4: CORRUPTION PREVENTION	44
Functions and Strategy	44
Completed Projects	45
Projects in Progress	46
Project Reports	47
Monitoring	48
Advice	49
Privatisation and Contracting Out	51
Sponsorship	52
Sex Industry Legislation	52
Issues Publications	53
Codes of Conduct	54
Review of the Commission's Code of Conduct	54
Seminars and Training	55
Future Plans	57
Chapter 5: PUBLIC EDUCATION	59
The Education Unit	59
Schools	60
Public Speaking	60
Meetings and Seminars	60
Education Trips	61

Publications	61
Special Events	62
Multi-Cultural Outreach Campaign	63
Attitude Surveys	63
Media Relations	64
Investigation Reports	64
Future Plans	65
Chapter 6: LEGAL AND POLICY	66
Legal and Policy Department	66
Legal Change Affecting the Commission	67
Amendments to the ICAC Act	67
Freedom of Information (Amendment) Act 1992	68
Statutory Appointments Legislation (Parliamentary Veto)	
Amendment Bill	68
Service and Execution of Process Act	68
Telecommunications (Interception) Act	69
Cash Transaction Reports and Taxation Information	69
Legal Change Recommended by the Commission	70
Official Corruption Offences	70
Admissibility of Commission Transcripts	70
Commission Input to Proposed Whistleblower Legislation	70
Police Regulation 30	70
Chapter 7: ADMINISTRATION	72
Human Resources	72
Recruitment	72
Staffing Levels	72
Wages and Salaries	73
Equal Employment Opportunity	73
Performance Review	74
Staff Development and Training	74
Policy and Procedures	75
Dispute Resolution Procedures	75
Occupational Health and Safety	75
Senior Management Committee	75
Information Technology Working Party	75

Security Management Committee	76
Middle Management Meetings	76
Occupational Health and Safety Consultative Committee	76
Records Management	76
Information Technology Unit	77
Library and Information Services	78
Finance and Accounts	78
Major Assets and Major Acquisitions	78
Insurance and Risk Management	79
Funds Granted to Non-Government Community Organisations	79
Overseas Visits	79
Consultants	79
Cost of Printing Annual Report	80
Appendix 1: ORGANISATION CHART	81
Appendix 2: PROCEDURE AT HEARINGS	82
Appendix 3: COSTS OF INVESTIGATIONS	87
Appendix 4: ICAC CODE OF CONDUCT	88
Appendix 5: MAJOR SPEAKING ENGAGEMENTS	103
Appendix 6: COMMISSION PUBLICATIONS	105
Appendix 7: MEDIA STATEMENTS	108
Appendix 8: FREEDOM OF INFORMATION STATEMENT OF AFFAIRS	112
Appendix 9: FINANCIAL STATEMENTS	116
Appendix 10: ADDITIONAL FINANCIAL INFORMATION	134
Appendix 11: DISSECTION OF EXPENDITURE	135
Appendix 12: EXPENDITURE ON STORES AND EQUIPMENT	136
Appendix 13: CONSULTANCIES UNDER \$30,000	137
Index	139

COMMISSIONER'S OVERVIEW

During the past 12 months a great deal of solid productive work has been done. It is documented in this Report. The Commission has been able to identify and deal with further significant areas of public sector corruption.

The period since April has been dominated by "the Metherell affair". A short history of it is contained in Chapter 3. However since that was written the Court of Appeal has decided, by a majority, that the findings of corrupt conduct made against Mr Greiner and Mr Moore were wrong in law, and they were declared a nullity. As at the time this overview is written, the Commission has prepared a further Report to the Parliament which corrects the record and raises issues which must be considered in the context of a review of the Independent Commission Against Corruption Act 1988.

It must be acknowledged that the Commission is now a contentious body. This will pass with time. Present controversy largely relates to the role of the Commission in investigating the conduct of Ministers. The fundamental work of the Commission continues. It is generally accepted that there is a need for some change to the ICAC Act. What matters is to ensure that the Act is rectified in a manner which retains the independence and the effectiveness of the Commission in all its activities.

Highlights of the year were:

- . an increase of over 80% in complaints received from the public, and in work done by the Operations Review Committee;
- . eight investigation Reports were provided to the Parliament;
- . four Corruption Prevention projects were completed, and the Reports on three of them - into disposal and replacement of vehicles in local government councils, the allocation of boat moorings by the Maritime Services Board, and cash handling in public hospitals - were made public;
- . analysis of the Commission's work - see Chapter 3 - discloses a broad spread in terms of issues addressed, classes of people dealt with, and types of organisations examined;

- . the Education Unit is now a fully functioning entity, and is doing valuable work, particularly with school students;
- . a Research Unit has been established, and has embarked upon a major survey of public sector employees about their views on corruption;
- . new versions of the Commission's statement concerning procedure at public hearings, following amendments to the ICAC Act, and the Code of Conduct for Commission staff, have been published and are included as Appendices 2 and 4 respectively.

In the course of its work, particularly on the investigation side, the Commission deals with particular matters and particular individuals. However its function is not to determine criminal guilt, or to punish: that is the business of the courts. The Commission exposes facts to public view, because only an informed community can make judgments about conduct and standards. The Commission is not interested in pillorying individuals.

Above all else the Commission seeks beneficial change with a view to minimising corruption and opportunities for it. The reader is invited to consider this Report from that stand-point. Numerous examples will be found of changes which have happened as a result of Commission work. More are being worked upon by those responsible at the present time. To give but one example, there is reason to hope that by the end of calendar 1992 New South Wales will have Australia's first effective legislation requiring disclosure of political donations. It has been a long time coming, but will be worth waiting for.

As at 30 June work on the Commission's investigation into the release of confidential government information was practically complete. The Report has since been released (in August) and has aroused intense interest within New South Wales, elsewhere in Australia and overseas. There is every reason to think that the huge and highly organised trade in information held by governments about citizens is replicated elsewhere. Assistant Commissioner the Hon A Roden QC, who left the Commission when the Report was published, has done a remarkable job in measuring and documenting the problem area, which demands remedial action. I take the opportunity to thank Mr Roden for his work for the Commission, which commenced with the North Coast Report.

A number of prosecutions are at last reaching finality in the Courts. In most cases findings of guilt have resulted, and in a number of cases condign punishment has been meted out.

At the present time Reports are being written in relation to two large investigations, the hearings having been completed during the year under review. One relates to prison informers, the other to aspects of operations within the State Rail Authority. Both will be completed before the end of the 1992. The former was considerably set back by my involvement in the Metherell hearing.

The Commission has begun the second part of the Metherell investigation. It is proposed to seek a wide range of views on the rules for public sector appointments and hold public hearings, probably late in 1992. The Report should be completed early in 1993.

The next major job for the Commission is its current investigation into serious allegations of police misconduct. The terms of reference are contained in chapter 3. They require the Commission to investigate the nature, extent and effect of the relationship between police and criminals, with particular reference to stated areas of illicit activity. A systems issue of importance will be the handling by police officers of informers, and the adequacy of present procedures.

Hearings in this matter are scheduled to commence later this year, and are likely to run through calendar 1993. It is of course far too early to speak about likely outcome: it is in the nature of investigations that those conducting them do not know just what the end point will be. However the allegations made to the Commission, and material since gathered, are of such seriousness as to demand full and public examination.

Corruption is covert, insidious, and damaging to the fabric of society, this because it involves an abuse of public trust. It is difficult to tackle, and no single or simple approach will suffice. The Commission uses the three pronged approach mandated by statute. We strive in our investigations to ascertain the truth. We seek through corruption prevention work to achieve systemic change, so as to reduce corruption opportunities. Our public education work helps people attain their rights without having to use illicit means. All of this is done with a view to improving levels of integrity in the public sector.

Redfern
1 September 1992

Ian Temby QC
Commissioner

Chapter 1

CHARTER AND MANAGEMENT

Establishment

The Independent Commission Against Corruption is a statutory corporation, established by the Independent Commission Against Corruption Act 1988. The Commission commenced its operations on 13 March 1989.

The enactment of the Act and establishment of the Commission was a component of the program of the Liberal-National Party Government, elected in March 1988, to restore the integrity of public administration and public institutions in New South Wales.

Legislation, Aims and Objectives

The Independent Commission Against Corruption Act 1988 (the Act) bestows upon the Commission its functions and powers. The Commission's aim is to minimise corruption in the public sector, by the performance of its functions. The Commission's three principal functions are set out in s13 of the Act and are as follows:

- . Investigation: to investigate alleged corrupt conduct, ascertain the facts and report them, through Parliament, to the public, and provide evidence to prosecuting authorities, and information to public authorities, where appropriate.
- . Corruption Prevention: to reduce opportunities for corruption by advising the public sector about changes to laws, procedures and work systems.
- . Public Education: to educate the public and public authorities about the detrimental effects of corrupt conduct, strategies to combat corrupt conduct and the importance of maintaining the integrity of public administration, and to thereby achieve positive attitudinal change.

In performing its functions the Commission is required by the Act to regard the protection of the public interest and the prevention of breaches of public trust as its paramount concerns.

The Commission's "clientele" is the public of New South Wales and in a narrower and

different sense the New South Wales public sector. The Commission is based in Sydney but aims to spread its work broadly around New South Wales. It does this particularly by education trips to country areas and investigations and corruption prevention projects in country areas and regional centres outside Sydney.

The Commission is given powers and functions in respect of corrupt conduct by or affecting public officials. Corrupt conduct is defined widely in ss7, 8 and 9 of the Act, to include dishonesty or favouritism in the exercise of official functions, misuse of official information, a breach of public trust and specified offences including fraud, bribery and perverting the course of justice. To amount to corrupt conduct, conduct must also constitute or involve a criminal or disciplinary offence, or reasonable grounds for dismissing a public official or terminating his or her services.

Corrupt conduct may be committed by public officials in the state and local government public sectors, or by private individuals seeking to adversely affect the exercise of a public official's or public authority's official functions.

Statutory Appointments

The Commissioner is appointed by the Governor, pursuant to the provisions of the Act, for a term or terms not exceeding five years. The Commissioner exercises the statutory functions and powers of the Commission, including presiding over hearings in investigations and preparing reports to Parliament. The Commissioner also acts as chief executive of the Commission. In this role he provides the strategic direction for the Commission, is responsible for formulation and management of Commission policy, and makes decisions about significant matters of administration, staffing and expenditure.

The current Commissioner, Ian Temby QC, commenced his five year term on 13 March 1989. Mr Temby practised law in Western Australia from 1966, after obtaining an Honours degree in Law, and was appointed a Queen's Counsel in 1980. In 1984 he was appointed as the first Director of Public Prosecutions for the Commonwealth of Australia, which position he held until late 1988. He was President of the Law Society of Western Australia in 1983 and President of the Law Council of Australia in 1983/84.

The Act permits the appointment of Assistant Commissioners, by the Governor, with the Commissioner's concurrence, to assist the Commissioner as the Commissioner requires. During the reporting year five Assistant Commissioners were appointed, to conduct particular investigations, by exercising statutory powers delegated to them by the Commissioner, presiding over hearings and preparing reports for Parliament. They were

Mr Adrian Roden QC, Mr Bruce Collins QC, Miss Margaret Beazley QC, Mr Ronald Sackville QC and Mr Bruce Oslington QC.

Senior Management

The Act provides for the employment of a Director of Operations and Director of Administration, and other staff as are necessary for the Commission to exercise its functions.

The Commission's senior management comprises:

- . Mr Peter Lamb, Director of Operations, responsible for the Operations Department, which contains investigative, assessments, analytical, technical and security staff of the Commission. Mr Lamb joined the Commission after a distinguished thirty year police career in the Australian Federal Police, in which he reached the rank of Assistant Commissioner. He specialised in investigation of narcotics, fraud and organised crime, and intelligence gathering. He has attended more than a dozen police training courses, in Australia and overseas, dealing with crime, policing, intelligence and corruption.
- . Mrs Stela Walker, Director of Administration and Education, responsible for the finance, personnel, administrative services, information services and public education staff. Mrs Walker has had a long career in administration in the Commonwealth public sector. Before helping to establish the Commission Mrs Walker was the Senior Assistant Director in the office of the Commonwealth Director of Public Prosecutions, responsible for national administration in that office.
- . Ms Ann Reed, Director of Corruption Prevention, responsible for the Corruption Prevention Department, which provides corruption prevention advice and services to the public sector. Ms Reed has a degree in architecture and a diploma of town and country planning. She has worked in both the private and public sector where she gained considerable experience in policy formulation.
- . Ms Deborah Sweeney, Solicitor to the Commission, responsible for the Legal and Policy Department, whose staff provide legal, policy and research advice and services to the Commissioner and the Commission. Ms Sweeney is a solicitor, with degrees in Law and Arts, who has had a public sector career in criminal law and policy advice. She is the co-author of a book on Commonwealth criminal law published in 1990.

. Mr Simon Stretton and Ms Carolyn Davenport, General Counsel, who provide legal and strategic advice to the Commissioner and Commission staff, particularly in respect of investigations, and act as counsel assisting in some Commission hearings.

Mr Stretton is a barrister with a degree in Law and a diploma of legal practice. He has practised in South Australia, the Northern Territory and New South Wales, mainly specialising in criminal law. He spent two years as General Counsel at the New South Wales Crime Commission, before joining the Commission in May 1992. He replaced Kevin Zervos, who had been General Counsel with the Commission during its first three years of operation.

Ms Davenport, a barrister and Crown Prosecutor, joined the Commission in August 1991 on secondment from the New South Wales Office of the Director of Public Prosecutions. She was preceded at the beginning of the reporting year by Mr Chris Maxwell QC, also a Crown Prosecutor on secondment to the Commission.

As well as being responsible for their own functions, the members of Senior Management constitute the Senior Management Committee. This Committee meets weekly to communicate and discuss issues and advise the Commissioner, twice yearly for discussions about strategic direction and significant policy for the Commission, and at extraordinary meetings called as necessary to discuss matters which require consideration outside of the usual weekly meetings.

Operations Review Committee and the Parliamentary Committee on the ICAC

These two Committees are not part of the management of the Commission, but require mention because they are important means of accountability for the Commission.

Operations Review Committee

The Operations Review Committee (ORC) is constituted by s58 of the Act. Its functions are set out in ss59 and 20(4) of the Act and can be generally described as advising the Commission in relation to investigations and complaints, more particularly the Commission's decisions to not investigate complaints, and the continuance or discontinuance of formal investigations. The work of the ORC is dealt with more fully in Chapter 2.

The membership of the ORC is, as required by the Act:

. the Commissioner, who is the Chairman;

- . an Assistant Commissioner, nominated by the Commissioner, currently Mr A Roden QC;
- . the Commissioner of Police, Mr A Lauer;
- . a nominee of the Attorney General, currently Mr L Glanfield, Director General of the Attorney General's Department;
- . four persons to represent community views, currently Mr D Brezniak, Mr D Nutter, both re-appointed in March 1992, Ms C Niland and Reverend B Ballantine-Jones, both appointed in March 1992, at which time Mr J Davenport and Sister M McGovern, who had served on the Committee since April 1989, retired from the Committee.

Parliamentary Committee on the ICAC

Part 7 of the Act provides for a joint committee of members of Parliament known as the Committee on the Independent Commission Against Corruption, with the following functions, as provided by s64 of the Act:

- . to monitor and review the exercise by the Commission of its functions;
- . to report to both Houses of Parliament, with such comments as it thinks fit, on any matter appertaining to the Commission or connected with the exercise of its functions to which, in the opinion of the Joint Committee, the attention of Parliament should be directed;
- . to examine each annual and other report of the Commission and report to both Houses of Parliament on any matter appearing in, or arising out of, any such report;
- . to examine trends and changes in corrupt conduct, and practices and methods relating to corrupt conduct, and report to both Houses of Parliament any change which the Joint Committee thinks desirable to the functions, structures and procedures of the Commission;
- . to inquire into any question in connection with its functions which is referred to it by both Houses of Parliament, and report to both Houses on that question.

The Committee is not authorised:

- . to investigate a matter relating to particular conduct; or
- . to reconsider a decision to investigate, not to investigate or to discontinue investigation of a particular complaint; or
- . to reconsider the findings, recommendations, determinations or other decisions of the Commission in relation to a particular investigation or complaint.

The membership of the Committee, required by the Act to be three members of the Legislative Council and six members of the Legislative Assembly was at the end of the reporting year:

- . Mr M J Kerr, MP (Chairman);
- . the Hon D J Gay, MLC (Vice Chairman);
- . the Hon J C Burnswoods, MLC;
- . Mr B J Gaudry, MP;
- . Mr J E Hatton, MP;
- . Mr A A Tink, MP;
- . Mr J H Turner, MP;
- . Mr P R Nagle, MP; and
- . the Hon S B Mutch, MLC.

The Commissioner gave evidence before the Committee in public hearing twice, on 14 October 1991 and 31 March 1992. The form of the hearings was the Commissioner giving answers to questions on notice and further questions without notice, about the Commission's operations generally and particular matters raised by the Committee. On the second date the Commissioner also gave evidence in response to questions from the Committee in relation to the third of the Committee's inquiries reported below.

During the reporting year the Committee conducted or announced four inquiries:

- . Inquiry into Matters raised by Paul Gibson MP. In this inquiry, the Report of which was published in December 1991, the Committee examined the actions of Commission officers in a particular operational matter, operational procedures for Commission investigations, the relationship between the Commission and agencies with investigative or prosecuting responsibilities and witness protection facilities available to people assisting the Commission.
- . Inquiry to examine pecuniary interest provisions for Members of Parliament and senior executives, and to examine the need for, and the suggested content of, a code of ethics for Members of Parliament, announced in December 1991.
- . Inquiry about the reports considered by the Operations Review Committee and the roles of the Commissioner and Assistant Commissioners, in which hearings were held in February and March 1992.
- . Inquiry to review the provisions of s52 of the ICAC Act concerning legal or financial assistance to witnesses at Commission hearings and to examine proposals to reduce the cost of legal representation before the Commission, announced in May 1992.

During the year the Committee also sent to the Commission, for comment and response, more than a dozen complaints received, mainly about particular investigations or procedures related to investigations.

Corporate Plan

This year, after three years of operation, and having been active in each of its three functional areas for a sufficient time, the Commission began preparation of its corporate plan. The Government requirement that each department or agency in New South Wales has a corporate strategy does not apply to the Commission, but the Commission decided to develop such a strategy or plan. The process was well advanced as at 30 June 1992.

In order to promote staff ownership of the plan the Commission has decided to use the plan over a period of time, with a view to finalising and publishing it early in the 1993 calendar year. Some adjustment may be necessary as a result of the review of the Act to be undertaken by the Parliamentary Committee on the ICAC.

Chapter 2

OPERATIONS AND COMPLAINTS

The Operations Department contains the investigators, analysts, security and technical staff, property management staff and assessments staff.

Investigative Teams

The investigators work in teams, consisting of investigators, analysts and support officers. They inquire into allegations of corrupt conduct at the preliminary inquiry stage and in formal investigations, which are reported in Chapter 3. In the formal investigation stage lawyers are assigned to teams. Commission investigators are either directly employed or seconded from the New South Wales Police Service.

Security

The Security Section is responsible for the implementation and administration of the Commission's Protective Security Program, which encompasses security vetting of all prospective staff and contractors, information security, physical security, computer security, staff protection and complainant/witness protection.

During the year a Witness Protection Plan was developed for the Commission. Section 50 of the Act allows the Commissioner to make such arrangements as are necessary to prevent harm to, intimidation or harassment of, a person who assists the Commission by providing information or appearing at a hearing. At times it may be necessary for the Commission to provide such protection to persons who assist the Commission, if that assistance would cause danger to them or persons associated with them. The Commission's Witness Protection Plan provides a first response to such situations; if necessary the services of another agency with suitable protection resources will be utilised.

During the year the Security Section liaised with the Chief Secretary's Department, the National Crime Authority and the Criminal Justice Commission of Queensland about security issues, mainly security vetting.

The Security Section expanded during the year with the recruitment of an Assistant Security Manager.

Technical Services

The Technical Services Group provides technical advice and support to assist the Commission to do its work. For example, the Technical Services Group has designed, manufactured or modified purpose built equipment to assist the Commission and its officers in their work, including modifications to audio recorders and audio mixers for Commission hearing rooms and portable recording kits for recording interviews in the field.

During the year the Technical Services Group assisted the New South Wales Police Service, Australian Federal Police, New South Wales Health Commission and the Water Board with advice, equipment or expertise in the areas of field recording of interviews and audio and video enhancement, and established liaison with the Technical Support Unit of the New Zealand Police Service.

Assessments

The Assessments Section receives information from the public and public authorities, examines it, recommends action and distributes information to the functional areas of the Commission.

Complaints and Reports

The Commission receives a wide variety of complaints and reports of corrupt conduct from members of the public and public authorities. Complaints are categorised, examined as to whether they involve corrupt conduct as defined in the Act and their significance assessed.

Matters received by the Commission are categorised in the following ways:

. Complaint: this is a matter which, in accordance with s10 of the Act, concerns or may concern corrupt conduct, as defined in ss8 and 9 of the Act. The term "corrupt conduct" need not be specifically used in a complaint as long as an allegation of such conduct is objectively discernible from the complaint, or with some further information or clarification. A complaint may be made orally or in writing. The complainant may remain anonymous and need not be affected by the matter. Complaints must be referred to the Operations Review Committee for advice prior to final decisions being made that they not be investigated.

. Report: reports are made to the Commission pursuant to s11 of the Act which requires the Ombudsman, Commissioner of Police and the principal officers of public authorities to report reasonably suspected corrupt conduct. These reports may be made on an individual basis or by way of periodic schedule.

. Information: matters are classified as information when they do not involve a complaint of corrupt conduct but convey information about a circumstance or behaviour which has the potential for corruption. If this circumstance or behaviour has a connection with a public official or public authority, it may well be worthy of further examination by the Commission.

. Inquiry: inquiries are generally questions from the public about what constitutes corrupt conduct. Inquiries may also be made by members of the public who believe they are being complained about or being investigated by the Commission. Members of the public making inquiries are encouraged to provide any information they may have about corrupt conduct.

. Dissemination: this category refers to information forwarded to the Commission, about corrupt conduct as defined in the Act, by government agencies which are not New South Wales public sector agencies, such as inter-state and Federal Police forces and law enforcement agencies.

. Own initiative: s20(1) of the ICAC Act allows the Commission to conduct an investigation on its own initiative. As a preliminary stage the Commission may conduct inquiries or obtain information about matters, for example, prompted by media reports.

. Referral from Parliament: both Houses of Parliament may refer a matter to the Commission for investigation: s73.

Matters which bear no relationship to the New South Wales public sector or do not involve circumstances which may be conducive to corrupt conduct, are classified as outside jurisdiction. A matter is regarded as being within the Commission's jurisdiction if it relates to one or more of the Commission's investigative, preventative or educative functions; concerns or may concern corrupt conduct or a circumstance or behaviour which could have potential for corrupt conduct; and has a connection with a public authority or public official, as defined in s3 of the Act.

A matter which does not concern or appear to concern corrupt conduct and does not relate to any of the Commission's functions will be classified as outside jurisdiction. Matters

in this category may be complaints against private sector organisations and Federal government bodies, with no connection to the public sector of New South Wales.

For a matter to be classified outside jurisdiction the approval of the Manager, Assessment Section is required. Matters so classified are reviewed on a monthly basis by a Commission lawyer.

Matters Referred to the Commission

During the year under review the Commission received 1438 individual matters. The following is a breakdown of those matters into categories in which they were classified.

Matters Received

Category	Number	Percentage of Total Matters
Complaints	942	65.5%
Individual s11 reports	312	21.7%
Outside jurisdiction	92	6.4%
Information*	86	6.0%
Own motions	5	0.3%
Parliamentary referrals	1	0.1%
TOTAL	1438	100%

Table 1

*** Information also includes inquiries from the public and disseminations from other agencies.**

The number of complaints increased by more than 88% over last year and there was a decrease of 46% in matters classified as outside jurisdiction (either not involving corrupt conduct, or a State public authority or official).

The 942 complaints mentioned above in Table 1 were made in a variety of ways with the most common form of contact being by letter. Of the 942 complaints received, 162 or 17.2% were anonymous. The following records the various forms of contact by complainants.

Method of Contact

Letter	54.1%
Telephone	28.8%
Complainant visiting the Commission	15.6%
Complaints received on country visits	1.5%

Table 2

Country visits by Assessments staff ceased in December 1991 as the number of complaints received did not justify this method. Alternatives are being pursued.

Reports by Schedule

A number of authorities and departments have been granted approval to provide all reports by way of schedule. This assists organisations which have a high volume of matters to be reported. Approximately 2650 matters were reported by schedule during the year. Some of these matters were reported by more than one authority. However, a report of a matter by one authority does not relieve other affected authorities from the obligation to report the matter to the Commission. Table 3 below shows the principal authorities which report by schedule, with the number of matters reported for the year expressed as a percentage.

Schedule Reporting

Police	77.1%
Ombudsman	8.5%
Department of Local Government & Co-Operatives (Local Govt only)*	4.8%
Roads and Traffic Authority**	3.1%
Department of School Education	1.9%
State Bank of NSW	1.5%
Totalizator Agency Board	1.2%
All others	1.9%
TOTAL	100%

Table 3

* The Department of Local Government reports some hundreds of matters to the Commission each month. These statistics only include those matters suspected of involving corrupt conduct.

** The RTA only commenced reporting by schedule in February 1992.

Analysis of Complaints

Complaints about police and local government form a significant proportion of the total complaints received by the Commission.

A percentage of complaints against police during the year were referred by prisoners. This was no doubt brought about by the Commission's investigation into the use of informers. These complaints varied but allegations of assault and/or being wrongly charged or convicted, were common.

The next most commonly complained about area of the public sector is local government. The Commission received a larger number of matters regarding local government in the first six months (July to December 1991) than the second six. This may be attributed to local government elections in September 1991 and the Commission's conflicts of interest in local government investigation in late 1991.

The most common allegations about local government concern pecuniary interest and conflicts of interest, including partiality and cronyism. Clearly members of the public perceive these activities as continuing in their councils and are prepared to complain about them.

A number of the complaints about councils do not involve issues of corrupt conduct. Unpopular decisions by council may give rise to complaints to the Commission and any other agency that has a connection with local government and its administration.

Publicity about the Commission's activities following the publication of a report or a public hearing generates complaints from the public regarding the issues in the reports or hearings.

Section 11 Reports - Comment

The requirement in s11 for principal officers to report reasonably suspected corrupt conduct assists the Commission in carrying out its investigative, preventative and educative work. To assist in the compilation of s11 reports, the Commission has previously published guidelines entitled "Effective Reporting of Corrupt Conduct Within Government Departments and Agencies" and "Guidelines for Reporting by Public Authorities of Possible Corrupt Conduct to the Commission".

In April this year the Commission conducted a review of s11 reports, in an attempt to

identify organisations which were not complying or inadequately complying with the statutory obligation. The Commission was also concerned about the lack of timeliness by some organisations in providing reports. The review identified that reports received by the Commission came from a narrow spectrum of public authorities and that a large number of organisations were either not reporting as much as they should, or not reporting at all.

The Commission expects that organisations with characteristics such as large numbers of staff, a significant operational budget, a high degree of activity in acquiring goods or services, a large capital works program, investigative or management functions or a large client base will supply s11 reports. It is also not uncommon for the Commission to receive few reports from organisations about which it receives many complaints. Organisations having these criteria were identified by the review.

Twenty such public authorities were selected and a letter was sent to the principal officers reminding them of their obligations. This action resulted in only a minor improvement in the number of agencies furnishing reports or periodic schedules. Accordingly, there remains a number of government departments and authorities apparently not fully observing the obligations of s11 reporting, which in the Commission's view is unacceptable.

To assist organisations in their obligations, the Commission is ready to discuss reports and s11. The Commission is also prepared to assist in developing arrangements with organisations whereby reports are forwarded by periodic schedule. Reporting by schedule is an efficient way of reporting for organisations which must report allegations of corrupt conduct frequently.

In order to make timely and informed decisions as to how to deal with matters, the Commission requires early and full reports of matters of possible corrupt conduct when they occur or when the organisation first becomes aware of them. Often the Commission will leave the investigation of the matter to the reporting agency or the police, taking only a monitoring or advising role, but in order to make such decisions on a properly informed basis, the Commission must have timely and full advice.

Operations Review Committee

The Operations Review Committee occupies a unique place as an accountability mechanism for complaint handling and investigative work undertaken by the Commission. No other agency in Australia with complaint handling or investigative functions has

such a Committee. The statutory role and membership of the Committee is set out in Chapter 1.

Every complaint received by the Commission is assessed, but because the Commission is highly selective about which matters are pursued to formal investigation stage, many complaints proceed no further than the assessment stage. In each such case a report is prepared for the ORC, recommending that the specific matter not be investigated.

The ORC considers that report and in turn makes a recommendation to the Commissioner as to whether the matter should be investigated or not. The ORC can request that further inquiries be made in respect of a matter if it chooses. This process serves to ensure that each complaint is examined properly.

During the year under review the ORC met 11 times. The ORC has undertaken significantly more work during this period, as the following statistics indicate:

	Reports* considered	Average per meeting
1990/91	379	34
1991/92	671	61

*** “Reports considered” relates to reports about s10 complaints received by the Commission. The ORC also considers regular progress reports on current formal investigations on a regular basis, and is advised at each meeting of new investigations commenced since the previous meeting.**

This year’s work has involved some 717 files, compared to 394 in the previous year. Complaints about the same matter are often combined into a single report for the ORC, as the different sources of information, when brought together, give a more complete picture. Hence 717 files were dealt with in 671 reports.

Commission staff provided regular briefings to the ORC during the course of the year. These briefings are designed to provide information to Committee members about the way in which the Commission performs its work, and have included detailed explanations relating to the investigative process, jurisdiction and complaint handling.

In addition, the Commission proposed, and the ORC adopted, an additional reporting system, known as “Status Reports”, designed to ensure timeliness in dealing with complaints made to the Commission. This system, in the initial stages, requires that any

complaint still being examined 18 months after receipt, must be reported to the ORC by way of a Status Report. This report must outline the issues, identify steps to be taken, and make recommendations including establishing a time frame for finalisation.

If such a matter remains active after two years, Status Reports must be submitted to the ORC on a monthly basis. The purpose of this process is to ensure that every complaint received by the Commission is properly examined and reported upon in a reasonable time frame.

It is the intention of both the Commission and the ORC to reduce the time frame for mandatory reporting from 18 to 12 months during the next year.

The ORC provides a significant discipline to the work of the Commission, ensuring both accountability and responsiveness, particularly with the presence of community representatives on the Committee.

Complainant Response

The Commission receives responses from some complainants about decisions to not investigate a matter and advice that matters are not within the Commission's jurisdiction.

On occasions, complainants are dissatisfied when they receive notification that the ORC recommended that a matter not be investigated. When this happens, complainants often request a review of that decision. When the Commission receives such a request, both the file and the ORC report are reviewed to determine if there is justification for further work to be done on the matter. This is particularly pertinent if additional information is provided by the complainant. A reiteration of old information by the complainant will not normally justify a further report to the ORC; the provision of new information will. Where the matter is reviewed and a decision is reached to not refer the matter again to the ORC, a further letter is sent to the complainant advising that the request has been considered and that the Commission has reaffirmed its previous decision.

Generally, complainants accept this advice, although the Commission is endeavouring to be more informative about the way complaints are handled. To this end, a brochure is currently being designed that will outline to complainants the general way in which the Commission deals with matters. It is anticipated that this information will assist complainants' understanding of why every complaint is not investigated by the Commission.

Another area of infrequent complaint occurs when the Commission advises that a matter

will not be investigated because it is not within its jurisdiction, and the complainant believes the Commission should be empowered to investigate private individuals and companies. This may indicate a further need for public education about the Commission's jurisdiction.

Public response to the Commission is often heightened by publicity given to the Commission's activities, particularly investigations involving public hearings. This publicity often generates a higher level of information from the public about similar or related matters. Also, the total number of complaints to the Commission increases each year, presumably as a result of the public's greater awareness of the Commission and its role and functions.

Information Furnished to Law Enforcement Agencies

Co-operation and close liaison continued with a number of law enforcement and information bodies including the New South Wales Police Service, Australian Federal Police, New South Wales Crime Commission, National Crime Authority and the Queensland Criminal Justice Commission. When the Commission receives information or allegations about police impropriety, and does not conduct an investigation, the information is provided to the New South Wales Police Service, generally after the ORC has considered the information and that proposed course, unless there is some urgency which requires that the information be provided earlier.

During the reporting year Memoranda of Understanding, relating to the provision or exchange of information, were entered into with the Australian Transaction Reports and Analysis Centre (AUSTRAC) (formerly, the Cash Transaction Reports Agency), Australian Bureau of Crime Intelligence and the Australian Taxation Office. Information provided to the Australian Taxation Office in the course of the Investigation into the Unauthorised Release of Government Information resulted in the Australian Taxation Office issuing assessments totalling more than \$2 million of which more than \$700,000 was recovered during the year.

Chapter 3

INVESTIGATIONS, HEARINGS AND REPORTS

Investigations - Statutory Framework

The source of the Commission's investigative function is s13 of the Act. The Commission may conduct an investigation on its own initiative, of a complaint made to it pursuant to s10 of the Act, of a report made to it pursuant to s11 of the Act or on the basis of a reference from both Houses of Parliament made pursuant to s73 of the Act: s20. The Commission must fully investigate a matter referred to it by the Parliament; in other cases it has the discretion as to whether or not to conduct an investigation, subject to having to consult the Operations Review Committee before deciding to not commence an investigation of a complaint: s20(4). The Commission may conduct an investigation even though no particular public official or other person has been implicated: s20(2). Each investigation commenced by the Commission, which power is exercised by the Commissioner, has documented "terms of reference" signed by the Commissioner.

The Commission uses the term "formal investigation" to mean an investigation commenced under s20, as distinct from "preliminary inquiries".

The Commission's statutory powers for obtaining information, documents or evidence are only used in the course of formal investigations.

Powers

The Commission may, under s21 of the Act, require a public authority or public official to produce a statement of information, and may, under s22 of the Act, require any person, not just public authorities or public officials, to produce specified documents or things. Both powers are exercised by notice in writing.

By virtue of s23 of the Act a Commission officer authorised in writing by the Commissioner may enter premises occupied by a public authority or public official, inspect any document or thing in the premises, and take copies of any document. The Commission has adopted the procedure of written authorisations specific to particular matters and premises.

The exercise of powers in ss21, 22 and 23 may be set aside on the grounds of legal

professional privilege, but not public immunity privilege or any duty of secrecy: ss24 and 25. The privilege against self-incrimination does not excuse compliance with the requirements in ss21 or 22, although information, documents or things may not be used in proceedings against the person producing them (other than proceedings for an offence against the Act) if the person objects to production at the time of production: s26.

An authorised justice or the Commissioner, on application by an officer of the Commission, may issue a search warrant if satisfied that there are reasonable grounds for doing so: s40. A Commission officer may apply for a search warrant for premises in which he or she reasonably believes that there are or will be things connected with a Commission investigation. To date all search warrants have been sought from authorised justices, as a matter of Commission policy.

Search warrants authorise Commission officers to enter premises, search for and seize documents or things connected with a Commission investigation. The regulatory scheme in the Search Warrants Act 1985 and regulations thereunder, which provides for notices to occupiers of premises being searched and reports to justices about the execution of warrants, applies to warrants issued to Commission officers.

Documents or things seized pursuant to search warrants may be retained by the Commission for as long as is reasonably necessary for the purposes of an investigation, and afterwards the Commission must deliver them to the person entitled to the property or to the Attorney General or the Director of Public Prosecutions: s47(2).

Section 19 of the Act permits the Commission to apply for the issue of a warrant for the use of a listening device under the Listening Devices Act 1984.

Statistics on the Commission's use of its statutory powers in the reporting year are contained in Table 4 on the next page. Investigations involving public hearings or public reports are reported individually, the remainder collected in "other".

								Hearing Days	
	s21	s22	s23	s35	s39	SW	LD	Public	Private
Confidential Information	2	45	-	193	-	2	-	46.5	26
South Sydney Council Planning & Building Dept	1	6	1	22	-	-	-	16	-
Kyogle Shire Road Works	-	11	2	44	-	-	-	18	3
Local Government Conflicts of Interest	1	2	-	5	-	-	-	13.5	-
Informants	3	67	4	127	41	-	-	41.5	40.5
Water Board Sludge Tendering	1	6	1	34	-	8	-	-	34
SRA - Trackfast and Plant Hire	5	101	3	47	-	11	-	49.5	0.5
Blackmore	-	5	-	10	-	-	-	-	4
Metherell Appointment	11	12	-	-	-	-	-	8	3
Other	12	36	13	10	6	14	5	-	7
TOTALS	36	291	24	492	47	35	5	193	118

Table 4

s21, s22 and s23 refer to notices issued pursuant to those sections, s35 denotes summonses, s39 denotes orders to produce prisoners, SW denotes search warrants and LD listening device warrants.

Hearings

The Commission may hold hearings for the purposes of an investigation: s30. Hearings are conducted by the Commissioner or an Assistant Commissioner. The Commission may hold hearings in public or in private, or partly in public and partly in private: s31. The previous form of s31, which required hearings generally to be in public, was amended in December 1991. The Commission may decide to hear closing submissions in private. In making decisions to hold hearings in public or in private the Commission is obliged to have regard to any matters which it considers to be related to the public interest. Those matters may include avoiding prejudice to current indictable criminal proceedings (as required by s18 of the Act), danger to a person's safety or well-being, the need to protect an informant's identity, unfair or unnecessary damage to reputation arising from anticipated evidence, or protection of confidential business secrets. The Commission may give directions as to the persons who may be present at a private hearing, and may make orders prohibiting publication of evidence at a hearing or the names of witnesses who have given evidence in private hearing: s112.

The Commission can summon a person to appear at a hearing to give evidence or produce documents or both: s35. If a witness objects to answering questions or producing documents on the basis of self-incrimination, the questions must still be answered and the documents produced but the answer or documents cannot be used against the witness in subsequent legal or disciplinary proceedings, other than proceedings for an offence against the Act: s37.

The Commission may permit a witness in a hearing, or a person, group or unincorporated association who is substantially and directly interested in any subject matter of the hearing, to be legally represented at the hearing: ss32, 33 and 33A.

The Commission's hearings procedures document was amended and republished in March 1992. The new procedures were provided to the New South Wales Bar Association and the Law Society of New South Wales, and subsequently published in the April 1992 issue of the Law Society Journal (Volume 30, No. 3) at pages 24 and 27. They are reproduced at Appendix 2 of this Report. They will be of assistance to witnesses and lawyers appearing at Commission hearings.

Reports

When the Commission holds a public hearing, or conducts an investigation pursuant to a reference from the Parliament, the Commission must provide a report to Parliament. The Commission may prepare reports in relation to any other investigation, that is investigations in which private hearings or no hearings are held. The Commission will sometimes conduct private hearings with a public report to Parliament at the end of the investigation.

The Commission is empowered to include in its reports findings of fact, findings of corrupt conduct by particular persons and opinions as to whether consideration should or should not be given to the prosecution of, or the taking of disciplinary action against, or the taking of action with a view to dismissal of, particular persons: s13(5) and s74A(2).

During the year the Commission furnished eight reports on investigations to the Parliament, as follows:

- . Report on Investigation Into the Maritime Services Board and Helicopter Services (10 July 1991).
- . Report on Investigation Into Tendering for Vinyl Floor Products (10 July 1991).

- . Report on Investigation Into the Planning and Building Department of South Sydney Council (18 December 1991).
- . Report on Investigation Into Roadworks in the Shire of Kyogle (30 January 1992).
- . Report on Investigation Into the New South Wales Film Corporation and Pepper Distribution (5 March 1992).
- . Report on Investigation Into Local Government, Public Duties and Conflicting Interests (24 March 1992).
- . Report on Investigation Into the Sydney Water Board and Sludge Tendering (18 May 1992).
- . Report on Investigation Into the Metherell Resignation and Appointment (19 June 1992).

The Report on Investigation Into the Conduct of Peter Blackmore was furnished to Parliament shortly after the end of the reporting year, on 10 July 1992.

The following is an account of the year's reports. All Commission reports are available free from the Commission.

The Reports of the Investigations into the Maritime Services Board and Helicopter Services and Tendering for Vinyl Floor Products were described in the 1991 Annual Report at pages 43-45. It is unnecessary to repeat what was said there. Both raised issues about accountability and equity in tendering and procurement processes, and about the need for accountability and supervision of individuals in those processes. The latter Report raised issues about public servants leaving the public sector and taking up employment with private sector businesses with which they dealt in their public sector jobs, and the potential for favouritism, or perception of such arising therefrom. The former contained comments about the role and function of internal audit staff and recommended a new criminal offence in New South Wales restricting public servants from entering into contracts with government or performing official functions in matters in which they have an interest.

The Planning and Building Department of South Sydney Council

This investigation, commenced on 18 January 1991, followed a complaint from a

businessman in the South Sydney Council area. Public hearings were held in August and September 1991, after interviews, the issue of statutory notices and execution of search warrants. The Report highlighted instances of conflict between personal interest and public duty on the part of some of the staff of the Council's Planning and Building Department.

The investigation found that some employees did private planning work for private clients in breach of s96 of the Local Government Act and sometimes inspected building work done on the basis of such plans. The Report recommended an amendment to s96.

The Report found that Nicholas Horiatopolous, the Council's Deputy Manager - Strategic, referred work within the Council area to his brother's architectural and planning firm, and was sometimes involved in the Council assessments of work done by his brother's firm, so that there was a conflict between his public duty and his private interests. The Report recommended that consideration be given to the dismissal of Nicholas Horiatopolous from the Council. The Council dismissed Horiatopolous on 6 January 1992. On 16 June 1992 the Industrial Relations Commission ordered Horiatopolous' reinstatement. The Council decided to appeal against that decision. The appeal had not been heard at the end of the reporting year. The Industrial Relations Commission's decision that Nicholas Horiatopolous should be reinstated did not constitute an appeal from the Commission's report. The Commission's Report recommended that the Council should give consideration to dismissing Mr Horiatopolous. It could not, and did not, recommend that the Council dismiss Mr Horiatopolous.

The Industrial Relations Commission exercises different functions from the Commission's. It heard different evidence from the Commission, was considering different issues, and made some different findings of fact, as it was entitled to do.

Commissioner Connor of the Industrial Relations Commission identified two mistakes in the Commission's Report. The first is that evidence of Mr Horiatopolous reported on page 23 of the Report as having been given in respect of a property at 55 Leamington Street, Newtown, was in fact given in respect of a property at 17 Telford Street, Alexandria. When all the evidence in respect of both properties is considered it is clear that that evidence could not alone affect the finding in relation to Mr Horiatopolous' conduct in respect of the Newtown property.

The second mistake was that Assistant Commissioner Collins found that Nicholas Horiatopolous made an environmental comment on a development at 49 Amy Street, Erskineville, for which Mr Horiatopolous' brother's firm had drawn the plans. This

information was given to the Commission in the early stages of the investigation but was corrected at the hearing, the evidence at which was that Mr Horiatopolous was asked for advice on the plans but declined to comment because of his brother's involvement. That evidence is also recorded in the Report. The Commission's criticism of Mr Horiatopolous in respect of this property was in his referring the developer, whose plans he considered unacceptable, to his brother's firm for new plans to be drawn. The conduct described in respect of the property takes up five and a half pages of the Report. The mistake is contained in one five line paragraph. The mistake may have contributed to the Assistant Commissioner's view of Mr Horiatopolous' conduct, and if so that is regrettable, but it was not the sole or major basis for the finding.

The Commission's findings against Mr Horiatopolous were based on his conduct in respect of thirteen properties. The mistakes adverted to above, while regrettable, were not of such proportions as to have vitiated the ultimate findings.

There have been some misconceptions about the Report, particularly amongst the planning profession, which are worth clarifying. The Report is not critical of informal discussions between Council officers and development applicants before formal submission of development applications, and is not intended to discourage them. The Commission is not opposed to such informal meetings and has never expressed such a view. The Report was critical of referrals by Council officers to specific firms of architects.

Roadworks in the Shire of Kyogle

This investigation, commenced on 14 February 1991, arose out of complaints from Kyogle Shire Councillors and residents. The conduct investigated was of two kinds. There was the award of a Council contract for hire of earthmoving equipment to the brother of a Councillor, which involved a flawed tender process and a conflict of interest on the Councillor's part. There was also unauthorised use of funds from the Roads and Traffic Authority for work on private roads and roads for which the Council was financially responsible, and of Council funds for work on private roads, due in large measure to lack of proper supervision by senior Council officers of the workers at the Bonalbo depot who performed the roadworks. The Report recommended that consideration be given to the dismissal of two Council workers, Lex Moss, the overseer at the Bonalbo depot, and Wayne Albert; to the taking of disciplinary action against Patrick Knight, the Shire Engineer; to the prosecution of Harold Standfield, contractor to the Council, on two charges under s87 of the ICAC Act of giving false evidence to the Commission and to the prosecution of Earl Moss for an offence against s178BA or s178BB of the Crimes Act.

Lex Moss was demoted, Knight formally admonished, and no action was taken against Albert. A brief has been forwarded to the DPP in respect of Harold Standfield, and a brief in respect of Earl Moss is being prepared.

The New South Wales Film Corporation and Pepper Distribution

This investigation was commenced in June 1990 following a report from the Minister for the Arts, the Hon Peter Collins QC MP, and was the subject of a progress report in the Commission's 1991 Annual Report.

Statutory powers, including hearings, could not be used in aid of the investigation because many of the people and companies involved were located overseas.

The investigation concerned licence agreements for the distribution and marketing of twenty Australian films, entered into between 1983 and 1987 between the former New South Wales Film Corporation and Pepper Distribution Inc, a company operating in California and incorporated in Panama, which was little known in the film distributing industry, and which employed an employee of the Film Corporation upon his redundancy in 1988.

The Report raised the issue of a public official who leaves a government agency and takes up employment with a company with which he has had considerable dealings in his former role. That may give rise to the perception of favourable treatment and care must be taken to guard against the fact or appearance of such. However in the balance must be considered that it would be unfair and unrealistic to expect public officials to not pursue careers in the areas in which they have expertise when they leave the public sector.

The Report contained no recommendations for consideration of prosecution, disciplinary action or dismissal, the latter because public officials had ceased to be such.

Local Government, Public Duties and Conflicting Interests

In March 1991 the Commission decided to examine the issue of conflicts between public duty and private interests in local government, as it had been a feature of many complaints to the Commission. The matter was examined by way of an investigation, although the methodology differed from most other investigations conducted by the Commission. There is no typical Commission investigation, but most proceed by way of a combination of some of the following: interviews of individuals, obtaining information and documents by way of statutory notices, execution of search warrants to obtain documents, and private or public hearings.

This investigation proceeded by a questionnaire to Councils seeking information about actual conflict of interest situations, distribution of a discussion paper in response to which submissions were sought and received, examination of case studies which raised issues, and hearings in which witnesses gave evidence, or made or expanded upon submissions. The hearings were conducted in a more informal way than Commission hearings generally are, where witnesses in a witness box are questioned by counsel assisting standing at the bar table. In this hearing counsel and the witnesses sat opposite each other at a table. This procedure gave new content to s17 of the ICAC Act, which requires the Commission to exercise its functions with as little formality as possible. The hearing format used in this investigation is not possible for all investigations, but it proved most suitable for this one, and may be used again in other issues based hearings.

The Report made recommendations about the definition and disclosures of pecuniary interest, that breaches of pecuniary interest provisions should lead to disciplinary rather than criminal consequences, and that an independent local government tribunal should be established to inquire into alleged breaches.

The Report also dealt with the conflict between the duties of Councils in regulating planning matters and interests Councils hold as owners and developers of land. The Report recommended that when Councils consider applications for development on Council owned or controlled land, or on land previously owned or controlled by the Council, where any aspect of the proposed development is or was the subject of an agreement between the Council and the new owner, the Council should obtain independent advice.

Since the publication of the Report the Commission has accepted many invitations to speak about the Report and its recommendations. Commission staff have addressed meetings of the Institute of Municipal Management, the Country Mayors Association, the North Sydney Regional Organisation of Councils and Wollongong, Shell Harbour and Shoalhaven Councils. Speaking engagements will continue into next year, as interest in the Report is keen.

The response to the Report has been almost unanimously positive. The Commission is hopeful of its recommendations being acted upon by Government.

The Report considered whether lawyers who are Councillors should be precluded or refrain from acting in proceedings against their Councils. A Committee of the Law Society of New South Wales is considering a Code of Conduct for solicitors who are Councillors.

The Sydney Water Board and Sludge Tendering

This investigation commenced on 11 July 1991 following a report from the Sydney Water Board which raised questions about the leaking of confidential pricing information and the relationship between board officers and a tenderer, in the Board's international tender process for management of sewage sludge, which was to involve significant expenditure.

Private hearings were held between August and November 1991 and in February 1992. The Report found that the tender processes suffered from a lack of accountability and impartiality. During the hearings the Board cancelled the tendering process.

The report recommended that consideration be given to the discipline or dismissal of Sergio Bogeholz, the Board's Chief Economist. Bogeholz was found to have shown favouritism to one of the tenderers, including assisting them with preparation of tender documents and negotiating for them an interest free \$1 million loan from the Board without approval from the tender evaluation team.

The Board dismissed Bogeholz, on 18 May 1992, the day of publication of the report, but the Government and Related Appeals Tribunal later ordered his reinstatement from 22 July 1992 on the basis of denial of natural justice in the dismissal process.

The Metherell Resignation and Appointment

On 11 April 1992 the resignation of Dr Terry Metherell MP, member for Davidson and former member of the Liberal Party, and his appointment to a senior public service position, was announced by Dr Metherell and the Hon Tim Moore MP, Minister for the Environment. There followed a period of adverse reaction from the public and the media. The Commission received several complaints. Altogether before and during the investigation, the Commission received complaints or information about the matter from more than 50 people.

By 23 April 1992 there were media reports of a parliamentary inquiry or judicial inquiry being suggested by Members of Parliament. The Commissioner advised the Premier that if there was to be an inquiry it should be conducted by the Commission as the Commission had the structure and the expertise to commence and conduct a hearing quickly and because the events as alleged fell within the ICAC Act. The Premier suggested that the matter be referred to the Commission by the Parliament, pursuant to s73 of the ICAC Act. That was discussed with the Leader of the Opposition, the Hon Bob Carr MP, who agreed.

On Friday 24 April the Commission conveyed draft terms of reference to the Premier and the Leader of the Opposition who suggested some changes, not regarded by the Commission as substantial. Resolutions were passed in the Legislative Assembly and Legislative Council on 28 April 1992, requesting the Commission:

To investigate the facts and circumstances relating to the resignation of Dr Terry Metherell from the Parliament of New South Wales, and the appointment of Dr Metherell to a position in the Senior Executive Service or the Public Service of New South Wales, with a view to determining:

- (a) whether any corrupt conduct has occurred, is occurring, or is about to occur; and
- (b) whether any laws governing any public authority or public official need to be changed for the purpose of reducing the likelihood of the occurrence of corrupt conduct; and
- (c) whether any methods of work, practices or procedures of any public authority or public official did or could allow, encourage or cause the occurrence of corrupt conduct.

In particular, the Commission is to consider whether it is desirable to proscribe or regulate the appointment of persons who have ceased to be Members of Parliament to positions in the public sector.

This was the Commission's first Parliamentary reference.

The Commission resolved and announced that it would conduct the investigation in two stages. The first stage was to deal with the first part of the terms of reference, to the end of paragraph (a), by public hearing to be presided over by the Commissioner, as quickly as practicable; the second stage was to deal with the rest of the terms of reference.

The hearing commenced on 5 May 1992 and concluded on 29 May 1992, during which period there were twelve days of hearing. Documents were tendered and evidence was heard from six witnesses: Mr Greiner, the Premier; Mr Moore, Minister for the Environment; Mr B Hazzard, MP; Dr Metherell; Mr R Humphry, the Director-General of the Premier's Department and Dr N Shepherd, Director-General of the Environment Protection Authority.

Submissions on the evidence were heard in private as the ICAC Act permits, and because

of the distinction between sworn evidence and counsels' submissions, but were made public on the day the Report was released.

The Commission's Report of the first stage of the investigation was furnished to the President of the Legislative Council on 19 June 1992, and was made public by the President on that day.

The Report contained findings that the conduct of Mr Greiner and Mr Moore was corrupt conduct within the meaning of ss8 and 9 of the ICAC Act in that it involved the partial exercise of their official functions and a breach of public trust, and could involve reasonable grounds for dismissing them from their ministerial positions. The Report found in respect of Dr Metherell that although his conduct fell within s8(1) of the ICAC Act, in that his conduct could and did adversely affect the honest and impartial exercise of official functions by public officials involved in his appointment to an SES position, it did not fall within s9 of the ICAC Act, as required to constitute corrupt conduct, because it did not constitute or involve a criminal offence or grounds for his dismissal from Parliament.

The Report contained a finding that Mr Hazzard's actions were not caught by s8 of the ICAC Act because he was not exercising official functions, nor was it clear that his conduct had a potential adverse effect upon the impartial exercise of official functions by any public official. The Report contained a finding in respect of Mr Humphry that his conduct in the appointment of Dr Metherell to a position in the Premier's Department was partial and came within s8(1) of the ICAC Act, but it did not come within s9 of the Act, as it did not involve any criminal offence or any grounds for discipline or dismissal.

On Tuesday 23 June 1992 Mr Greiner and Mr Moore commenced proceedings in the Supreme Court against the Commission. Both summonses sought the same relief, namely:

- Declarations that the report was invalid, beyond power and of no effect to the extent that it contained findings that the conduct of the plaintiffs fell within s8(1) of the ICAC Act, findings that any conduct of the plaintiffs could involve reasonable grounds for their dismissal, as Premier and a Minister of the Crown respectively, within the meaning of s9(1)(c) of the Act, or findings that any conduct of the plaintiffs was corrupt conduct within the meaning of the ICAC Act.

- Declarations that the Premier and a Minister of the Crown are not "public officials" within the meaning of s9(1)(c) of the Act.

. Declarations that the parts of the report which contained findings of corrupt conduct did not legally constitute parts of a report within the meaning of the ICAC Act.

. Declarations that the Commission precluded itself from finding corrupt conduct in the appointment of Dr Metherell to the public service.

. Orders that the report be removed into the Supreme Court and quashed to the extent that it contained findings that any conduct of the plaintiffs fell within s8(1) of the Act, could involve reasonable grounds for the plaintiffs' dismissal within s9(1)(c) of the Act, or was corrupt conduct within the meaning of the ICAC Act.

. Orders that the Commission report that the plaintiffs had not engaged in corrupt conduct within the meaning of the Act in relation to the matters referred to it by Parliament for investigation and report.

On Wednesday 24 June 1992 Mr Greiner resigned from the positions of Premier, Treasurer and Minister for Ethnic Affairs, and Mr Moore resigned from his position as Minister for the Environment.

The litigation was heard by the Court of Appeal from Tuesday 30 June 1992 until Friday 3 July 1992. The Court reserved its decision.

The Conduct of Peter Blackmore

This investigation, commenced in February 1992, concerned an allegation against Peter Blackmore, now a member of the New South Wales Parliament and formerly Mayor of Maitland City Council, in relation to events which occurred whilst he was Mayor of Maitland. The allegation was that Mr Blackmore gave partial treatment to a development application by a landowner named Alan Buckingham, in return for which Mr Buckingham gave Mr Blackmore a boat.

A hearing in aid of the investigation was held over four days in May and June 1992, in private, after submissions that it should be so held were made by all parties at the hearing, including Mr Blackmore. The Report stated that the allegation was false and that none of Mr Blackmore or any of the other participants in the events described in the Report had engaged in corrupt conduct.

Analysis of the Commission's Formal Work

In making decisions about which matters are to be the subject of formal investigations the Commission has maintained the importance of ensuring a spread of work, across the types of organisations, persons and issues examined.

The Commission has analysed all its investigation reports published to 30 June 1992 (22 reports) and the four reports of formal corruption prevention projects released to that date, in terms of the type of organisation, class of person and issues examined. The results are illustrated in the pie charts which follow.

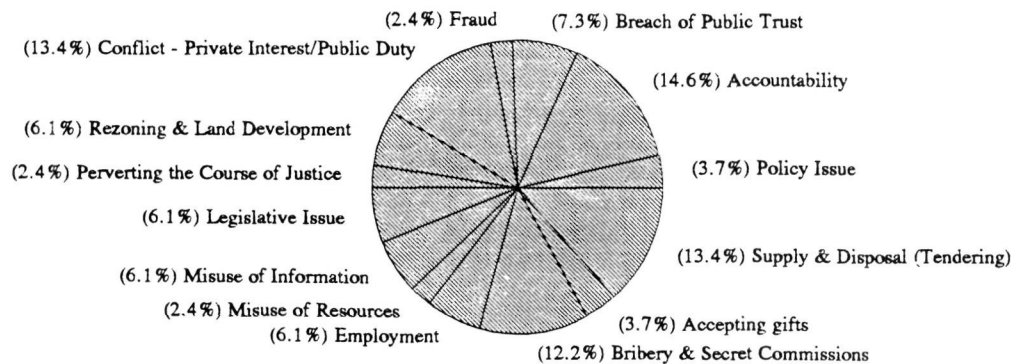
The analysis does not include formal investigations not, or not yet, the subject of public reports, nor does it include other significant corruption prevention or education work.

Consideration was given to whether, in the analysis, it was possible to "weight" reports to reflect whether they were investigation or corruption prevention reports, and the size, depth and impact of investigations. No satisfactory method was found. Therefore each report was given equal weighting, although some reports which dealt with the same issues did so at different levels of depth, and with different impact. Also, reports may each deal with more than one issue.

The analysis to date demonstrates that the Commission's formal published work has achieved a spread across organisations, persons and issues. That achievement can also be gleaned from the account of the Commission's investigations in this chapter.

However, it would be too simplistic and dangerous an approach to draw on this analysis as a basis for a strategic plan for future anti-corruption work. For example, the issues which have had most attention by way of investigation or corruption prevention work could be viewed in one of two quite different ways: that corruption has been tackled in those areas and they can therefore be left alone, or that those areas are likely sources for corruption opportunities and should continue to receive attention.

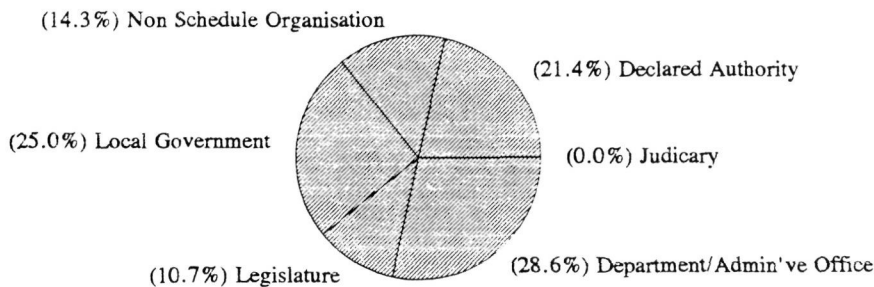
Issues Raised in the Reports



Policy issue is used to mean miscellaneous policy issues which could not be included in other specifications.

Legislative issue denotes recommendation for legislative change of address some demonstrated need.

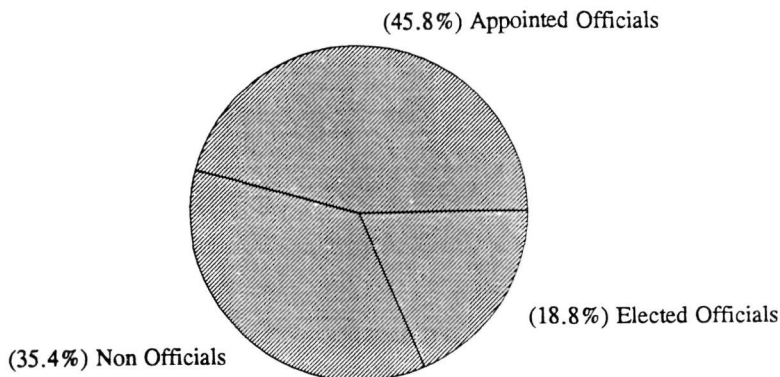
Type of Organisation Represented in Report



The source of the classifications “Department / Administrative Office” and “Declared Authority” is schedules 1, 2 and 3 to the Public Sector Management Act 1988.

The term “non schedule organisation” denotes public authorities at the state level which do not appear in the schedules to that Act; examples include the Police Service and the ICAC.

Persons Represented in the Reports



Public Hearings Not Yet Reported

Unauthorised Release of Government Information

This investigation commenced in May 1990 after the Commission received some documents from the Police Internal Affairs branch. The documents suggested that a private investigator had had access, on a large scale, to confidential information held by the Police and the Roads and Traffic Authority.

The terms of reference were to investigate the conduct of public officials in accessing and disseminating official information belonging to public authorities, and the conduct of persons dealing with such public officials, from January 1984 to date.

Public hearings began in November 1990. They have not proceeded full time since then, but the Commission has heard 15,695 pages worth of evidence from 446 witnesses in 168 hearing days, and received 1163 exhibits. In that respect the investigation has been the biggest conducted by the Commission. In terms of its results it has been a most significant investigation.

The investigation has exposed a widespread corrupt trade in government information over many years. New South Wales public officials, particularly from the Police Service, the

Roads and Traffic Authority and some electricity suppliers, were found to be involved, some casually, many heavily, in the exchange or sale of confidential information. Some individuals' earnings from the sale of such information ran to tens of thousands of dollars. Insurance companies, banks and financial institutions provided a market for the information, which was brokered by private inquiry and commercial agents. Sources of information used by some private inquiry agents to obtain people's addresses included driving licence records, electricity utility records, social security files and silent telephone numbers. Criminal records were also traded.

The investigation has raised issues of privacy, and standards of conduct for government authorities and employees handling confidential information. The Report will be published in August. It will deal with the issues raised as well as report the events and conduct revealed in the hearing which demonstrate the issues.

Informers

This investigation examined the conduct of public officials, including prison officers and police officers, in relation to the use of informers, particularly prisoners, in the investigation and prosecution of criminal offences.

The Commission received complaints alleging that prisoners became informants for officers of the Department of Corrective Services and/or the Police Service and gave information and sometimes evidence relating to serious offences in exchange for favourable treatment or the expectation of such, from such officers. There was concern expressed amongst parts of the legal profession and the public about incentives for prisoners who became informants and/or gave evidence, such as substantial discounting of sentence, reclassification, remissions and access to privileges in prison. The Commission also received a report from the Director General of the Department of Corrective Services.

The Commission commenced an investigation, in which it conducted hearings between July 1991 and February 1992. Most of the hearing was in public, but some evidence was heard in private because of related criminal proceedings.

In the hearings the Commission examined nine prosecution cases which involved the actual or proposed use of evidence from informers. They involve prisoners, prison officers, public servants and police officers.

As the Commission is not a court and has no appellate functions, the purpose of examining the prosecutions was not to examine the merits or outcomes of any of the prosecutions.

Some evidence demonstrated favourable treatment of prisoners who had agreed to give evidence. A large number of the informers who gave evidence said that they perceived that to give assistance to the authorities by way of information and/or evidence was likely to assist them by way of favourable reports for parole, licence and reclassification applications, and privileges such as extra visits. In some cases the expectations were not realised, but the perception of likely benefits was said to be a motivating influence.

There was also evidence of repeated breakdowns in the flow of information about informers, which should have been disclosed to the Crown and defence, and which when it did not could have led to miscarriages of justice to accused persons.

The investigation has raised the following issues:

- . Failures in the flow of information about informants and witnesses and the detriment, actual or potential, caused thereby to the conduct of the defence case and the performance of the Crown's duty.
- . Favours received by or promised to informants/witnesses, or detriments caused or threatened, and perceptions that assistance may or will result in favourable treatment.
- . Inappropriate reliance being placed on an informant's evidence without other investigation.
- . Lack of record keeping in respect of dealings with informants or favours given or detriments caused.

State Rail Authority - Trackfast and Plant Hire in the Northern Region

This investigation commenced in October 1991 and involved public hearings from March to May 1992 and in July 1992. It had two aspects, the first being the way in which State Rail Authority (SRA) contracts for door to door freight delivery services, known as Trackfast, were let by an employee of the SRA to seemingly unqualified acquaintances of his. The second part of the investigation examined the allocation of SRA earthmoving work to contractors in the northern region of the state, including relationships between SRA employees and contractors, and apparently false invoices claiming and resulting in overpayments by the SRA to contractors, estimated in one case to be worth about \$1 million. Evidence obtained and disclosed by the Commission was used by the SRA to obtain injunctions to prevent contractors from disposing of their assets while the SRA

takes proceedings to recover overpayments from contractors. Submissions from all parties will be heard in July.

Other Investigations

The following deals with investigations commenced, conducted or completed during the year, which did not involve public hearings or a report to Parliament.

Investigation Number 12, reported in the 1991 Annual Report, involved an employee of the State Rail Authority directing contracts to a company run by him and his wife. Forty-seven charges against the employee and his wife, for obtaining a financial advantage by false and misleading statements, are before the courts, and set down for hearing in October 1992. The investigation highlighted the lack of offences appropriate to public officials who enter into contracts with their employer, or who exercise official functions in matters in which they have interests.

Investigation Number 18, reported in the 1991 Annual Report, concerned an allegation that two police officers solicited and received money in return for a promise of a lesser charge being laid. After private hearings the Commission referred allegations to the Commissioner of Police pursuant to s53 of the Act. During the police investigation the two officers resigned from the Police Service.

Investigation Number 29, commenced in January 1991 and completed in September 1991, examined whether a Council officer had used his position to his private advantage. The Director of Public Prosecutions advised that there was insufficient evidence for a prosecution. Consideration of disciplinary action or dismissal were unavailable as the public official had left his employment with the Council.

Investigation Number 32 examined the conduct of present and former Councillors and employees of a metropolitan Council, particularly in relation to land development within the Council area. A lengthy period of investigative work found no substance to allegations, many of which appear to have been motivated by differing political and philosophical views.

Investigation Number 34 examined conduct by police officers. Witnesses were examined in private hearing. A crucial witness then recanted and refused to co-operate. The investigation was discontinued.

Investigation Number 36 examined allegations of theft by employees of the Sydney Market Authority. Briefs of evidence in relation to eight persons were furnished to the

DPP. Seven persons were charged with larceny. Charges against six people have been disposed of and three charges against one person are yet to be heard. The results of the completed matters are as follows. Two people pleaded guilty, each to one charge, and were fined \$500 and \$300 respectively. Two people pleaded guilty, each to four charges, and were both fined \$500 on the first charge and entered three year good behaviour bonds in respect of the other charges. Another pleaded guilty to two charges and the DPP did not proceed with a third charge. He was fined \$300 and ordered to pay court costs and witness expenses, on the first charge, and entered a twelve month good behaviour bond on the second. Another was convicted ex parte of one charge and fined \$500 plus court costs and witness expenses. He has since appealed to the District Court.

Investigation Number 37 examined the conduct of a police officer in relation to a person in custody. A brief of evidence was furnished to the DPP. One charge of soliciting a bribe and five charges of receiving a bribe were laid and are set down for hearing for three days commencing 29 July 1991.

Investigation Number 39 is examining the conduct of police officers. Two criminals who are in prison, one of whom originally contacted the Commission as a complainant, have alleged that a number of police shared in the proceeds of crime particularly in relation to armed holdups. A deal of supportive material has been obtained. Other allegations of criminal misbehaviour by the same and some other police officers have been or are being examined. The Commission is obtaining much assistance from other law enforcement agencies, and some individuals who have admitted to involvement in the conduct under examination and spoken about the participation of others. Public hearings are scheduled to commence in November 1992. The terms of reference for the investigation are as follows:

The Commission is investigating the extent of the association and the nature of the relationship between police (especially past and present detectives) and criminals, and the effect and outcomes of that relationship, after January 1975.

This will be done with particular reference to defined areas of criminality, including armed robberies and illegal gambling.

The investigation will be conducted with a view to determining the matters referred to in s13(2) of the Independent Commission Against Corruption Act 1988 (as amended).

At the conclusion of the investigation a report will be prepared. Information will be passed to other authorities as appropriate.

Investigation Number 40 examined allegations that a Councillor forged documents in relation to the Sydney City Council elections held in September 1991. A brief of evidence was furnished to the DPP. A charge under s300(1) of the Crimes Act 1900 has been laid; no hearing date has yet been set.

Investigation Number 41 examined an allegation that a company had paid money, to intermediaries, to be paid to an officer of the Royal Commission into Productivity in the Building Industry in New South Wales, in return for information about the Royal Commission's activities, especially in relation to the company. The matter was referred to the Commission by the Royal Commission. The investigation established the payment of money to intermediaries, the second of whom gave another explanation for it. No evidence was found of payment of money from the second intermediary to any person in the Royal Commission. The investigation established that confidential information had leaked from the Royal Commission to the company, more than once, but the source of the leak could not be identified. The investigation identified a conflict of interest for a Royal Commission officer, in relation to his previous employment in the building industry, which could have given rise to a security risk for the Royal Commission. The Commission's Corruption Prevention Department had discussions with the Premier's Department about security and conflicts of interest issues relative to recruitment of staff for Royal Commissions and other short term bodies. This was followed by a referral pursuant to s53 of the ICAC Act, to the Premier's Department, on that subject.

Investigation Number 42 examined allegations against Commission officers. There was no evidence to support one allegation, and other matters were subsumed in the Commission's investigation into the unauthorised release of confidential government information, and will be dealt with in the Report of that investigation.

Investigation Number 43 examined allegations about the conduct of two officers of the Commercial Services Group in relation to awarding a contract, and their social dealings with directors of the company which received the contract. No evidence of impropriety was found in relation to the contract or the company. Material in relation to the two employees was referred to the Minister responsible for the Commercial Services Group, the Hon Mrs Cohen, for consideration of disciplinary action against the employees.

Investigation Number 46 examined the conduct of an officer of the State Rail Authority in awarding consultancy contracts to a company of which the officer and her spouse were directors. The investigation found that the company had done consultancy work worth about \$100,000 for the SRA, that the SRA officer had not been involved in the company being offered SRA work and that she had disclosed her relationship with her husband and his company to a senior officer.

Investigation Number 47 is examining whether a former alderman received money for his business from developers in return for exercising influence with the Council in relation to the developer's applications.

Investigation Number 48 examined whether an employee of a Council had been allocating contracts in a partial manner in return for the payment of secret commissions. After consultation with the employing Council, the evidence obtained by the Commission was referred to the Council, pursuant to s53 of the ICAC Act, with a recommendation that disciplinary action be considered. The employee resigned when the matter was raised with him by the town clerk.

Investigation Number 50 examined allegations, referred by an investigative agency, about a police officer. None of the allegations was found to be substantiated.

Investigation Number 51 examined an allegation by a contractor to the State Rail Authority that an employee of the Authority had demanded and received secret commissions amounting to almost \$8000 from cleaning contracts, as a condition of the contracts being awarded to the contractor, and secret commissions of \$7000 from work not performed but for which the Authority was falsely invoiced pursuant to an arrangement between the Authority employee and the contractor. Charges have been laid against the Authority employee of corruptly soliciting a benefit (s249B Crimes Act - one charge), corruptly receiving a benefit (s249B Crimes Act - four charges), making a false or misleading statement with intent to obtain a financial advantage (s178BB Crimes Act - 12 charges) and attempting to dishonestly obtain a financial advantage (s178BA Crimes Act - one charge). The charges are listed for hearing on 22 September 1992. The Authority employee was suspended and a disciplinary hearing is scheduled before the Transport Appeals Board. At the year's end the DPP was considering the position of the contractor.

Investigation Number 52 examined the conduct of a university employee who demanded a video cassette recorder from a salesman in order to guarantee the purchase of the salesman's company's products by the university. The employee asked for the cost of the video recorder to be included in an inflated invoice to the university. The company reported the matter to the university which reported it to the Commission. Further contact by the employee with the salesman, to organise and take receipt of the recorder, was observed and recorded by Commission officers. The employee was subsequently charged, and pleaded guilty to, one offence of receiving a corrupt reward and one offence of soliciting a corrupt reward. He received a two year good behaviour bond on the first, and was fined \$750 on the second charge. He has been dismissed from employment.

Investigation Number 53 is examining the conduct of an officer of the Registry of Births, Deaths and Marriages, alleged to be forging and selling false birth certificates. Two charges of larceny, relating to blank birth certificate forms and a stamp of a Registry official's signature, have been laid. Further charges may be laid.

During the year 19 investigations were commenced, bringing the total number of investigations commenced to date to 54, and 19 investigations were completed. At the end of the reporting year there were ten investigations current.

Other Prosecutions

The Report on the Investigation into Harassing Telephone Calls made to Edgar Azzopardi, published on 4 January 1991, and reported on in last year's Annual Report, contained recommendations of consideration of prosecution, and disciplinary action. The following action has occurred.

Peter Neville Brown was dismissed from the Police Service and has lodged an appeal to the Government and Related Employees Appeal Tribunal. He was charged with two offences against s87 of the ICAC Act, of giving false evidence in a Commission hearing, to which he has pleaded not guilty. The charges have not been heard.

Gregory Abel resigned from the Police Service on 15 December 1991. He pleaded guilty to one offence against s80(c) of the ICAC Act, and on 12 December 1991 was fined \$5000 and ordered to perform 200 hours of community service. On 11 June 1992 he pleaded guilty to an offence against s85ZE of the Commonwealth Crimes Act 1914, of making a harassing telephone call, and was sentenced to four months periodic detention.

Kylie Williams resigned from the Police Service on 4 February 1992. She has pleaded guilty to six offences against s87 of the ICAC Act and one offence of inciting an offence against s85ZE Commonwealth Crimes Act, and all matters were adjourned for sentence to 25 August 1992.

Craig Hall was suspended from police duty during a departmental investigation which resulted in one departmental charge of misconduct. The penalty imposed for that charge was reinstatement to duties from 1 August 1992 with two years' loss of seniority and subject to two years' performance inspection. No prosecution action was taken against him and he was indemnified by the Commonwealth authorities.

In May 1991 the Commission received a s11 report from the Chief Executive of the Sydney Cove Redevelopment Authority. The Authority engages contractors for construc-

tion projects such as road works and building renovations. Project Officers employed by the Authority administer and oversee construction projects and are involved in the evaluation of tenders and the preparation of recommendations for the tender review committee.

Two project officers of the Authority reported that they had been approached at different times by two representatives of a contractor. Each officer had attended a lunch with the contractor's representatives at their invitation.

It was alleged that one had offered substantial sums of money and that the other had offered the use of a villa in Greece or a holiday in Greece in order to influence the project officers to award one or more contracts to the company they represented.

The Commission prepared a brief of evidence, which was forwarded to the Director of Public Prosecutions. Two charges have been laid against one person under s249B(2) of the Crimes Act alleging that he made offers of \$20,000 and \$30,000 respectively to the project officers.

The DPP considered that there was not sufficient evidence to warrant the prosecution of the other man.

Recommendations in Reports - Prosecutions Not Commenced

The following records decisions made during the reporting year by the Director of Public Prosecutions to not commence prosecutions where consideration of such was mentioned in published reports of the Commission.

In the Sutherland Licensing Police Report the Commission recommended that consideration be given to prosecution of former police officer David Oliveri, for having received bribes. In November 1991 the DPP's office advised that there was insufficient evidence to commence proceedings against Mr Oliveri, without a further signed statement from the main witness, Allan Reid; Reid would not provide such a statement. Although Reid had given a detailed statement to the Commission and detailed evidence twice in Commission hearings, the requirement for a new statement to be obtained, containing the same evidence but in a form required by the Justices Act, for the prosecution, meant that the matter could not proceed.

The Report on Investigation into Dealings Between Homfray Carpets and the Department of Housing contained statements that there was sufficient evidence warranting consideration of the prosecution of Kevin Wyles, Susan Wyles, Jack Williams, John Alexander

Goodall, Marc Paul Darell Kelly and John Patrick Burt. In October 1991 the DPP advised that proceedings against them would not be commenced, because of the death of Goodall, whose evidence was considered necessary for the prosecutions to proceed.

In the Report on Investigation into Driver Licensing the Commission recommended that thirteen people be considered for prosecution under s87 of the ICAC Act, for having given false evidence in the Commission hearing. The DPP advised that Charles Ukhanna and Harvey Kerin should not be prosecuted.

In the report on Investigation into North Coast Land Development the Commission recommended consideration of prosecution of Barry John Cassell, Thomas Edward Paul Hogan and Francis Vincent Hogan in relation to Australian Business and Rural Consultants, and of Barry John Cassell, Thomas Hogan, Francis Hogan and Michael John Ross in relation to Consultants Corporation. In June 1992 the DPP advised that no proceedings should be commenced in respect of either matter. The Commission had experienced difficulty obtaining statements in the form required for a prosecution from witnesses who had given evidence in Commission hearings, and from additional witnesses from whom the DPP required statements. Each of the individuals named, other than Francis Hogan, is being prosecuted on other charges arising out of the North Coast Report.

Litigation

The 1991 Annual Report reported on litigation against the Commission by Cassell, in which an appeal by him against the decision of Hodgson J of the Supreme Court was outstanding. In May 1992 the Court of Appeal dismissed the appeal, with the consent of both parties, and ordered that Mr Cassell pay the Commission's costs.

Costing of Investigations

The Commission costs investigations as an internal management tool. In the interests of accountability the cost of investigations which result in public reports are included at Appendix 3.

Costings are prepared by way of a formula which takes account of direct and unique costs, and otherwise depends upon estimates and stated assumptions. The cost figures for each investigation, including hearing, are ascertained from:

- . standard rates for hearing days including charges for presiding Commissioner, associate and hearing attendants;

- . average salary costs for investigators, analysts, lawyers and support staff associated with particular matters, based on estimated person/days spent on the matter;
- . actual hearing costs for counsel fees, transcription fees, witness expenses and general expenses incurred on country sittings; and
- . actual investigative expenditures for travel, special supplies, temporary offices established in country areas, and miscellaneous general expenses.

A share of administrative and general overheads is assigned for each accounting period to formal investigations. A rate of 37.5% was applied in 1991/92 determined on the basis of workloads within functional areas of the Commission. Overhead charges so assigned are then apportioned in accordance with a decimal factor based on a combination of investigative and hearing days.

The most expensive investigation conducted by the Commission cost \$2.75 million. The median cost of investigations which have resulted in public hearings remains, as it was last year, at about \$0.33 million.

Chapter 4

CORRUPTION PREVENTION

Functions and Strategy

The Commission's corruption prevention functions are set out in s13 of the Act. They describe a range of advisory work which is being conducted in four main ways:

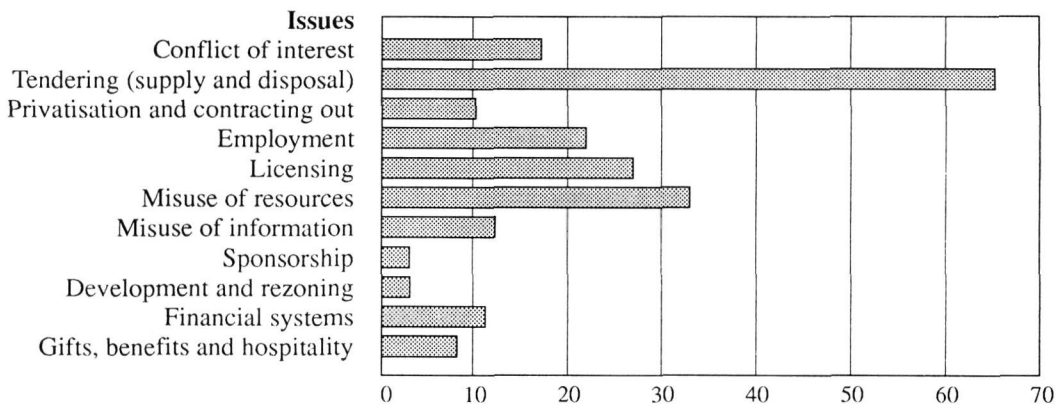
- . Undertaking corruption prevention projects, which examine the detailed operation of a government system, including written policy and procedures and how the system operates in practice. Projects result in public reports incorporating practical recommendations to reduce corruption opportunities while maintaining or improving efficiency.
- . Providing advice to government agencies on improvements to procedures and practices. This work follows the assessment of complaints and reports received by the Commission, or requests for assistance.
- . Monitoring the implementation of recommendations from corruption prevention projects and advisory work.
- . Presenting seminars and conference papers on public sector ethics, policy and procedural issues.

The Commission's Corruption Prevention Strategy is based on three important principles:

- . Prevention is better than cure;
- . Corruption prevention is a management function;
- . Accountability makes for committed management.

The following graph shows a breakdown of issues addressed by corruption prevention work completed and in progress during the year to 30 June 1992. The graph illustrates the frequency with which certain issues arise, not the quantity of work addressing them. For example, each of a project and a letter of advice constitutes an "item", although the former might occupy many months and the latter only a few hours.

Corruption Prevention Department: work items



Completed Projects

Project Number 4 examined procedures for disposal and replacement of cars and light trucks in local government councils. Two country councils were examined in detail and three larger city councils more broadly. The project Report, made public in December 1991, identified opportunities for corruption and analysed the costs and benefits of different system approaches. The Report recommended principles in three key areas. In general, purchase and sale should be separated, and conducted by open tender, period contract or auction. Staff should not be given opportunities to purchase used vehicles which are not available to the general public. Where a local preference policy is adopted, the details should be known to all and the outcomes monitored.

The Report and recommendations were distributed for consideration by some 300 government organisations, state and local, involved in purchase and sale of vehicles.

Project Number 5 examined the allocation of boat moorings by the Waterways Authority of the New South Wales Maritime Services Board. Boat moorings in high demand areas are allocated according to a waiting list system which has in the past been open to abuse. The Report, published in March 1992, showed that a commonly-held belief - that it was almost impossible to obtain a mooring legally - was not borne out in fact. However, the Authority was not able to counter these myths effectively because of poor information systems. Its ability to manage the system suffered accordingly.

Key recommendations called for improvements in mapping and other recording systems; better publication of information; tightening of controls over the waiting list; and greater consistency in applying a range of procedures. Monitoring of the implementation of recommendations is in progress.

Project Number 3 dealt with services for cash provided in and around large hospital complexes. Many of these cash services support the hospital's medical or community health functions, but in a peripheral way. Others are intended to provide additional revenue.

The project Report was published in July 1992. It identified a remarkable range of cash services in four large public hospital complexes, and examined structures and procedures for collecting, receipting, banking and reconciling funds. The Report made extensive recommendations for improvements to specific procedures and controls, staffing and policy. A key recommendation is that hospital managers should assess cash services on cost/benefit principles and consider contracting out non-core services which are not profitable.

Project Number 8 dealt with deficiencies in the system for disposing of government vehicles by auction, managed by the Commercial Services Group. The project followed preliminary investigation of allegations regarding both government employees and outside contractors.

Analysis of the investigative material revealed that the process of setting and varying reserve prices was open to manipulation, that parts substitution could occur, and that CSG management received inadequate information on sales. A Report on both the investigative and corruption prevention aspects was provided to the agency. Key recommendations suggested measures to improve management of the auction contract and supervision of CSG employees outposted to the auction site.

Projects in Progress

Project Number 6 is examining the accuracy and completeness of criminal history records in terms of laws, systems and procedures covering recording, updating and transmitting information. Major deficiencies exist because the "system" is controlled by several agencies each with different objectives.

Project Number 7 is reviewing policy and practice affecting New South Wales police officers who wish to engage in outside (secondary) jobs. Certain types of job or industry, and some employers, have the potential to create a conflict with the officer's police responsibilities which could undermine public confidence in the integrity of the police service.

Project Number 9 is examining systems for hiring heavy vehicles and equipment used in

road making and repairing. Plant is hired with or without operators, and systems vary from ad-hoc to extensive period contracts. Complexity is added by the inability to forecast accurately the extent of work or the time period likely to be involved in many cases.

Project Number 10 was initiated to examine the ticketing and revenue collection system for ferries, but has been discontinued because of significant changes to the system now proposed by the State Transit Authority, including the possibility of contracting out the ticketing system.

Project Number 11 is reviewing methods by which government organisations ensure accountability for grants to other government or non-government bodies. It will review case studies of grant funding in a range of situations.

Project Number 12 is dealing with the use of teaching equipment belonging to TAFE institutes by TAFE teachers for private purposes.

Project Reports

The Annual Report to June 1991 foreshadowed a change from confidential to public reporting of corruption prevention projects, aimed at reaching a wider audience with more detailed information on corruption opportunities and solutions.

In the current year project reports have been made public in full, with the following exceptions:

- . The Report on Project Number 8 was provided only to the Commercial Services Group.
- . The Report on Project Number 3 contained a confidential supplement with the details of the Commission's observations of cash handling outposts in one major hospital, provided only to the Chief Executive Officers of that hospital, the relevant Area Health Service and the Department of Health.

Following the public release of corruption prevention Reports on boat moorings and council vehicles, feedback indicated that the findings and recommendations were of value to a wide cross-section of the public sector. Managers found it useful to compare the Commission's observations, in detail, with similar systems in their own organisations.

The public release of these reports is intended to expose system problems and recommend solutions. However, the Commission is conscious of the potential of such reports to

identify individuals if extreme care is not taken. Reports are provided in draft to each organisation about which detailed findings are made, to seek comment on any aspect which may appear damaging or unfair to individuals. Similar comment is sought from a review committee within the Commission.

Monitoring

Each corruption prevention project provides recommendations aimed at reducing opportunities for corruption within a system of government operation. The recommendations are discussed with relevant managers in the agency or agencies concerned, to ensure they are practical and achievable and will not impose an inappropriate resource cost.

The Commission has a responsibility to check whether recommendations are being implemented and whether they are effective. Sometimes that will be a substantial exercise in itself, for example where recommendations are extensive, where they are relevant to many organisations, or where there are alternative means of achieving the objectives. In such cases, monitoring will take the form of a new project involving observation and assessment of changes when they have been implemented, and the Commission will generally publish a report on the outcome of monitoring.

Several monitoring projects were in progress at June 30 1992.

Project Number 1, completed in February 1991, examined the system of letting and managing contracts for the maintenance of the Department of Housing's 116,000 properties. The major recommendation was for computerisation of all maintenance processing, building in control and monitoring measures. Another significant recommendation was for comprehensive review of the cumbersome, complex and sometimes contradictory maintenance instructions which have been issued incrementally since the mid-seventies.

Project Number 2 in relation to driver licensing was completed in April 1991. Key recommendations addressed proof of identity requirements, registry management, security of photolicense manufacture, driving instructors' certification and access for customers with English language difficulties.

For each project, a full confidential Report was made to the agency and a summary Report made public. Monitoring of both projects has been in progress on a regular basis and many recommendations have been implemented satisfactorily. However, both the RTA and the Department of Housing have experienced difficulties and delay in introducing their major computer systems.

Important project recommendations dependent on computerisation have consequently been delayed also, and the Commission has decided to defer release of the confidential project Reports, which was originally intended to occur 18 months after project completion. The Commission expects to revisit the agencies for monitoring observations late in 1992 or early in 1993. Monitoring Reports will be published at the same time the full project Reports are released publicly.

Project Number 4, described earlier in this chapter, used case studies of purchase and sale of vehicles at five local government councils to develop a series of recommendations for consideration by some 300 state and local government bodies. The extent of implementation of the recommendations, and their effectiveness, is to be monitored through media reports and direct responses, a sample survey, and seminars with municipal managers.

This work began in June 1992, and a monitoring Report will be published during the current year.

Advice

A large part of corruption prevention work consists of reviewing and recommending changes to practices and procedures where a complaint or report to the Commission has disclosed some weakness.

Since September 1990, the Corruption Prevention Department has viewed all complaints received at the Commission, and indicated the potential for further corruption prevention action. A decision is later made on appropriate action, based on any additional information obtained during the Commission's investigative assessment.

Many government agencies have requested advice from the Corruption Prevention Department about tendering, contracting out, privatisation, use of public resources, declaration of private interests, and a host of other issues. Occasionally it is necessary to decline the request because the process is already too far advanced. A careful distinction needs to be made between comment on the process and involvement in the outcome. The Commission is generally willing to do the former, but never the latter.

The opportunity to provide advice on a wide range of public sector processes is one of the most valuable ways of expanding the experience of corruption prevention staff and using that experience to benefit others.

Selected examples of advisory work follow.

1. The Building Services Corporation conducts written and oral examinations for builders seeking licensing. While oral exam procedures require the candidate to show photographic identification, those for written exams did not, opening a loophole for corruption. On the Commission's advice, the BSC is introducing a similar identity check for written as for oral exams.
2. The National Parks and Wildlife Service sought comment on a proposed list of accredited archaeologists for reference to developers required to carry out heritage assessments of sites. The Commission gave advice about the need to ensure all qualified archaeologists have equal opportunity to register on the list and are made aware of the NPWS criteria for selection.
3. Advice was sought by the Public Works Department on its Selective Tendering System for awarding construction contracts, in particular, whether panels selecting firms to be invited to tender should include external members, possibly from the construction industry. The Commission suggested there might be a conflict if industry representatives had access to commercially sensitive information about rival construction firms. Independent scrutiny could be achieved by drawing on government officers outside PWD, or non-industry private sector people.
4. Shortly before leaving the public sector, a senior officer with a central government department sent a circular to all state government Chief Executives advising of future work plans and in effect soliciting business. The circular was printed on department letterhead and sent out using government paid postage. The Commission brought this to the attention of the departmental head who then wrote to CEOs expressing strong disapproval of the officer's actions. Steps were taken to recover the cost of postage.
5. The Teacher Housing Authority sells its properties in certain areas to finance purchases in others where the need is greater. Standard practice was to invite three local real estate agents to tender for management of a sale, but this led to allegations of favouritism. Although the allegations were not investigated the Commission recommended that a register be established for each region to include all interested agents. Invitations to tender, with clearly stated assessment criteria, could be sent to all on the list or to a selection on a rotational basis.
6. Staff of public health organisations purchase specialised medical products in a strongly competitive market. One firm offered a pen worth over \$400 to anyone placing an order worth \$2000. The Commission received a report on this from the Department

of Health and advised that staff should purchase competitively, free of the influence of factors unrelated to the efficiency and economy of the goods or services being obtained. Offers of benefits should be considered only if useful to the organisation, and items which benefit individuals only should not be accepted. The Department of Health's Code of Conduct already warns against accepting gifts, but additional advice was given to staff.

7. Sutherland Shire Council was considering means to prevent leaks of confidential documents, following an incident where a confidential Report on a contractor's performance had been leaked. The Commission explored with council officers the types of matters which were directed to closed Committees of Council, to assess whether confidentiality was a necessity in all cases. Council officers agreed to review policy and practice in this area.

Privatisation and Contracting Out

In December 1991 the Premier's Department issued guidelines on Contracting Out and Competitive Tender. The Corruption Prevention Department commented on the guidelines, and recommends them to organisations involved in privatisation or contracting out. However, there have been frequent requests for advice on particular aspects.

It is almost inevitable, when a government agency makes the decision to contract out or privatise a service or facility, that the existing staff will have an interest in bidding for the contract or sale. This factor alone has generated considerable difficulties for several government agencies.

Some examples follow of advice provided by the Corruption Prevention Department, on request and on its own motion, relating to staff bids.

1. A statutory authority received a proposal from the manager of one of its activities, offering to buy out and run the activity. The authority rapidly developed a draft employee buyout policy and sought advice. The Commission suggested a policy framework was needed to decide if privatisation is in the best interests of the authority and the public, before considering an employee buyout. Assistance with the development of appropriate policies is in progress.

2. Consultants were engaged by a government agency to manage the tender process for privatisation of one of its business services. Appropriate structures were set up to distance existing staff from the process. However, the consultants offered to recommend suitable financial partners for, and facilitate negotiations with, existing staff interested in bidding.

The Commission advised that a consultant appointed to provide impartial professional evaluation of bids should not have, or appear to have, any involvement in developing one of the bids, indeed that bid which is likely to be most sensitive to scrutiny by the public and other tenderers.

3. The manager of a government facility heard rumours that it was to be contracted out. He spoke to the Chief Executive of his organisation and indicated a likely interest in bidding for the contract. Shortly afterwards, an advertisement sought expressions of interest from external bidders, but the organisation had not made known to the manager any policy or procedures to govern the contracting out process. The Commission suggested to the organisation that this and other deficiencies were such that a fresh start should be considered.

Sponsorship

Last year's annual Report outlined several approaches to the Commission for advice on managing sponsorship of government programs.

The Corruption Prevention Department held a half-day seminar in December 1991 in which ten different organisations participated. They included several known to have a significant involvement in sponsorship, some of which had communicated problem areas to the Commission, one with no apparent interest in sponsorship, and the Office of Public Management (OPM) which oversees the development of government-wide policy in such matters. The outcome was identification of basic principles to guide public sector agencies in developing agency-specific sponsorship policies.

The Commission subsequently held discussions with a number of private sector firms involved in sponsoring government programs to explore motivation and expectations about sponsorship programs.

It is intended that the Commission will develop a set of sponsorship principles jointly with OPM.

Sex Industry Legislation

The laws applying to prostitution and brothel-keeping are unclear and contradictory. While prostitution is not in itself illegal, the Disorderly Houses Act 1943 allows police to seek court orders to close any brothel. The Summary Offences Act 1988 renders brothel employees, including managers or receptionists, liable to prosecution. These provisions

create opportunities for unscrupulous police, if such there be, to solicit bribes from brothels which otherwise comply with the law.

In September 1991, the Commissioner and the Director of Corruption Prevention met with the Attorney-General, the Minister for Police and the Minister for Health to discuss these issues. In December 1991, the Disorderly Houses (Amendment) Bill 1991 was introduced into Parliament. The Commission believes the Bill addresses the critical issues but has suggested additional amendments to further minimise opportunities for corruption. The Bill was still before Parliament at 30 June 1992.

Issues Publications

Media coverage of Commission investigations rarely stresses the system deficiencies, highlighted in investigation Reports, which allow corruption to occur and go unnoticed. Each Report sets out important principles for prevention which have a wide application in the public sector.

The Commission's first issues booklet, published in March 1991, identified key issues raised by investigations during the first two years of the Commission's operation. A second issues booklet was developed by the Corruption Prevention Department and published in March 1992, with the title "In Whose Interest?". It incorporated material from investigation and corruption prevention Reports published during the previous 12 months. Both booklets continue to attract a great deal of interest from public sector employees and the wider community, and are used extensively in educational work.

In December 1991 the Corruption Prevention Department prepared a series of three articles on aspects of corruption prevention, with a view to raising community awareness. The articles dealt with:

"Gifts or graft" - problems and perceptions raised when public servants are offered gifts and hospitality.

"I'll just give Mum a quick call" - where to draw the line for public servants in making use of public resources for private purposes.

"To dob or not to dob" - aversion to whistleblowers, and how to overcome it with good reporting systems.

These articles were sent to all New South Wales country and suburban media outlets. A number printed them as a three-part series over a period of days or weeks.

Codes of Conduct

In July 1991 the Premier issued an instruction that each state agency must develop a Code of Conduct to be published in its 1991/92 Annual Report. In the previous reporting year, the Commission did a considerable amount of work assisting individual agencies to develop Codes. To achieve a more efficient use of limited resources, and anticipating many calls for assistance, the Corruption Prevention Department and the Office of Public Management co-ordinated a series of four workshops attended by over 60 organisations.

During these workshops, managers were encouraged to discuss ethical issues raised by scenarios based on actual situations reported to the Commission. Managers were advised to involve staff in developing guidelines and to use examples relevant to the particular workplace. Many organisations have subsequently sought advice from the Corruption Prevention Department on specific aspects of their Codes.

Review of the Commission's Code of Conduct

The Commission's Code of Conduct was devised in 1990 and included in the Annual Report for that year.

Given the Commission's wide experience in helping other government agencies develop and review Codes of Conduct, and in view of the Premier's instruction for all state agencies to develop and publish a Code of Conduct by June 1992, the Commission decided it was time to review its own code. The aim of the review was to ensure that the Code provides an adequate guide for resolving ethical issues which may arise for staff in doing the Commission's work.

The Commission's Research Unit and Corruption Prevention Department collaborated to conceive a methodology for the review. Staff were invited to respond on a voluntary and anonymous basis to a questionnaire which set out a series of hypothetical situations each posing an ethical dilemma. Staff were asked to rate the Code's usefulness in providing guidance for dealing with each situation.

Responses to the questionnaire, and additional comments volunteered by staff, provided a valuable resource for revising the Code. The responses demonstrated that simple statements of principle are not always helpful when particular ethical dilemmas arise.

Before revising the Code, a staff seminar was held to provide the opportunity to explain

the findings of the review and for staff to discuss issues and areas of concern. Many suggestions were made for bringing the Code to staff's attention on a more regular basis. Examples of specific problems were incorporated into the Code, together with guidance for resolving them. The revised Code is included as Appendix 4 to this Report.

The review process devised and undertaken by the Commission proved a very effective way of evaluating the Code and could readily be applied to a wide range of policy and guideline documents. Staff who answered the questionnaire indicated that their familiarity with the Code had increased significantly through the review process, proving the review itself to be a valuable tool in raising ethical awareness.

Seminars and Training

The Corruption Prevention Department has continued to provide in-house seminars to government agencies and speakers at conferences on specialist topics for government audiences. Speaking engagements this year focussed on information to help managers anticipate problem areas and take appropriate preventive measures. Speaking engagements for the current year are listed below.

Seminars to State and Local Government Agencies and Groups

Building Services Corporation:

- . Senior management - construction/tendering issues;
- . Newcastle building inspectors - approval issues;

Department of Health:

- . Orana/Far West Region health executives - prevention;
- . Senior Executive Council - prevention/cash handling;

Department of School Education:

- . Senior management - ethics;
- . Wagga Wagga area high school principals - purchasing issues;

Department of Planning:

- . Senior management - prevention strategies;

Local government, Newcastle area:

- . Local government auditors - audit/prevention;

Local government, Wollongong area:

- . Chief officers - corruption risks and prevention;

NSW Supply (Commercial Services Group):

- . Buyer/inspectors - purchasing issues (two seminars);

Public sector unions:

- . Union executives - Commission functions and impact;
(two seminars jointly with Education Unit);

State government agencies:

- . Managers/policy officers - code of conduct development
(four workshops jointly with OPM);
- . Freedom of information officers - confidentiality issues;

State government agencies, Newcastle area:

- . Senior managers - contracting out;

Water Board:

- . Senior managers - fraud/ethics training session;

Western Sydney Area Health Service:

- . Managers - prevention/cash handling;

Workcover Authority:

- . Senior management - prevention/licensing issues.

Seminars for Professional and Industry Bodies and Students

Sydney University:

- . Graduate planning students - ethics;

Institute of Purchase and Supply Managers:

- . Public and private sector managers - supply issues;

Institute of Municipal Managers, Mitchell Group:

- . New local government councillors - ethics;

Institute of Municipal Managers, Northern Rivers Region:

- . Managers, engineers, planners - conflicts of interest;

Royal Australian Planning Institute:

- . Public/private sector planners - negotiation;

Conferences

Corruption prevention officers spoke at commercial, industry or professional conferences on the following topics.

- . Commercialisation of government;
- . Changes in local government legislation;
- . Contracting with government;
- . Fraud and ethics awareness (two);
- . Performance-based regulation;
- . Public sector accountability;
- . Code of conduct development;
- . Conflicts of interest;
- . Awareness of corruption;
- . Supply and disposal (two);
- . Contracting out (two);

Future Plans

The Corruption Prevention Department has expanded to a total of 12, consisting of ten professional and two support staff, and some further expansion will be necessary in the medium term. A team structure and enhanced information systems are assisting in making more efficient use of human resources and ensuring greater accountability. The workload has expanded both in quantity and in range.

Relationships have developed with a number of organisations which consistently seek advice on policy and procedural matters. The Commission has made use of s53 of the ICAC Act to refer one important corruption prevention matter to the Premier's Department for policy development and it is expected that greater use will be made of this mechanism in future.

Some policy areas identified in the last annual report have been the subject of detailed work this year, including sponsorship and outside (secondary) employment. Privatisation

and contracting out will take on increasing importance during the coming year. Intensive project work in progress demonstrates that a broad spectrum of issues has been addressed.

While the Commission has greatly expanded its knowledge in corruption prevention, we are still on a learning curve where new issues will continue to surface and new solutions must be explored.

Chapter 5

PUBLIC EDUCATION

The Commission's public education function is set out in section 13(h) - (j) of the Act. In the past 12 months education activities have increased and more attention has been given to the establishment of longer term projects.

The basis of the Commission's public education philosophy is that knowledge is an empowering tool which can be used to address a serious and complex social problem like public sector corruption, and that community beliefs and attitudes can determine behaviour. The Commission's public education work aims to enhance public awareness of what is improper behaviour by those in public office. Without community involvement in the solutions to the problem, corruption cannot be dealt with effectively.

The Education Unit aims to:

- . Provide the public with information about the Commission's findings on the nature and negative effects of corruption, and to show how individuals can assist the Commission in its work;
- . Raise public awareness of the standards of conduct they can expect from public sector employees and elected representatives; and
- . Challenge prevailing attitudes which allow corruption to continue, eg "It's all right to rip off the system".

Public education is an effective way of changing accepted practices and beliefs which allow public sector corruption to go unnoticed and unchecked. Clearly, a better educated public will be less inclined to tolerate abuses of position and authority in the public sector.

The Education Unit

This unit, which was established in November 1990, has principal responsibility for the Commission's public education activities. Staffing remains small and specialised, with the Education Unit consisting of a manager, two senior education officers, and an education assistant.

The major achievements of the Unit for the past twelve months are as follows.

Schools

The provision of information to younger people about the nature and effects of corruption will give them a basis for articulating the standards they expect from people in public office.

Efforts through school curriculum changes and outreach activities for younger people have been a major feature of the Commission's education work. Between February and June 1992 the Education Unit visited 31 secondary schools and spoke to 1886 school children.

A formal submission made to the New South Wales Board of Studies, seeking to include corruption topics in secondary school subjects, has been endorsed in principle. More intensive work on the development of specific changes to the curriculum for the Legal Studies subject is the first step. The production of education resources and teacher training modules is also in progress.

Public Speaking

In the past year Commission staff have addressed 38 groups in both metropolitan and country centres. The response from these functions indicates a healthy level of community interest in the Commission's work. Requests from groups and clubs for Commission staff to give addresses will be met whenever possible. The Commissioner and senior staff gave a number of public addresses a list of which is at Appendix 5.

Meetings and Seminars

The Education Unit has co-ordinated meetings with key community and business groups including:

- . The Institute of Accountants;
- . The Country Mayors' Association;
- . The State Aboriginal Land Council;
- . The Labour Council of New South Wales.

The purpose of these meetings has been to allow audiences to find out more about the Commission's work and ask questions on issues that might be pertinent to their interests.

Education Trips

In the past year ten education trips were conducted to the following centres:

- . Tamworth, Armidale, Gunnedah, Coonabarabran, Narrabri;
- . Wollongong, Nowra, Bateman's Bay, Ulladulla, Goulburn;
- . Broken Hill, Hay, Balranald, Deniliquin, Wentworth;
- . Dubbo, Cobar, Nyngan, Bourke;
- . Port Macquarie, Kempsey;
- . Nowra, Ulladulla;
- . Foster, Taree;
- . Parkes, Bathurst, Orange;
- . Coffs Harbour, Grafton; and
- . Queanbeyan, Cooma.

The Education Unit has now taken primary responsibility for the Commission's visits to country areas, to avoid duplication of resources with Assessment staff also travelling into country areas. This new approach has worked well. More than 2000 people were contacted through meetings and speaking engagements on these trips. Media coverage of the Commission's education activities on these trips also helped to inform the public. Visits to schools have been conducted on education trips and the response from staff and students has been encouragingly positive.

Publications

Following the success of the issues booklet last year, a second similar booklet titled "In Whose Interest?" has featured in educational activities during this year. Special emphasis has been placed on circulating copies of the booklet to public libraries, community organisations, and schools. A special kit for teachers was sent with the booklet to all secondary schools in the state.

Other printed material including information brochures, education kits and reading lists have been produced. A complete list of Commission publications is at Appendix 6.

Special Events

The Commission has participated in the following special events in the past year:

. AG-QUIP (August 1991)

This was a large three day agricultural field event at Gunnedah in north west New South Wales. The Commission made itself accessible to approximately 100,000 country visitors to this event. Generally, the level of interest amongst visitors to the Commission's display area was very high. Local press, radio and television covered the Commission's participation in this event, ensuring increased public awareness in the area of the ICAC's work.

. Carnivale (October 1991)

During this statewide multi-cultural festival the Commission set up information displays at the launch of Carnivale in Sydney, and at community festivals in Sydney suburbs and Wollongong. The Commission sponsored the Carnivale poster which was sent to about 2000 organisations across the State. This event provided opportunities for the Commission to inform people of non English speaking backgrounds of its activities, and particularly to promote the existence in 12 community languages of its information brochure.

. Youth Week (March 1992)

This special week is dedicated to the interests of younger people and this year featured the slogan "Youth Matters", which complemented the Commission's slogan, "Corruption Matters". As official sponsor of Youth Week, the Commission was able to introduce itself to many younger people, youth workers and professionals. A special "corruption free zone" kit was distributed to schools, youth groups, and community organisations upon request. Again, the media took an interest in the Commission's involvement in this event.

. Newcastle Show (February 1992)

This participation represented another involvement by the Commission in a special event in a major regional centre. More than 250,000 people visit the Newcastle Show and the response at the Commission's exhibition was pleasing. In addition to handing out the

Commission's brown paper bag full of information about corruption and the Commission, the Commission asked those visiting the display to complete a survey about their views on corruption. Most respondents were concerned about the effects of corruption, and felt action was needed.

Multi-Cultural Outreach Campaign

This campaign was conducted from September through December 1991. Its purpose was to ensure that people of non English speaking backgrounds in New South Wales obtained information about the Commission's existence and activities, and received the message that in New South Wales there is no need to offer bribes or favours for government services. The outreach campaign built upon similar though smaller efforts in previous years. The campaign consisted of radio and press advertising, mailing of information kits to community groups and interpreters, and a media outreach program. The campaign was formally launched by the Commissioner, Ian Temby QC, and Chairman of the Ethnic Affairs Commission, Mr Stepan Kerkyasharian.

The Commission received a commendation from the Ethnic Affairs Commission Multi-cultural Marketing Awards for this campaign.

Attitude Surveys

Surveys were conducted over the 12 months from December 1990 to December 1991 to gauge public opinion over that time. There were three main findings from the surveys:

1. A majority of those surveyed felt that corruption does exist in the public sector of New South Wales. A clear majority of those surveyed believe corruption in the public sector has negative effects in terms of the cost to taxpayers, delays in the provision of services and unfair decision making.
2. A majority of people surveyed believe something must be done about public sector corruption, as opposed to those who believe nothing can be done or there is so little corruption that it is not worth trying to stop it.
3. Two trends across sub-groups were discovered. Public sector employees were less concerned with corruption but were more aware of the ICAC than their private sector counterparts. Similarly, women were more aware and responsive to ethical issues related to corruption, but were less aware of the Commission than men.

Media Relations

The Commission's strong public support is largely contributed to by its openness and media coverage of its activities. It is important that the public can see, understand and debate what the Commission is doing. The media plays a vital role in this process.

The importance of the media as an accountability mechanism underpins the Commission's approach in relation to the media. In previous years the Commissioner has briefed editorial staff and journalists from major media outlets, including some country media, about the work of the Commission.

This year, on the Commission's third birthday, the Commissioner launched the Commission's Education Strategy for 1992 and introduced newly arrived senior education officer Nigel Powell as a "public face" of the ICAC. Again, media representation was high and media coverage was extensive, particularly in country areas.

Of course, some aspects of the Commission's work are confidential. To the extent permitted by s111 of the Act, which provides severe penalties for those who disclose confidential information for other than statutory purposes, the Commission seeks to be open and accessible.

Occasions arise when it is appropriate for the Commission to make a public statement about a matter. This was done most often during the year by media release, a list of which is at Appendix 7.

The principal responsibility for liaison with the media rests with the Media Unit which also has responsibility for the publication of reports, providing access to public hearing transcripts and exhibits and helping in the compilation and dissemination of information about the Commission.

Investigation Reports

Reports of Commission investigations are and always have been freely available to anyone. The Commission urges members of the public to read its reports and form their own opinions.

Reports are mailed on request, and are available at the reception desk in the Commission. They are circulated to all New South Wales Government Departments, statutory authorities, local councils, universities, TAFE colleges, high schools, courts, Legal Aid Commission offices and public libraries.

Education functions including public seminars, addresses and special events, have been excellent venues for distribution of reports. Public interest remains high.

At times a more proactive approach has been adopted with investigation reports. When the Report on Investigation into Local Government, Public Duties and Conflicting Interests was released in March 1992 the Commissioner gave a media conference to explain the recommendations of the Report.

Commission reports provide not only statements of findings from investigations but also observations on how corruption can be prevented. In the long term, educating the public about corruption, and ways to prevent it, will hopefully lead to attitudinal change and higher standards of accountability and behaviour in the public sector.

Future Plans

Mass media advertising campaigns are likely to feature in future public education work. The effectiveness of a variety of media is currently being evaluated. The use of mass media communications on a semi regular basis is seen as an effective way of creating public awareness of the importance of reducing corruption and prompting attitudinal change.

Education resources to explore the causes and effects of corruption will be produced for use in schools and in business and community groups. These materials will enable teachers, group leaders and trainers to be sufficiently well resourced to conduct discussions on the topic of public sector corruption.

Because information technology is rapidly advancing the Commission is planning to offer its information resources in a variety of ways, including visual, printed and computer-based information packages.

Chapter 6

LEGAL AND POLICY

This chapter gives an account of the role of the Legal and Policy Department of the Commission, and the legislative change affecting the Commission and recommended by the Commission.

Legal and Policy Department

The main functions of this department are the provision of legal advice and services to the Commission, and policy development. The department consists of lawyers and research officers.

The role of the lawyers is to participate in investigations, by providing legal advice to the investigators, preparing statutory notices and applications for warrants, and instructing counsel in hearings; provide legal advice to other Commission staff; and represent the Commission in litigation.

The Research Unit commenced operating in October 1991. Its function is to provide the Commission with systematically gathered and analysed information to be used as a basis for decision making, policy making and action in the Commission's work.

A major project commenced by the Research Unit is a survey of randomly selected public sector employees about their views of public sector corruption. The survey is intended to assist the work of the Corruption Prevention Department and the Education Unit. At the end of the reporting year a questionnaire had been developed, with assistance from officers of the New South Wales Bureau of Crime Statistics and Research, and a trial of the questionnaire had been conducted with a small sample of public sector employees from one agency, with the approval of the agency's Chief Executive.

Other projects undertaken by the Research Unit include examination of sponsorship of government programs by the private sector, and the review of the Commission's Code of Conduct, both conducted jointly with the Corruption Prevention Department.

Last year's Report recorded that the Parliamentary Committee on the ICAC recommended that the Commission study inquisitorial systems of justice practised in Europe and elsewhere, and their application to Commission investigations. The Commissioner

accepted an invitation to attend and speak at the Grand Jury Foundation Conference in California, as an opportunity to consider the Grand Jury's inquisitorial procedures. The Commission engaged Mr Bron McKillop, Senior Lecturer in the University of Sydney Faculty of Law, an expert on European inquisitorial systems, to prepare a research paper and bibliography. Following receipt and consideration by the Commission of Mr McKillop's report, two senior Commission officers travelled to France, Germany and Italy in June 1992 and examined inquisitorial proceedings there by interviewing participants and experts, examining documents and observing proceedings. The cost of this research project during the year was \$41,000.

Legal Change Affecting the Commission

Amendments to the ICAC Act

The 1991 Report referred to:

- . the recommendation of the Parliamentary Committee on the ICAC, supported by the Commission, that s31 of the Act be amended to permit the Commission greater discretion to conduct hearings in private;
- . the recommendations of the Commission that ss32 and 33 of the Act be amended to permit unincorporated associations to appear and be legally represented at Commission hearings; and
- . the Government's and Commission's view that s14 of the Act should be amended to facilitate the provision of information by the Commission to prosecuting authorities and public authorities.

In December 1991 those amendments were effected, plus amendments to s52 of the Act to specify grounds upon which the Attorney-General can grant financial or legal assistance to witnesses before the Commission, and to s68 of the Act to facilitate publication of reports of the Committee on the ICAC.

Perhaps the most significant amendment was the amendment to s31, which now permits the Commission to decide to hold hearings in public or in private, having regard to public interest matters. The previous form of s31 contained a presumption of public hearings; the new form permits greater flexibility. The amendment was recommended by the Committee on the ICAC after an inquiry, during which the Commissioner gave evidence about the value of public hearings and the desirability of more flexibility to hold private hearings. The Commission argued, both in the inquiry and in submissions to the

Government, that the public interest criteria which should inform decisions to sit in public or private should not be included in the legislation. That submission was accepted. The criteria to which the Commission will have regard are published in the Commission's Procedure at Hearings, which is Appendix 2 to this Report.

The amendment to s31 also empowers the Commission to decide to hear closing submissions in private. The Commission suggested this change because of concern about damage to people's reputations arising from misreporting or misreading of submissions as evidence or the Commission's findings. The latter had occurred particularly in the case of submissions by counsel assisting the Commission being described as the Commission's report or findings. That can undermine the Commission's reports.

The Commission desires to do its work in public to the greatest extent practicable consistent with what it sees as the public interest; accordingly most hearings are conducted in public. However, there is a great difference between the evidentiary stage of hearings at which witnesses give evidence, having sworn to tell the truth, and submissions, which are not sworn, and reflect only views on the evidence. Reporting of submissions can lead to undesirable speculation as to what will be in a report, publicity of which can have adverse consequences for individuals.

Freedom of Information (Amendment) Act 1992

Amendments to the Freedom of Information Act 1989, passed in May 1992 and to operate from 1 July 1992, change the Commission's status from being exempt from the operations of the Act in respect of all its functions to being exempt only in respect of its "corruption prevention, complaint handling, investigative and report functions". The Commission's Statement of Affairs, required under the Freedom of Information Act, appears at Appendix 8.

Statutory Appointments Legislation (Parliamentary Veto) Amendment Bill

The Statutory Appointments Legislation (Parliamentary Veto) Amendment Act, passed in May 1992, will apply to the appointment of the Commissioner for the Independent Commission Against Corruption. The effect of the Act, insofar as it applies to the Commission, is that proposed candidates for the position of Commissioner will be examined by the Parliamentary Committee on the ICAC, which can veto proposed appointments.

Service and Execution of Process Act

Last year's Report referred to a review by the Commonwealth Government of the Service

and Execution of Process Act 1901 (Cth). An amendment to the Service and Execution of Process Act, operating from August 1991, permits interstate service of subpoenas and warrants issued by “investigative tribunals” by order of the Supreme Court. The amendment applies to summonses, notices for production of documents and information and warrants issued by the Commission. The new Commonwealth provisions supersede the amendments to ss35(6) and (7) of the ICAC Act effected in December 1990.

The Service and Execution of Process Bill 1992, a bill to replace the 1901 Act, was introduced into the Commonwealth Parliament in March 1992. The Commission was asked for, and provided, comments about the Bill, which will regulate interstate services of summonses, notices and warrants issued by the Commission and other like bodies.

Telecommunications (Interception) Act

Last year’s Report referred to the review of the Telecommunications (Interception) Act (the TI Act) by which the Commission is empowered to apply for warrants to intercept telephone calls, in connection with an investigation of the offences specified in that Act. During the year the Commission received, and made submissions on, the Commonwealth Attorney-General’s Department’s discussion paper on the review of the TI Act. The recommendations of the Departmental review adopted the Commission’s submissions that the offences in respect of which telephone interceptions may be used be extended to include official corruption offences, and that the Act be amended to permit the Commission to use intercepted material in Commission hearings.

Cash Transaction Reports and Taxation Information

Last year the Commission reported that the Commonwealth Government had agreed to amendments to Commonwealth legislation to permit the Commission to obtain information from the Cash Transaction Reports Agency and the Australian Taxation Office, at their discretion, in the course of investigations.

Amendments to the Cash Transaction Reports Act 1988, to permit the Director of the Cash Transaction Reports Agency (now the Australian Transaction Reports and Analysis Centre (AUSTRAC)) to authorise the Commission to have access to CTR information, became operative in September 1991.

In August 1991 the Commission was advised by the Australian Taxation Office that the Commissioner of Taxation may now disclose tax information to the Commission, if satisfied that the information is relevant to establishing the occurrence of a serious offence, pursuant to the provisions of the Taxation Administration Act 1953.

Legal Change Recommended by the Commission

Official Corruption Offences

In last year's Annual Report and in the Report on Investigation into the Maritime Services Board and Helicopter Services the Commission noted the need for improvement in New South Wales with respect to official corruption offences. The Commission was consulted about a draft Bill in the previous reporting year, but during the year just finished was not consulted further.

Admissibility of Commission Transcripts

In last year's Report, at pages 70-71, the Commission recommended that consideration be given to legislative amendment so that transcripts from Commission hearings could be used in connection with committal proceedings in prosecutions resulting from Commission investigations, in substitution for newly prepared statements. In December 1991 the Premier advised the Commission that the Government was unable to support that proposal.

Commission Input to Proposed Whistleblower Legislation

Whistleblower protection legislation was an element of the Memorandum of Understanding between the Government and the three Independent Members of Parliament. In March 1992 the Commission provided an issues paper to the Cabinet Office, for consideration during the formulation of proposals for legislative change. The Whistleblower Protection Bill 1992 was introduced into Parliament on 30 June 1992. The Commission hopes there will be informed and extensive public discussion of the Bill and hopes to contribute further.

Police Regulation 30

The Commission's Report on Investigation Relating to the Raid on Frank Hakim's Office, published in December 1989, referred to Rule 36A of the Police Rules, which prohibited retaliation, in relation to employment, against any police officer who reported alleged misconduct by another officer. The Report observed that because the Rule provided protection only where the officer had reasonable grounds for believing the other officer's conduct had occurred, there might be room for victimisation in cases of sincere but mistaken belief, where it was contended that reasonable grounds did not exist.

In June 1990 the Commissioner wrote to then Deputy Commissioner Lauer suggesting that the rule be changed to protect officers who provided information against another officer in good faith, even if the grounds for belief were later judged not to be reasonable. The Police Service has advised the Commission that Regulation 30(1)(b) of the Police Regulations 1990, the now relevant provision, was amended in March 1992 to replace the test of "has reasonable grounds to believe" with "sincerely believes".

Chapter 7

ADMINISTRATION

The Administration Department provides the support necessary for the Commission to do its work. Those services include finance, office services, personnel, records and registry, library and information services and information technology.

Human Resources

The Commission is empowered to fix salaries, wages, allowances and conditions of employment of staff in so far as they are not fixed by another law, with the concurrence of the Premier. Directly employed staff are not subject to the provisions of the Public Sector Management Act 1988. The Commission is authorised to make arrangements for the secondment of staff and the employment of consultants. The costs of salaries and consultancy fees are met from the Commission's recurrent budget.

Members of senior management are appointed on term contracts. They are not members of the Senior Executive Service. The identities and roles of senior management are set out in Chapter 1.

An organisational chart is at Appendix 1.

Recruitment

During the past financial year, 30 recruitment campaigns were conducted, including for the following positions: Solicitor to the Commission; General Counsel; Records Manager; Manager, Assessments; Manager, Information Technology; Manager, Education; Assistant Security Manager; Education Officers; Investigators; Corruption Prevention Officers; Secretaries; Support Staff.

Staffing Levels

Since 30 June 1991 the Commission's staff has increased from 132.5 to 142.

The number of officers and employees, by category, for the past year and the three previous years, are as follows:

	1989	1990	1991	1992
Executive	6	8	8	9
Operations	16	29	38	60
Legal and Policy	9	14	9	13
Corruption Prevention	0	3	5	12
Administration - Support	30	63	72.5	48
TOTAL	61	117	132.5	142

Table 5

(Note: Administration includes secretarial and administrative support staff assigned to other sections of the Commission).

Wages and Salaries

In the past year, the most significant changes to Commission salaries were the restructuring of wages paid to seconded New South Wales police officers, who are now employed under Commission terms and conditions, and the 2.5% State Government wage increase on 2 August 1992.

Allowances payable to staff include travel allowance, meal allowance, higher duties allowance and first aid allowance.

At the end of the reporting year, the monetary value of recreation leave and long service leave owed to employees of the Commission was as follows:

- . Recreation leave - \$385,000
- . Long Service Leave - \$303,000

Equal Employment Opportunity

The Commission is committed to the principles of equal employment opportunity and will produce its first EEO Management Plan in 1992/93. The plan will identify and address specific equal employment opportunity issues for the Commission and its staff.

Only limited statistical information on the distribution of target groups across the Commission is available this year. Complete information will be provided in the Commission's next Annual Report.

Grade	Total staff		Women	
	1991	1992	1991	1992
Below CO 1-2 to A&C Gd5	59.5	53	47.5 (36%)	44 (31%)
Above A&C Gd 6	73	89	24 (18%)	27 (19%)
TOTAL	132.5	142	71.5 (54%)	71 (50%)

Table 6

Performance Review

The Commission has a performance appraisal system for all staff. Performance appraisals are conducted at the six month probationary period and thereafter annually. Incremental salary advancement coincides with annual appraisal.

The performance appraisal system is an important part of staff management, and should be a positive exercise. It provides an opportunity to assess performance and work satisfaction of employees and management, and to identify any areas which may need addressing such as further training or job re-evaluation. The current scheme is to be reviewed in the coming financial year.

Staff Development and Training

The Commission continues to place a high priority on staff development and training programs.

During the course of the year, staff have undertaken computer training, both in-house and externally, media training, management skills training, continuing legal education, training in investigation methods and a specialised analysts training course developed for Commission staff by the Chief Analyst.

During the year, the Commission called for tenders for training staff in the specialised computer applications used in the Commission. Training was to be undertaken in two parts, the first of which was completed in the early stages of the reporting year. The second part is to commence in the coming reporting year.

An ongoing aspect of staff development and training is that staff are given the opportunity to attend studies outside working hours as approved students and are granted study time.

Policy and Procedures

A Policy Committee was established during the year, with representation from all departments to review and develop policies.

The Personnel and Recruitment Unit has developed policies on reporting of absences, issuing of references, leave without pay, hours of attendance, maternity leave, staff training and development and study time.

Dispute Resolution Procedures

During the year, the Commission decided to develop and implement a procedure for dispute resolution and grievance mediation. The procedure will enable staff to seek independent input or mediation from a senior member of staff in the event of a conflict or dispute which cannot otherwise be resolved. A policy was close to finalisation, in consultation with staff, as the reporting year closed.

Occupational Health and Safety

The Commission continues to make good progress in the area of occupational health and safety. A new committee was elected during the year and the ergonomic assessment of office furniture, the way in which staff use their workplace, environmental hazards in the workplace and eye testing for staff were issues dealt with.

Senior Management Committee

This Committee consists of the Commissioner, General Counsel, Director of Operations, Director of Corruption Prevention, Solicitor to the Commission and Director of Administration and Education. It assists the Commissioner in the overall management of the Commission. It meets weekly to consider key issues affecting the Commission and twice yearly to discuss strategic direction and significant policy issues.

Information Technology Working Party

This Committee is responsible for the overall direction and management of the Information Technology function. It has supervised the development of the Commission's Information Technology Plan and the acquisition of the Commission's new computer equipment.

Several working parties have evolved from the main IT Working Party, to assist in the implementation phase of the Commission's computer application.

These working parties include: IT Procedures Working Party; IT Training Working Party; Text Retrieval Working Party; and Intelligence Working Party.

Security Management Committee

This Committee consists of the Director of Operations, the Director of Administration, Deputy Director of Operations and the Security Manager, and oversees the management of the Commission's protective security program. It meets on an as-needs basis.

Middle Management Meetings

Meeting are held every two months, attended by nominated representatives from each department. These meetings are a forum for information sharing and the discussion of matters of general importance to the Commission.

Occupational Health and Safety Consultative Committee

This Committee consists of representatives of the major staff groups within the Commission. It considers all health and safety issues affecting the Commission.

Records Management

During the year a computerised records management package was installed, staff were trained in its use and the conversion of the Commission's files is well advanced and will be completed early in the 1992/93 year.

With the employment of a permanent archivist, progress has been made in relation to archiving the holdings of the Commission.

The Records Unit is also responsible for the provision of hearing transcript to the public. All transcript continued to be provided free to witnesses; transcript of public hearings continued to be provided at a cost of \$1 per page to the public. A new and innovative audio recording system was introduced to provide the Commission's master record of its hearings.

A tender for transcription services was issued. Evaluation of responses had commenced at the end of the year.

Information Technology Unit

The Commission continued the computer acquisition program, which commenced in February 1991.

The acquisition comprises Unix based minicomputers, a database management system, image processing equipment and the installation of a Commission wide Ethernet based network.

The acquisition is currently in the final phase, all components have been developed and installed, and the system is undergoing final acceptance and performance testing. All necessary system procedures have been completed and a Commission wide training program has been initiated prior to the introduction of all systems in production mode.

The following components have been successfully installed:

- . an Ethernet network comprising some 240 locations with a high speed fibre optic backbone;
- . an HP 9000 minicomputer supporting file sharing facilities and the SYBASE database management system;
- . approximately sixty HP personal computers;
- . image processing equipment from TOWER Technology sufficient to handle the online requirements for some 750,000 documents;
- . an Investigation System specially developed for the Commission by the DMR Group;
- . a special purpose intelligence system: NETMAP; and
- . library and registry system packages, TINLIB and PARLAIRS respectively.

The system is currently supporting the needs of approximately sixty Commission users. The following benefits are in the process of being realised:

- . security over access to information;
- . network software cost savings; and
- . resource sharing.

Library and Information Services

The Commission's Information Services Unit which includes the Commission's library, provides a full range of library and information services, including reference, research and on-line information services for the Commission.

During the year Memoranda of Understanding were signed with the Cash Transaction Reports Agency (now AUSTRAC) and Australian Bureau of Criminal Intelligence, and an agreement was signed with the Roads and Traffic Authority. Good working relationships continue with numerous government and non-government agencies.

TINLIB was selected, following a long and demanding trial, as the Commission's library system. Staff will soon be able to search the catalogue from their own workstation.

An in-house information services newsletter keeps staff informed of recent acquisitions.

Finance and Accounts

The Commission is listed under Schedule 3 of the Public Finance and Audit Act 1983 as a body funded from the Consolidated Fund and is required to prepare financial statements in accordance with the Annual Reports (Departments) Act 1985. Audited financial statements including notes are at Appendix 9. Additional financial information is set out in Appendix 10. Pictorial representations of the dissection of expenditure and monthly spending for stores and equipment purchases are at Appendix 11 and Appendix 12.

The operational work of the Commission is to a significant degree demand driven by the matters referred for, and requiring, investigation. For the reporting year supplementary funds were required to assist the Commission to achieve current operational objectives.

Major Assets and Major Acquisitions

Major assets held by the Commission are its investment in leasehold improvements, hardware and software incorporated in the integrated computer system and technical equipment. During the reporting year stocks of computer equipment were increased by \$1.169 million and \$99,725 was spent on upgrading security systems. Other major acquisitions were \$78,146 for radio equipment, \$26,910 for recording equipment for hearings, and \$128,975 for a range of specialised technical plant and equipment.

Insurance and Risk Management

The Commission's Office Services Manager is responsible for the management of insurable risks. Insurance is held with the Treasury Managed Fund. The major areas of risk fall within the categories of workers compensation and property. As at 30 June 1992 the Commission's retained risk accounts held an overall surplus of \$1652.

Funds Granted to Non-Government Community Organisations

The Commission contributed \$380 to the Wagga Wagga Self Advocacy Group as co-sponsor with the New South Wales Police Service for the introduction of a Rights Assistance Card for people with intellectual disabilities in the region.

Overseas Visits

In August 1991 the Commissioner and Solicitor to the Commission visited California to examine the inquisitorial procedures of the Grand Jury, agencies dealing with conflicts of interest in local government, and the incidence of prisoner informants in prosecutions which had been investigated there. The Commissioner presented a paper at the Grand Jury Foundation conference.

In January 1992 the Commissioner attended the Fourth International Policing Executive Conference for the Asian-Pacific region in Delhi sponsored by the International Association of Chiefs of Police.

The Director of Corruption Prevention and a Deputy Director of Operations attended the Fifth Annual International Anti-Corruption Conference held in Amsterdam on 8-12 March 1992. The Director of Corruption Prevention presented a paper.

The Director of Administration and Education and a Principal Lawyer met with investigating and prosecuting officials and comparative law experts to research inquisitorial systems in Germany, France and Italy in June 1992.

Consultants

A number of consultants were paid more than \$30,000 during the reporting year.

DPXCEL Pty Ltd were retained at a cost of \$106,838 to oversee installation of an integrated computer system.

Transcription services were provided by Spark and Cannon at a cost of \$402,228 including \$34,230 for the hire of word processing equipment from Word Express. Part of the expenditure was for the local production of transcript for hearings conducted in Kyogle, Coffs Harbour and Newcastle.

Security services at a cost of \$559,112 were provided by the Safety and Security Branch of the New South Wales Police Service.

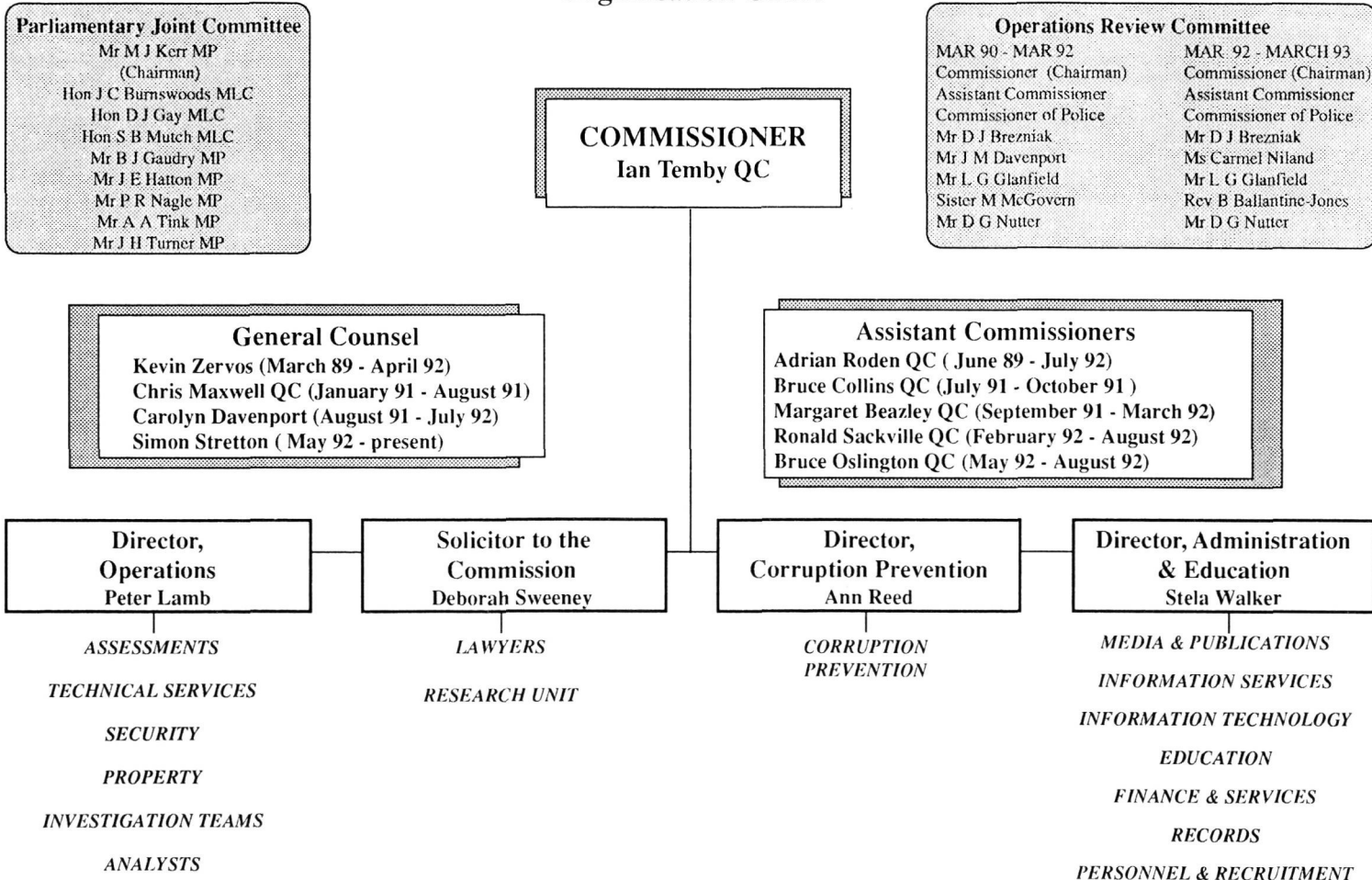
The Commission leases vehicles from DAS Fleet and Comcar, as it is considered more efficient and economical to lease than to purchase. This service cost \$171,000, including \$27,000 for an after hours bus service for Commission staff.

Consultants paid less than \$30,000 individually are listed in Appendix 13.

Cost of Printing Annual Report

The cost of producing 6000 copies of this Annual Report for the year ending 30 June 1992 was \$13,436. This represents a unit cost of \$2.24.

Independent Commission Against Corruption Organisation Chart



Appendix 2

PROCEDURE AT HEARINGS

The Commission may hold hearings for the purposes of an investigation (s30 ICAC Act 1988). Hearings are an aid to, or part of, the investigation process. They are not held to “present a case” after a completed investigation.

Hearings may be held in public, or in private, or partly in public and partly in private, as the Commission decides (s31 ICAC Act).

Hearings will generally be conducted in public, unless circumstances warrant otherwise. This is because public hearings enable the public to see and hear about the Commission at work, which enables the public to be educated about corruption, enhances public confidence in the Commission, and tends to increase the provision of information to the Commission. Closing submissions may be heard in private, although evidence has been received in public.

The Commission will hear and consider applications for all or part of a hearing to be private. Such applications will generally be heard in private if that is requested. Reasons for decision will be given. By s31 the Commission is obliged, in reaching such decisions, to have regard to any matters which it considers to be related to the public interest. Private hearings may be necessary to avoid prejudice to current indictable criminal proceedings (s18). Other matters of relevance may be danger to personal safety or well-being, the need to protect an informant’s identity, or unfair or unnecessary damage to reputation arising from anticipated evidence. This is not an exhaustive list.

The following procedure will be followed in respect of public hearings.

1. When, for the purpose of an investigation, the Commission decides to hold a public hearing, the Commission will generally give notice of that intention, both publicly and to such persons as the Commission believes are substantially and directly interested in any subject matter of the hearing.
2. The notice will state the general scope and purpose of the proposed hearing, and the date, time and place of the first sitting.

3. One purpose of the notice will be to enable those persons who may wish to appear and be represented to arrange for their applications to be made on the first sitting day.
4. As provided by the Act, hearings will be conducted and presided over by the Commissioner or an Assistant Commissioner (s30(2)).
5. The courtesies which are customary in courts of law will be observed. Robes will not be worn. The person presiding should be addressed as "Commissioner" whether s/he be the Commissioner or an Assistant Commissioner.
6. The first day of a public hearing will generally be limited to the formal announcement of the general scope and purpose of the hearing, applications for persons to appear and be represented, and settling arrangements for the hearing.
7. Leave to appear for a person substantially and directly interested in the subject matter of the hearing or for a person who will be giving evidence at the hearing, will generally entitle the legal representative to ask questions of witnesses and to make submissions, but not to give advice to the person represented while he or she is in the course of giving evidence. Leave to appear may however be subject to limitations particularly when the person represented has an interest in part only of the subject matter of the hearing.
8. Leave to appear may be granted in respect of a hearing generally, or in respect of a specified part of a hearing.
9. Witnesses may apply for leave to be legally represented when they give evidence. Witnesses who wish to be legally represented should arrange to have their lawyer present at the time they are required to give evidence. Leave will generally be granted.
10. The hearings will be conducted with due regard to the provisions of s17 of the Act, which provides:
 - (1) The Commission is not bound by the rules or practice of evidence and can inform itself on any matter in such manner as it considers appropriate.
 - (2) The Commission shall exercise its functions with as little formality and technicality as is possible, and, in particular, the Commission shall accept written submissions as far as is possible and hearings shall be conducted with as little emphasis on an adversarial approach as is possible.

11. In the case of witnesses who have furnished statements to the Commission, such statements may, in the discretion of the person presiding, be read in lieu of examination-in-chief.

12. In the case of a person seeking to give evidence, or of a person proposed as a witness by any person appearing or represented at a hearing, the Commission will generally require that a statement of the proposed evidence be provided to counsel assisting the Commission.

13. In view of the provisions of s17 of the Act the Commission may accept signed statements from persons not called as witnesses, or other informal proof, in relation to matters it considers not to be contentious.

14. Hearsay and other legally inadmissible material will generally only be received insofar as it appears to the person presiding that it may further the investigation for the purposes of which the hearing is being held. The Commission will not permit public hearings to become vehicles for the purveying of gossip, rumour or speculation. Questions must not be asked of, or propositions put to, a witness, without justification on the basis of the knowledge of, or instructions given to, the person asking the question. When questions are put to a witness which go to credit but not an issue in the investigation, the Commission will generally not permit evidence to be called on collateral issues.

15. Statements or records of interview taken by ICAC investigators from significant witnesses will not as a matter of course be made available to other “affected persons”. The question of access to such material will be determined by Counsel Assisting and a decision made dependent on various considerations.

16. When the Commission is aware that evidence will be given, in public hearing, of corrupt conduct by a person, the Commission will endeavour, where practicable and where it will not prejudice the investigation, to inform the person in advance. The person may then choose to attend and hear the evidence, or obtain a transcript of the evidence.

17. Where a serious allegation is made about a person in a public hearing, the Commission will endeavour to afford the person an early opportunity to respond, subject to the seriousness of the allegation and the circumstances of the investigation. Such response may be by evidence, in writing, or other means, as appropriate.

18. The Commission will not necessarily hear all evidence about a person before it first takes evidence from that person, although a person the subject of evidence will be given the opportunity to respond to all the evidence. This simply means that an affected person

will not only be called to give evidence after all other evidence, and sometimes affected persons may be called to give evidence more than once during a hearing where the investigation so requires.

19. The Commission may make orders prohibiting publication of evidence, generally, or temporarily, or in specified circumstances (s112). Such orders are most often used in relation to private hearings or current criminal proceedings. Orders may be made for reasons including, but not limited to, the following: to protect a person named in, but not the subject of, a Commission hearing; to prevent publication of an allegation pending a response by the subject of it; to protect the safety or welfare of a person; to protect minors; to protect trade secrets or law enforcement procedures; or for national security reasons.

20. Submissions on evidence may be taken in writing, or orally, or a combination of both, as appropriate to the circumstances of particular investigations, and may be taken in private.

21. As required by s74 of the Act, all public hearings will be the subject of report to Parliament. Each report must include, pursuant to s74A(2), a statement in respect of each “affected person” as to whether the Commission is of the opinion that consideration should be given to the prosecution of the person for a specified offence, or the taking of action against the person for a specified disciplinary offence or with a view to dismissing, or dispensing with or terminating the services of, the person. Reports may also contain findings of corrupt conduct in relation to an affected person. An “affected person” is a person against whom substantial allegations have been made in the course of, or in connection with, an investigation.

Private hearings are generally conducted similarly to public hearings, save that:

- . they are not usually publicly advertised;
- . members of the public, or classes of people, or individuals may be excluded from the hearing;
- . the requirements as to an early public opportunity to respond to allegations, or prior notice of anticipated evidence, may not apply because allegations are not made in public,
- . orders pursuant to s112 ICAC Act are generally made prohibiting publication of some or all of the evidence. These orders generally have the effect that the media cannot

report the evidence, and those present in the hearing cannot talk about the hearing to others, save that witnesses can talk with their legal representative. These orders can be lifted or varied as the Commission considers desirable.

March 1992

COSTS OF COMPLETED INVESTIGATIONS WITH PUBLIC REPORTS

MATTER	HEARING COSTS	COUNSEL COSTS	REPORT COSTS	INVESTIGATIVE COSTS	OVERHEADS	TOTAL COSTS
VINYL FLOORING (July 1991)	\$5000	\$1000	\$7000	\$8000	\$116,000	\$137,000
MSB HELICOPTERS (July 1991)	\$20,000	\$3000	\$7000	\$28,000	\$143,000	\$201,000
SOUTH SYDNEY COUNCIL (December 1991)	\$40,000	\$23,000	\$11,000	\$13,000	\$211,000	\$298,000
KYOGLE SHIRE (January 1992)	\$95,000	\$7000	\$6000	\$167,000	\$489,000	\$764,000
NSW FILM CORPORATION (March 1992)	No Hearing		\$2000	\$10,000	\$71,000	\$83,000
CONFLICTS OF INTEREST (March 1992)	\$45,000	\$124,000	\$25,000	\$33,000	\$285,000	\$512,000
SYDNEY WATER BOARD AND SLUDGE TENDERING (May 1992)	\$78,000	\$170,000	\$7000	\$62,000	\$327,000	\$644,000
METHERELL RESIGNATION AND APPOINTMENT (June 1992)	\$31,000	\$71,000	\$14,000	\$4000	\$104,000	\$224,000
CONDUCT OF PETER BLACKMORE (July 1992)	\$10,000	\$2000	\$3000	\$5000	\$62,000	\$82,000
UNAUTHORISED RELEASE OF CONFIDENTIAL GOVERNMENT INFORMATION (August 1992)	\$408,000	\$430,000	\$96,000	\$201,000	\$1,626,000	\$2,761,000

Note: See pp42 - 43 for costing formula.

Appendix 4

INDEPENDENT COMMISSION AGAINST CORRUPTION CODE OF CONDUCT

22 July 1992

Introduction

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.

The Commission has three principal functions under the Act - investigation, corruption prevention and public education. 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. (s12 ICAC Act)

The legislation confers extraordinary powers on the Commission. Because of this, Commission staff must seek actively to achieve and retain public trust, if they are to deserve the responsibilities entrusted to them.

The work of the Commission could be seriously undermined if any of its officers was seen to be acting in a way which the Commission itself, or right-thinking members of the community, would find reprehensible in any public organisation.

This Code sets out the principles officers 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 is not intended to 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.

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.

1. Principles

- Officers of the Commission must carry out their duties impartially, with integrity and in the best interests of the Commission.
- 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. They should never be used to gain personal advantage.
- The standards of ethical behaviour and accountability which the Commission promotes in its dealings with other government organisations must be met by its own officers.
- Officers of the Commission should establish and maintain effective relations with individuals and organisations outside the Commission, 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 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.

The following parts of the Code provide detailed guidance on how you are expected to apply these principles in practice.

2. Employment

The ICAC Act places all officers under the control of the Commission. Appointment is not under the Public Sector Management Act. However, Parts 1, 3, 5 and 6 of the Public

Sector Management (General) Regulation 1988, relating to particular conditions of employment, allowances and leave, have been adopted as Commission practice.

You should be familiar, and act in accordance with, the provisions of the ICAC Act and Regulations and the Commission's policies as set out in staff circulars and operational manuals. Copies are held in the library. All requirements concerning secrecy, personal and financial disclosures, security and media contact, must be strictly followed. If you perceive conflict between legislative and policy requirements and the Code, you must consult your supervisor.

Officers transferred from the New South Wales Police Service for a temporary period of employment, who continue to act as constables, are also required to know and abide by the Police Service Act and Regulations and the New South Wales Police Service "Rules and Regulations" manual. If you perceive any conflict between the legislative or policy requirements of the Commission and the Police Service, you must consult the Director of Operations.

At Induction to the Commission, staff are provided with details of the terms and conditions of employment, including the Commission's performance appraisal scheme. Appraisal takes place six months after commencement and then on an annual basis. For further explanation of the scheme consult the Personnel Manager.

As an employee of the Commission, you have undertaken:

- not to engage in personal or professional conduct which may bring the Commission into disrepute;
- to abide by the strict secrecy provisions of the ICAC Act;
- to make full and open disclosures of your financial interests and personal particulars to the Commission. Significant changes to financial or personal status should be disclosed, when they occur, to a supervisor or member of Senior Management.

To maintain credibility the Commission must make all efforts to ensure employees have no association with corruption. For this reason, failure to disclose personal or financial particulars may bring serious consequences for both the Commission and individual staff.

3. Personal and Professional Conduct

You should carry out your duties with honesty, commitment and diligence, working to the best of your ability.

Where a decision or action is based on a statutory power, you must ensure that:

- the legislation under which the decision or action is taken authorises the taking of that decision or action;
- you have the authority or delegation to take that decision or action, or that authority has been given;
- any procedures required by law have been observed;
- all relevant Commission policies and directions are followed;
- the decision or action and the reasons for taking it are properly documented.

You have a responsibility to ensure fairness in carrying out the work of the Commission. This means that you should:

- take all reasonable steps to ensure that the information upon which decisions or actions are based, is factually correct, and that you have obtained all the relevant information;
- deal with like situations in a like manner, ie. be consistent;
- take all relevant information into consideration.
- not take any irrelevant information or opinions into consideration.

You should not act in any way which is discriminatory, and you should take care that your actions could not reasonably be regarded as discriminatory, bearing in mind that people may be aggrieved if a decision is not to their liking.

If you consider that you have been discriminated against within the Commission, you are encouraged to raise the issue with your Department Head or the Personnel Manager.

You should record, immediately and accurately, verbal communications on sensitive matters, and inform your supervisor if you have any special concerns.

You should not delay unnecessarily or unduly in making decisions or taking action.

You should be honest, but prudent in your official and other dealings with colleagues and the public.

You should seek and/or offer supervision appropriate to your position and duties.

You must obey any lawful instruction by an officer of the Commission empowered to make such instruction.

The Commission's work involves close co-operation between people from different disciplines. You should make special efforts in your communication with colleagues, providing assistance and offering explanations for your requests and advice.

Loyalty to the Commission and its effectiveness as an organisation should take precedence over loyalty to colleagues.

You should keep up with changes within the Commission particularly as they relate to your duties, and with relevant changes outside the Commission.

4. Accountability

You are responsible for your own acts and omissions and will be held to account for them. If you are a supervisor or manager at any level, you are responsible also for the work-related acts and omissions of the staff you supervise.

This does not mean that you will be held responsible for every minor fault of your staff.

It means that you will be called to account for unsatisfactory acts or omissions by your staff if they are so **serious, repeated or widespread** that you should know of them and correct them, if you are exercising the level of leadership, management and supervision appropriate to your position.

Therefore it is your responsibility to make sure, in regard to the staff under your leadership, that they understand:

- what their job entails and what their duties are;
- how they are expected to do their job;
- what results are expected.
- that their performance will be periodically and formally appraised.

5. Use of Information

Commission work involves access to sensitive and confidential information which may be the subject of inquiry, investigation or consultation. Section 111 of the ICAC Act prohibits disclosure of this information, except in the exercise of the Commission's functions. Any breach of the requirements could result in your being charged with an offence against the Act.

If you believe that disclosure of information is justified, you must document the details of the information and the reasons you are seeking disclosure. These should be submitted through a Senior Manager to the Commissioner and approval obtained before any disclosure is made.

You must exercise caution and sound judgement in discussing sensitive information with other Commission officers. It should normally be confined to those who require access to that information in order to conduct their duties, or those who can, by reason of their experience, provide useful assistance.

The Commission is entrusted by other agencies with information to assist in analytical work, inquiries, investigations or consultation. You must not access this information or use it for any purpose other than Commission work.

You must not use information gained in the course of your duties:

- in ways which are inconsistent with your obligation to act impartially;
- to cause harm or detriment to any person, body or the Commission;
- to gain improper advantage for yourself or for any other person or body.

Examples of the use of information for improper advantage could include:

- speculation in property or shares based on information about Government decisions or the affairs of a company;
- swapping confidential information with officers of other organisations;
- taking advantage for personal reasons of another person on the basis of information about that person held by the Commission;
- providing information from official records to any person outside the Commission for reasons not directly related to the work of the Commission.

6. Public Comment

You must not make official comment on matters relating to the Commission unless you are authorised to do so by the Commissioner.

The Commission's Media Policy requires that you refer all media inquiries to the Manager, Media and Publications who is the official spokesperson of the Commission.

Except when making authorised comment, discussions about the Commission's work should be confined to material which is in the public domain. You should ensure that others are aware that you are discussing only material in the public domain.

This applies to published reports of investigations, annual reports, public relations material, transcripts of public hearings, media releases, and public addresses. No comment should be made about any other material relating to the work of the Commission unless permission has been given by the Commissioner or the Manager, Media and Publications. If you are uncertain as to whether information is in the public domain you must consult the Manager, Media and Publications.

You should ensure that your personal views are not presented or interpreted as official comment. Expressing personal views about the Commission's work which might adversely affect its reputation or the exercise of its functions may lead to disciplinary action.

If you are aware that comments you have made socially or inadvertently may be used to undermine or damage the Commission's work, you should notify your supervisor or the Manager, Media and Publications immediately.

7. Financial and Other Private Interests - Disclosure and Conflicts

To ensure that the Commission's work is impartial and is seen to be so, there must be no opportunity for your personal interests, associations and activities (financial or otherwise) to conflict with the proper exercise of your duties.

All members of staff have made a disclosure of personal particulars prior to commencing duties. The Commissioner, in accordance with the ICAC Regulations, may also, at any time, require you to disclose your financial interests and those of your partner, dependent children and other persons with whom you are closely associated.

You must submit in writing the details of any changes in your personal particulars and (if you have made a financial disclosure) the financial interests of yourself, your partner, a dependent child or close associate. You should consult the Personnel or the Security Manager if you are unsure of what matters you should disclose.

If, in the course of your duties, you encounter information which involves people, organisations or activities that you have or had a personal interest in or association with, you must make a written disclosure to a member of Senior Management. A decision will be made whether the matter represents a conflict of interest and whether your involvement with it should cease.

If you are in doubt whether to disclose a change in financial or personal circumstances or a potential conflict of interest, you should consult a member of Senior Management.

As a general rule, disclosure is always preferable. It is confidential and can do no harm, whereas a great deal of damage may be done if you have not made disclosure of an interest, association or activity which may embarrass the Commission.

There are many possible circumstances where a conflict of interest could arise. You have the responsibility to be aware of possible conflicts and bring them to the Commission's attention so that an informed decision can be made about what action to take.

Some examples are given below, but you should not regard this as an exhaustive list:

- an inquiry or investigation involves a close relative or work colleague, or a company in which you recently had an interest;

- you are involved in calling tenders or organising the purchase of supplies, and you find that a close friend or relative is one of the tenderers;
- you are asked to provide corruption prevention advice to a government department where you were recently employed;
- an inquiry or investigation relates to a political figure or political party and you are a member of that party or an opposing political party.

8. Public Resources

Public resources include financial, material and human resources. All should be used effectively, without waste and for the work of the Commission.

The financial resources of the Commission are allocated under the Public Finance and Audit Act 1983 and officers are bound by the Treasurer's Directions issued under that Act. Procedures for the purchase of stores and equipment are conducted according to Commission policy established by the Manager, Finances and Services.

You must be authorised to incur expenditure on behalf of the Commission and you must adhere to the above regulations and policy.

You must not obtain or use any stores items (for example stationery, furniture) for a purpose which is unrelated to the work of the Commission.

You must not use your work time, or the Commission's staff resources, for private purposes. However, there are some reasonable exceptions to this rule. For example:

- you may use the phone for private calls, if they are short, infrequent and do not interfere with work;
- you may send or receive facsimile messages providing they are infrequent and do not interfere with work;
- you may, with a supervisor's permission, use Commission resources (such as computer equipment) for approved personal purposes;
- you may add your mail to the Commission's for posting, but you must not ask anyone to make a special trip for you. You must provide the stamp.

You should exercise care when using equipment, and follow the service requirements, to ensure good condition is maintained.

Some equipment is shared by a number of staff. You should be aware of competing priorities and ensure that your use of the equipment does not needlessly limit access by others. You should not assume that your work has priority simply because you are in a hurry.

Commission vehicles should only be used for official business unless approval has been given for private use. Official use may include overnight garaging at your home.

Members of your family and friends should not drive a Commission vehicle unless your terms and conditions of employment permit its private use.

You must seek prior approval from your supervisor if you want to use the Commission's equipment for private purposes, for example using a Commission laptop computer for writing an essay for university studies. When using Commission equipment for authorised private purposes, you must ensure:

- you use it only in your own time;
- the equipment is secure and properly cared for;
- your use does not prevent colleagues from doing their work;
- you provide consumables, for example, paper.

9. Security

Security of information and premises is vital to the Commission's effectiveness and to the personal safety of staff.

You should ensure that you are familiar with and follow security procedures for handling and disposing of information and for access of officers and visitors to Commission premises. These and other security procedures are contained in the Commission's Protective Security Program available from Department and Unit Heads or from the Security Manager. If you are unsure of procedures on any occasion, consult the Security Manager.

The removal of confidential documents and information, including Commission files, from the Commission's premises is permitted only in accordance with the Protective Security Program. Where it is not possible to seek permission from a member of Senior Management to remove confidential documents or information, security staff should be notified of materials removed.

10. Bribes, Gifts, Benefits, Travel and Hospitality

Offences under the ICAC Act include the acceptance by officers of bribes, and the offering of bribes to officers. If you believe yourself or a colleague to have been offered a bribe you must provide a detailed written report to the Commissioner immediately that you become aware of this.

You **must never solicit** any money gift or benefit, travel or hospitality and you must never accept any offer of money.

Accepting gifts or benefits could seriously damage the Commission's position. It is vital that:

- the impartial exercise of the Commission's functions not be influenced in any way; and
- 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.

As a general rule, you should decline offers of gifts, benefits, travel or hospitality (accommodation, meals or entertainment). Officers who agree to speak officially at functions should, where possible, notify their hosts that it is inappropriate to offer gifts or rewards.

There may be rare occasions when refusing a gift would be perceived as rude or offensive and these occasions require that you exercise sound judgment. 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.

Do not destroy evidence of unsolicited gift-giving. The evidence may be important.

You should ensure that your partner, dependent children and other close personal associates understand these requirements and are aware that the requirements apply to them also.

If you have been offered or have received a gift, benefit, travel or hospitality you should inform your supervisor as soon as possible. Supervisors should then ensure that Senior Management is in a position to refer to the Commissioner any offers which are substantial, financially or materially, or which may be seen to compromise impartiality.

11. Outside Employment

If you are employed or are considering employment outside the Commission on any basis - full-time, part-time or casual - you must seek the approval of the Commissioner.

Approval will be withheld where the outside employment could compromise your position or your work at the Commission.

Police officers temporarily transferred to the Commission, who are required to attend court hearings concerning matters initiated prior to transfer, must register court commitments in writing immediately following notification. Officers who, in the role of constable, respond to an incident which results in the commencement of police work unrelated to Commission duties, must inform the Director of Operations in writing promptly after the incident.

12. Notification of Corrupt Conduct and Complaints against Staff

You must report to the Solicitor to the Commission any instance of suspected corrupt conduct:

- revealed in the course of investigation work, even if unrelated to that investigation;
- revealed in the course of corruption prevention or education work;
- in the course of duties generally.

The Commission is committed to ensuring that there will be no recriminations against those who report suspected corrupt conduct. If you feel that you are the subject of recriminations, you should report it directly to the Commissioner.

If, in the course of your private life, you become aware of any instance of suspected corrupt conduct, you are strongly advised to report it to the Manager, Assessments or to a Deputy Director of Operations.

You must report directly to the Commissioner any instance of suspected corrupt conduct by a Commission officer, except in the case of suspected corrupt conduct by the Commissioner, which must be reported to the Solicitor to the Commission.

You must notify the Solicitor to the Commission of any complaint made against a Commission officer.

Under the Commission's policy on complaints against staff, the Solicitor to the Commission is generally responsible and will report to the Commissioner in respect of each matter. Any matter requiring investigation will be allocated to an appropriate member of Senior Management, and what is proposed after investigation will be reviewed and approved or otherwise by the Commissioner personally.

In respect of any more serious or difficult complaint against a staff member, a person from outside the Commission may be engaged to assist.

13. Sanctions

Sanctions may be applied if you are involved in:

- unacceptable behaviour, either in the course of your duties or in your private life;
- unsatisfactory performance of duties;
- breaches of the code of conduct;

- actions which can be prosecuted as breaches of the ICAC Act.

The sanction/s to be applied will depend on how serious and/or repeated breaches are considered to be. They may include:

- counselling by your supervisor, a member of Senior Management, or in extreme cases by the Commissioner;
- a record of behaviour being documented and placed on your file;
- not being recommended for further term of employment;
- dismissal;
- prosecution.

For example, an officer may be counselled by a supervisor for inadvertently giving confidential information to the media. An officer may be dismissed for knowingly leaking confidential information to the media.

Clause 3 of the terms and conditions of your employment states, in part, that your employment with the Commission may be terminated by either yourself or the Commission on the provision of two weeks' notice on either side, or pay in lieu. The Commission will not necessarily give a reason for terminating employment.

This provision will not be taken lightly by the Commission, and is likely to be used only for serious cases of gross inefficiency, for misconduct or where a substantial security risk is evident.

In cases where no reason has been given for dismissing an officer of the Commission, you should discount any rumours you may hear, and positively discourage their circulation within or outside the Commission.

14. Responsibilities of Officers Who Have Left the Commission

In accordance with the general terms and conditions of your employment, you must not without the permission of the Commission:

- make public or otherwise use any confidential knowledge or information gained as a consequence of your employment with the Commission; or
- distribute, publish, mail or otherwise permit to go out of your possession any confidential information gained as a direct or indirect result of your employment with the Commission.

At the end of your employment with the Commission, you must return any documents or items which relate to the Commission's work and which are not otherwise publicly available.

Appendix 5

MAJOR SPEAKING ENGAGEMENTS

25/7/91	Australian Institute of Administrative Law	Ian Temby QC - Ethics in Public Administration
6/8/91	IIR Conference Commercialisation - New Directions	Ann Reed - Public Sector Probity in a Commercialised World
17/8/91	Queensland University of Technology Law School Seminar Brisbane	Ann Reed - Contracting with Government Authorities
20/8/91	Australian Institute of Criminology	Kevin Zervos - Responding to Fraud in the 1990s: Future of Fraud Control
3/10/91	Australian Senior Executive Services Conference	Ian Temby QC - The Role of Senior Management in Preventing Corruption
18/10/91	SRA Management Awareness Forum	Ian Temby QC
25/10/91	Business-Government Relations Conference Curtin University of Technology, WA	Ian Temby QC - Combating Corruption
29/11/91	RAIPA Conference Wentworth Building University of Sydney	Ian Temby QC - Fraud, Ethics and Accountability

8/3/92	Fifth International Anti-Corruption Conference Amsterdam	Ann Reed - Public Awareness of Corruption and Prevention
26/3/92	University of NSW Law Society	Ian Temby QC
7/4/92	St James Ethics Centre	Ian Temby QC - To Tell a Lie: Truth in Business and the Professions
19/5/92	Rotary Club of Sydney	Ian Temby QC
16/6/92	The Association of Consulting Engineers, Australia	Ian Temby QC

Appendix 6

COMMISSION PUBLICATIONS

- The First Two Years - 19 Key Issues, March 1991
- "In Whose Interest?" Corruption - 18 Issues to Consider, March 1992
- Annual Report to June 1989
- Annual Report to June 1990
- Annual Report to June 1991
- Report on Investigation Relating to the Park Plaza Site, October 1989
- Report on Investigation Relating to the Raid on Frank Hakim's Office, December 1989
- Report on Investigation Into the Silverwater Filling Operation, February 1990
- Report on Investigation Into North Coast Land Development, July 1990
- Report on Investigation Into Registration of DP 787 368 at the Land Titles Office, July 1990
- Report on Investigation Into the Randwick College of TAFE, August 1990
- Report on Investigation Into Dealings between Homfray Carpets and the Department of Housing, September 1990
- Report on Investigation Into the Walsh Bay Redevelopment Project, October 1990
- Report on Investigation Into Driver Licensing, Volumes 1 & 2, December 1990
- Report on Investigation Into Harassing Telephone Calls made to Edgar Azzopardi, December 1990
- Report on Investigation Into Stait, Dainford and Waverley Council, January 1991
- Report on Investigation Into Sutherland Licensing Police, February 1991
- Report on Investigation concerning Neal and Mochalski, April 1991
- Report on Investigation Into Police and Truck Repairers, May 1991
- Report on Investigation Into Tendering for Vinyl Floor Products, July 1991
- Report on Investigation Into the Maritime Services Board and Helicopter Services, July 1991
- Conflicts of Interest Discussion Paper, July 1991
- Report on Investigation Into the Planning and Building Department of South Sydney Council, December 1991
- Report on Investigation Into Road Works in the Shire of Kyogle, January 1992
- Report on Investigation Into the New South Wales Film Corporation and Pepper Distribution, March 1992

- Report on Investigation Into Local Government, Public Duties and Conflicting Interests, March 1992
- Report on Investigation Into the Sydney Water Board and Sludge Tendering, May 1992
- Report on Investigation Into the Metherell Resignation and Appointment, June 1992

Corruption Prevention Project Reports

- Department of Housing Maintenance Contracts, February 1991
- Roads and Traffic Authority Driver Licensing, April 1991
- Purchase and Sale of Local Government Vehicles, December 1991
- Allocation of Boat Moorings by the New South Wales Waterways Authority, March 1992
- Cash Handling in Public Hospitals, July 1992
- Secondary Employment of New South Wales Police Officers, August 1992

Information Leaflets (13)

- | | |
|------------|--------------|
| • Arabic | • Macedonian |
| • Armenian | • Serbian |
| • Chinese | • Spanish |
| • Croatian | • Tagalog |
| • English | • Turkish |
| • Greek | • Vietnamese |
| • Italian | |

Strategies and Guidelines

- Public Affairs Strategy
- Operations Strategy
- Corruption Prevention Strategy
- Powers and Functions
- Guidelines for Reporting by Public Authorities of Possible Corrupt Conduct to the Commission
- Effective Reporting of Corrupt Conduct within Government Departments and Agencies

Education Kits

- **Corruption Free Zone Kit**
 - 6 visuals
 - Crossword
 - Issues booklet
 - 4 pages of notes eg What is a Public Official?
 - Evaluation Form
 - Balloon
 - Badge
- **Showbag**
 - Issues Booklet
 - Brochure
 - Pencil
 - Eraser
 - Ruler
 - Badge
 - Notepad
 - Jumbo Paper Clip

Appendix 7

MEDIA STATEMENTS

<u>Date</u>	<u>Subject</u>
10 July	The release of two investigation Reports on tendering for goods and services in the Maritime Services Board and New South Wales Commercial Services Group.
26 July	Assessments staff to visit Port Macquarie and Kempsey to take complaints from the public.
30 July	Education staff to visit Port Macquarie and Kempsey as part of a continuing series of country trips.
8 August	On the publication of a Discussion Paper on Conflicts of Interest in Local Government.
14 August	On the Commission's participation in the Gunnedah AG-QUIP Field Days, the State's largest primary industry exhibition.
15 August	Assessments staff to visit Forster and Taree to take complaints from the public.
26 August	Assessments staff and Education staff to visit Orange and Bathurst to take complaints from the public and increase awareness of corruption.
12 September	Response to comments made in Parliament by the Member for Londonderry, Mr Paul Gibson.
18 September	Announcing a public hearing in Coffs Harbour in relation to an investigation into Conflicts of Interest in Local Government.
25 September	On the release of the Commission's Annual Report to June 30 1991 and the work done by the different Departments of the Commission.
1 October	On the launch of a Multi-Cultural Outreach Campaign.

<u>Date</u>	<u>Subject</u>
16 October	On the large number of prosecutions arising from the work of the Commission.
17 October	Assessments staff to visit Tamworth and Armidale to take complaints from the public.
18 October	The Commission gains access to confidential data about the movement of money gathered by the Cash Transaction Reports Agency.
22 October	Announcing an investigation into the Sydney Water Board's management of sludge disposal and tender processes.
24 October	A delegation from the Chinese Ministry of Supervision visits the Commission.
5 November	Education staff and Assessments staff to visit Coffs Harbour and Grafton to take complaints from the public and increase awareness of corruption.
11 November	Response to media stories that politicians have prevented charges arising from Commission investigations being laid against some people.
12 November	Education staff to visit Queanbeyan and Cooma to raise awareness about corruption and the Commission's work.
25 November	On the importance of the preventative work done by the Corruption Prevention Department, the awareness raising carried out by the Education Unit and an update on Commission investigations.
28 November	Assessments staff to visit Queanbeyan and Cooma to take complaints from the public.
2 December	The Commission will sponsor Youth Week 1992 as part of its Education work.
6 December	On amendments to the ICAC Act which give the Commission greater flexibility in deciding whether hearings should be in public or private.

<u>Date</u>	<u>Subject</u>
9 December	Response to the report by the Parliamentary Committee on the ICAC on its inquiry into matters raised in Parliament by the Member for Londonderry, Mr Paul Gibson.
11 December	Three articles compiled by the Director of Corruption Prevention, Ms Ann Reed, about corruption prevention issues.
16 December	Release of a corruption prevention project report on buying and selling of local government council vehicles.
18 December	Release of the Report of an investigation into the Planning and Building Department of the South Sydney Council.
30 January	Commissioner awards Kristen Shearer, 19, her prize of \$500 for winning the 1992 Youth Week poster competition.
10 February	On the visit to the Commission of members of the Western Australian Parliamentary Select Committee examining the WA Official Corruption Commission Act.
21 February	On the Commission's participation in the Newcastle Show.
13 March	On the appointment of Nigel Powell, former Queensland police officer and "whistleblower", as a senior education officer.
19 March	On a Corruption Prevention Report into the system of allocating private boat moorings by the New South Wales Waterways Authority.
24 March	On the release of the Report into Local Government, Public Duties and Conflicting Interests.
30 March	On Nigel Powell's visit to Narrabri, Coonabarabran, Gunnedah, Tamworth, and Armidale, to talk to community groups and schools.
21 April	On Nigel Powell's visit to Wollongong, Nowra, Ulladulla, Bateman's Bay and Goulburn.

<u>Date</u>	<u>Subject</u>
24 April	On an investigation into the resignation of Dr Terry Metherell from Parliament and his appointment to a public service job.
11 May	On Nigel Powell's visit to Broken Hill, Wentworth, Balranald, Hay and Deniliquin, to talk to community groups and schools.
18 May	On the release of a Report into the Sydney Water Board and sludge tendering.
22 May	On an investigation into an allegation against the former Mayor of Maitland, Mr Peter Blackmore.
29 May	On Nigel Powell's visit to Dubbo, Cobar, Nyngan, and Bourke, to talk to community groups and schools.
17 June	Announcing that the Report concerning the resignation of Dr Terry Metherell from Parliament and his appointment to a public service job will be made public on Friday June 19.
18 June	On Nigel Powell's visit to Inverell, Moree, Wyallda, Glen Innes and Tenterfield, to talk to community groups and schools.

Appendix 8

FREEDOM OF INFORMATION STATEMENT OF AFFAIRS

Every agency covered by the Freedom of Information Act 1989 is required by that Act to publish an Annual Statement of Affairs. This is the Commission's first such Statement of Affairs. Until 30 June 1992 the Commission was exempt from the operation of the Freedom of Information Act. Amendments to that Act operating from 1 July 1992 mean that the Commission's Administration and Education responsibilities are no longer exempt from the operations of the Act.

The Commission places emphasis on public accessibility. Wherever possible, information is made available to the public as a matter of course. General inquiries are welcome by letter or by telephoning (008) 463 909 or (008) 463 913 (toll free) or by personal inquiry during office hours which are 8 am to 6 pm, Monday to Friday. Where an inquiry cannot be satisfied through these processes, then formal application can be made to the FOI Co-ordinator.

Freedom of Information Procedures

Formal requests made under the FOI Act for access to documents held by the Commission should be accompanied by a \$20 application fee and directed to:

Director of Administration and Education
Independent Commission Against Corruption
GPO Box 500
SYDNEY NSW 2001

The telephone number for all FOI inquiries is (02) 318 5999.

Persons wishing to be considered for a reduction in fees should set out reasons with their applications.

Arrangements can be made to obtain, or to inspect, copies of documents at the Commission by contacting the FOI Co-ordinator who is the Director of Administration and Education.

Structure and Functions

The structure of the Commission is set out in Appendix 1 to this Annual Report.

The functions of the Commission are broadly investigative, corruption prevention and public education; they are described more fully on page 1 of this Annual Report.

Effect of Functions on the Public and Arrangements for Public Participation

The Commission's work is for the public - to restore and maintain integrity in the New South Wales public sector.

The public can participate directly in the Commission's work by providing information to the Commission about suspected corrupt conduct in the public sector, pursuant to s10 of the ICAC Act. That information can be provided to the Assessments Section, by telephone, letter or personal visit. The Commission's address, telephone number and postal address are set out at the beginning of this Annual Report.

Four members of the public are members of the Operations Review Committee, which has the role of ensuring that the Commission acts properly in respect of complaints received from the public.

Members of the public can attend and observe the Commission's public hearings, which are advertised in metropolitan newspapers for Sydney hearings, and metropolitan and regional or country newspapers for hearings out of Sydney. Public hearings are also listed in the Sydney Morning Herald law listings.

The Education function is to challenge community beliefs and attitudes towards corruption through the production and distribution of publications and educational resources, and through conducting educational events and activities.

There is an increasing awareness in the community that members of the public can obtain Commission reports on investigations, and view most transcript and documentary evidence from hearings.

Anyone wishing to read transcript is welcome to contact the Commission and make arrangements to visit the premises for this purpose.

The Commission is accountable to the public through the Parliament, most specifically through the Parliamentary Committee on the ICAC. Members of the public can make

comments to the Committee about how the Commission does its work and suggest changes. Members of the public can also make such comments directly to the Commission.

Documents Held by the Commission

The following categories of documents are maintained by the Commission:

- . documents prepared for use in investigations and hearings;
- . official records of investigations and hearings, including transcript;
- . briefing papers for the Operations Review Committee;
- . deliberations on decisions of the Operations Review Committee;
- . documents, including briefing papers prepared for the Parliamentary Committee on the ICAC;
- . research reports;
- . correspondence with law enforcement agencies, government departments, local government, members of Parliament, members of the public;
- . policy documents (a list of these is available on request); and
- . general administration documents (such as accounts and staff records).

Members of the public may contact the FOI Co-ordinator to ascertain which of these documents may be available under FOI legislation.

Commission publications, available free of charge from the Commission, are listed at Appendix 6 to this Annual Report. They include investigation reports, corruption prevention reports and education material. They are available by attending the Commission's office or will be mailed upon request. The Commission's address and telephone number are set out at the front of this Annual Report.

Also available free of charge is the Commission's "Procedure at Hearings", which appears at Appendix 2 to this Annual Report.

Freedom of Information Requests in 1991/1992

During the year to 30 June 1992 the Commission received no applications under the Freedom of Information Act, being an exempt agency as defined in s9 and schedule 2 of the Act, until 1 July 1992.

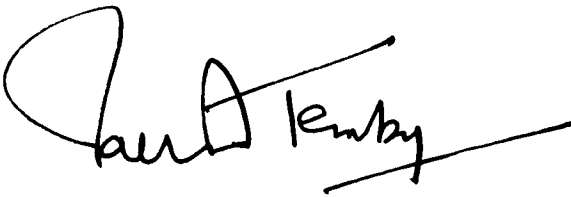
Appendix 9

FINANCIAL STATEMENTS

FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 1992

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 under Accrual Accounting for Inner Budget Sector Entities, the applicable clauses of the Public Finance and Audit (Departments) Regulation 1986 and the Treasurer's Directions;
- b. the statements exhibit a true and fair view of the financial position and transactions of the Department; 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 black ink, appearing to read 'Ian Temby', with a long horizontal stroke extending to the right.

Ian Temby QC
Commissioner



BOX 12 GPO
SYDNEY NSW 2001

AUDITOR-GENERAL'S OPINION

INDEPENDENT COMMISSION AGAINST CORRUPTION

To Members of the New South Wales Parliament and Commissioner

Scope

I have audited the accounts of the Independent Commission Against Corruption for the year ended 30 June 1992. The preparation and presentation of the financial statements, consisting of the accompanying statement of financial position, operating statement and statement of cash flows, together with the notes thereto, and the information contained therein is the responsibility of the Commissioner. My responsibility is to express an opinion on these statements to Members of the New South Wales Parliament and Commissioner based on my audit as required by Sections 34 and 45F(1) of the Public Finance and Audit Act 1983. My responsibility does not extend to an assessment of the assumptions used in formulating budget figures disclosed in the financial statements.

My audit has been conducted in accordance with the provisions of the Act and Australian Auditing Standards to provide reasonable assurance as to whether the financial statements are free of material misstatement. My procedures included examination, on a test basis, of evidence supporting the amounts and other disclosures in the financial statements, and the evaluation of accounting policies and significant accounting estimates. These procedures have been undertaken to form an opinion as to whether, in all material respects, the financial statements are presented fairly in accordance with the requirements of the Public Finance and Audit Act 1983, and Australian accounting concepts and standards so as to present a view which is consistent with my understanding of the Independent Commission Against Corruption's financial position and the results of its operations.

This audit opinion has been formed on the above basis.

Audit Opinion

In my opinion, the financial statements of the Independent Commission Against Corruption comply with Section 45E of the Act and present fairly the financial position of the Commission as at 30 June 1992 and the results of its operations for the year then ended in accordance with Statements of Accounting Concepts and applicable Accounting Standards.

J.R. MITCHELL FCPA
ASSISTANT AUDITOR-GENERAL
(duly authorised by the Auditor-General of New South Wales
under Section 45F(1A) of the Act)

SYDNEY
20 October 1992

INDEPENDENT COMMISSION AGAINST CORRUPTION

Operating Statement **For the year ended 30 June 1992**

	Notes	Actual 1991-92 \$'000	Budget 1991-92 \$'000
<hr/>			
Operating Expenses			
Employee related	4(a)	(8,590)	(7,851)
Maintenance & working	4(b)	(4,342)	(4,682)
Depreciation	4(c)	(1,056)	(828)
Legal & other costs		(1,136)	(700)
<hr/>			
Total Operating Expenses		(15,124)	(14,061)
<hr/>			
Operating Revenues			
Sale of Transcripts		72	52
Other		33	-
<hr/>			
Total Operating Revenues		105	52
<hr/>			
NET COST OF SERVICES	3	(15,019)	(14,009)
<hr/>			
Consolidated Fund recurrent allocation	15(b)	13,688	12,802
Acceptance by Crown of Department liabilities	2(a),4(a),15(b)	518	379
<hr/>			
Operating Deficiency		(813)	(828)
<hr/>			
Consolidated Fund capital allocation	15(b)	1,215	1,372
<hr/>			
Operating Surplus after Capital Allocation		402	544
<hr/>			

The accompanying notes form part of these statements.

INDEPENDENT COMMISSION AGAINST CORRUPTION

Statement of Financial Position

As at 30 June 1992

	Notes	Actual 1991-92 \$'000
Current Assets		
Cash	5	410
Receivables	6(a)	39
Prepayments		90
Other		2
Total Current Assets		541
Non Current Assets		
Leasehold improvements	7	4,027
Computer equipment	7	1,896
Plant & equipment	7	1,067
Total Non-Current Assets		6,990
TOTAL ASSETS		7,531
Current Liabilities		
Creditors	8	878
Employee entitlements	9	385
Total Current Liabilities		1,263
TOTAL LIABILITIES		1,263
NET ASSETS		6,268
Equity		
Accumulated Funds	10	6,268
TOTAL EQUITY		6,268

The accompanying notes form part of these statements.

INDEPENDENT COMMISSION AGAINST CORRUPTION

Cash Flow Statement For the year ended 30 June 1992

	Notes	Actual 1991-92 \$'000
<hr/>		
Cash Flow from Operating Activities		
Payments		
Employee related		(7,569)
Maintenance and working		(4,758)
Legal and other costs		(1,053)
		<hr/>
		(13,380)
<hr/>		
Receipts		
Sale of Transcripts		68
Other		-
		<hr/>
		68
<hr/>		
Total Net Cash Used on Operating Activities	16	(13,312)
<hr/>		
Cash Flow from Investing Activities		
Purchase of property, plant & equipment		(1,685)
		<hr/>
Total Net Cash Outflow on Investing Activities		(1,685)
<hr/>		
Net Cash Outflow from Operating and Investing Activities		(14,997)
<hr/>		
Government Funding Activities		
Consolidated Fund Recurrent Allocation		13,688
Consolidated Fund Capital Allocation		1,215
		<hr/>
Total Net Cash provided by Government		14,903
<hr/>		
Net Increase/(Decrease) in Cash		(94)
<hr/>		
Opening Balance		504
<hr/>		
CLOSING CASH BALANCE		410
<hr/>		
<hr/>		

The accompanying notes form part of these statements.

INDEPENDENT COMMISSION AGAINST CORRUPTION

Notes to and forming part of the Financial Statements

1. THE REPORTING ENTITY

The Commission is constituted by the Independent Commission Against Corruption Act 1988. These financial statements report on all the operating activities under the control of the Commission. All transactions and balances between funds have been eliminated in the process of preparing the financial statements.

2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The Commission's financial report has been prepared in accordance with Statements of Accounting Concepts, applicable Australian Accounting Standards, the requirements of the Public Finance and Audit Act and Regulations, and the Financial Reporting Directives published in the Financial Reporting Code for Inner Budget Sector Entities.

The Operating Statement and Statement of Financial Position are prepared on an accruals basis. The Cash Flow Statement is prepared on a cash basis using the "direct" method. This is the first year in which the financial statements have been prepared on an accruals basis and comparative figures are not included.

The 1991-92 Budget figures for the financial position and statement of cash flow were not readily available. Consequently the Commission accepted the general exemption granted by Treasury (refer Circular No: G1992/20).

The Treasurer has determined that the 'recoverable amount' test as set out in AAS10 is not to apply to budget sector agencies in respect of the year ended 30 June 1992 and subsequent financial years. This exemption is granted under Section 45EA of the Public Finance and Audit Act which came into effect on 1 July 1992. Should the 'Recoverable Amount' Test have been applied this would have resulted in the assets being given a nil value in the accounts.

The financial report is prepared in accordance with the historical cost convention. All amounts are rounded to the nearest one thousand dollars (\$000) and are expressed in Australian currency.

(a) Employee related expenses

The cost of employee entitlements to long service leave and superannuation are included in employee related expenses. However, as the Commission's liabilities for long service leave and superannuation are assumed by the Crown, the Commission accounts for the liability as having been extinguished resulting in non-monetary revenue described as "Acceptance by Crown of Department liabilities". Liability assumed by the Crown for the current year was \$518,000.

The amounts expected to be paid to employees for their pro-rata entitlement to recreation leave are accrued annually at current pay rates.

INDEPENDENT COMMISSION AGAINST CORRUPTION

Notes to and forming part of the Financial Statements

(b) Government allocations

Monetary and non-monetary resources which are allocated to the Commission by the government and which are controlled by the Commission are recognised as revenues of the financial period in which they are received. Non-monetary allocations are recognised at fair value.

(c) Acquisition of assets

The cost method of accounting is used for all acquisitions of assets.

(d) Leasehold improvements, computer equipment, plant & equipment.

Leasehold improvements are valued at cost. Valuation of computer equipment and plant & equipment has been assessed by Commission officers to be equal to written down book value as at 30 June 1992.

(e) Depreciation

Depreciation is provided for on a straight line basis against all depreciable assets so as to write off the depreciable amount of each depreciable asset as it is consumed over its useful life.

3. BUDGET REVIEW

The actual net cost of services exceeded original budget estimate by \$1.010 million. Additional funds to meet the shortfall were authorised during the year for operating costs associated with investigation into the unauthorised release of government information and hearings.

INDEPENDENT COMMISSION AGAINST CORRUPTION

Notes to and forming part of the Financial Statements

1992
\$'000

4. OPERATING EXPENSES

(a) Employee related expenses comprise the following items:

Salaries and wages	7,261
Payroll and fringe benefit tax	500
Prov. for recreation leave	135
Workers compensation	24
Other	152
	<u>8,072</u>

Liability accepted by Crown

Superannuation entitlements	294
Long service leave	224
	<u>518</u>

TOTAL	<u><u>\$8,590</u></u>
--------------	------------------------------

INDEPENDENT COMMISSION AGAINST CORRUPTION

Notes to and forming part of the Financial Statements

1992

\$'000

(b) Maintenance and working expenses are as follows:

Building expenses

Rent, rates, maintenance & cleaning 984

Subsistence and transport

Travelling, removal and subsistence 400

Motor vehicles 180

Freight 28

Fees for services

Consultancy 130

External audit fees 6

Fees for services 608

Other fees 655

General expenses

Advertising and publicity 110

Books and periodicals 39

Gas and electricity 164

Postal and telephone 205

Printing 134

Stores, stationery, provisions etc 121

Lease of office furniture & fittings 121

Minor expenses 5

Other 393

Technical supplies 20

Computer supplies 39

Total 4,342

(c) Depreciation is charged as follows:

Leasehold improvements 346

Computer equipment 396

Plant and equipment 314

Total 1,056

INDEPENDENT COMMISSION AGAINST CORRUPTION

Notes to and forming part of the Financial Statements

	1992
	\$'000
5. CURRENT ASSETS - Cash	
Cash at Treasury	187
Cash at bank	222
Cash on hand	<u>1</u>
	410

All these items are considered to be cash for the statement of cash flow purposes.

6. CURRENT ASSETS - Receivables

(a) Transcript debtors	7
Advances	30
Other	<u>2</u>
	39

(b) Bad debts written off	1
---------------------------	---

Note

No provision made for doubtful debts as all amounts are considered recoverable.

INDEPENDENT COMMISSION AGAINST CORRUPTION

Notes to and forming part of the Financial Statements

7. NON-CURRENT ASSETS - Leasehold Improvements, Plant & Equipment, Computers

	Leasehold Improvements \$'000	Computer Equipment \$'000	Plant & Equipment \$'000	Total \$'000
At cost				
Balance 1 July 1991	4,849	1,279	1,327	7,455
Additions	100	1,169	401	1,670
Disposals				
Revaluations				
Balance 30 June 1992	4,949	2,448	1,728	9,125
Accumulated depreciation				
Balance 1 July 1991	576	156	347	1,079
Depreciation for the year	346	396	314	1,056
Writeback on disposal				
Transfer on revaluation				
Balance 30 June 1992	922	552	661	2,135
Written Down Value At 1 July 1991	4,273	1,123	980	6,376
At 30 June 1992	4,027	1,896	1,067	6,990

INDEPENDENT COMMISSION AGAINST CORRUPTION

Notes to and forming part of the Financial Statements

	1992 \$'000
8. CURRENT LIABILITIES - Creditors	
Operating activities	
Employee related payments	519
Maintenance and working	262
Legal & other costs	<u>90</u>
	871
Investing activities	
Plant and equipment	<u>7</u>
	878
	 1992 \$'000

9. CURRENT LIABILITIES - Employee Entitlements

Operating activities	
Recreational leave	385

The movement in the provision for employee recreational leave is as follows:

Balance 1 July 1991	250
Increase in provision	135
Balance 30 June 1992	385

The amount of recreation leave paid has been charged directly to the operating statement.

INDEPENDENT COMMISSION AGAINST CORRUPTION

Notes to and forming part of the Financial Statements

1992
\$'000

10. EQUITY - Accumulated surplus/(deficit)

Balance 1 July 1991	5,866
Operating result for the year	402
Transfer to reserves	-
Transfer from reserves	-
Balance 30 June 1992	6,268

11. UNCLAIMED MONIES

All amounts unclaimed are forwarded to the Treasury for credit of Special Deposits Unclaimed Monies Account and are available for refund from that account.

No unclaimed amounts have been held in the accounts of the Commission in excess of two years.

INDEPENDENT COMMISSION AGAINST CORRUPTION

Notes to and forming part of the Financial Statements

1992

\$'000

12. COMMITMENTS FOR EXPENDITURE

(a) Capital Commitments

Aggregate capital expenditure contracted for at balance date but not provided for in accounts payable:

Not later than one year	353
Later than one year but not later than 2 years	-
Later than 2 years but not later than 5 years	-
Later than 5 years	-
	<hr/>
	353

(b) Lease Commitments

Aggregate operating lease expenditure contracted for at balance date but not provided for in the accounts:

Not later than one year	952
Later than one year but not later than 2 years	952
Later than 2 years but not later than 5 years	2,820
Later than 5 years	1,563
	<hr/>
	6,287

Representing:

Cancellable operating leases	4,689
Non-cancellable operating leases	1,598
	<hr/>
	6,287

Commitments in relation to non-cancellable operating leases are payable as follows:

Not later than one year	952
Later than one year but not later than 2 years	640
Later than 2 years but not later than 5 years	6
Later than 5 years	-
	<hr/>
	1,598

INDEPENDENT COMMISSION AGAINST CORRUPTION

Notes to and forming part of the Financial Statements

13. CONTINGENT LIABILITIES

There were no known contingent liabilities as at 30 June 1992.

14. ASSISTANCE PROVIDED

Material assistance was provided by Staff and Salaries Branch of the Premier's Department who rendered staff services at no charge to the Commission.

INDEPENDENT COMMISSION AGAINST CORRUPTION

Notes to and forming part of the Financial Statements

15. PROGRAM INFORMATION

	Notes	Program 1992 \$'000	Organisation 1992 \$'000
Total Operating Expenses		(15,124)	(15,124)
Operating Revenue			
User charges		72	72
Other revenue		33	33
NET COST OF SERVICES		(15,019)	(15,019)
Government allocations	(b)	15,421	15,421
Operating Result after Consolidated Fund Allocations		402	402
Total Assets		7,531	7,531

INDEPENDENT COMMISSION AGAINST CORRUPTION

Notes to and forming part of the Financial Statements

15. PROGRAM INFORMATION (continued)

Notes

(a) **Program** INVESTIGATION, COMMUNITY EDUCATION AND
PREVENTION OF CORRUPTION

Objective(s): To minimise corrupt activities and enhance the efficiency and
integrity of government administration.

(b) Government Allocations	Program	Organisation
	1992	1992
	\$'000	\$'000
Consolidated Fund recurrent allocation	13,688	13,688
Crown acceptance of liabilities	518	518
Consolidated Fund capital allocation	1,215	1,215
	15,421	15,421

The difference between Consolidated Fund capital allocation (\$1.215m) and the amount shown in the cash flow statement (\$1.685m) is due to essential capital items required being purchased out of recurrent funds.

INDEPENDENT COMMISSION AGAINST CORRUPTION

Notes to and forming part of the Financial Statements

	1992
	\$'000
16. RECONCILIATION OF OPERATING SURPLUS TO NET CASH USED ON OPERATING ACTIVITIES	
Operating Surplus	402
Increase/(Decrease) in Liabilities	
- Provision for Recreation Leave	135
- Accrued Charges	642
(Increase)/Decrease in Assets	
- Prepayments	(92)
- Accounts Receivable	(34)
Depreciation	1,056
Government Appropriations	(14,903)
Crown Acceptance of Liabilities	(518)
Net Cash Used on Operating Activities	<u>(13,312)</u>

END OF AUDITED FINANCIAL STATEMENTS

Appendix 10

ADDITIONAL FINANCIAL INFORMATION

Time for Payment of Accounts

At 30 June 1992 accounts payable to suppliers totalled \$418,092. All amounts outstanding were current.

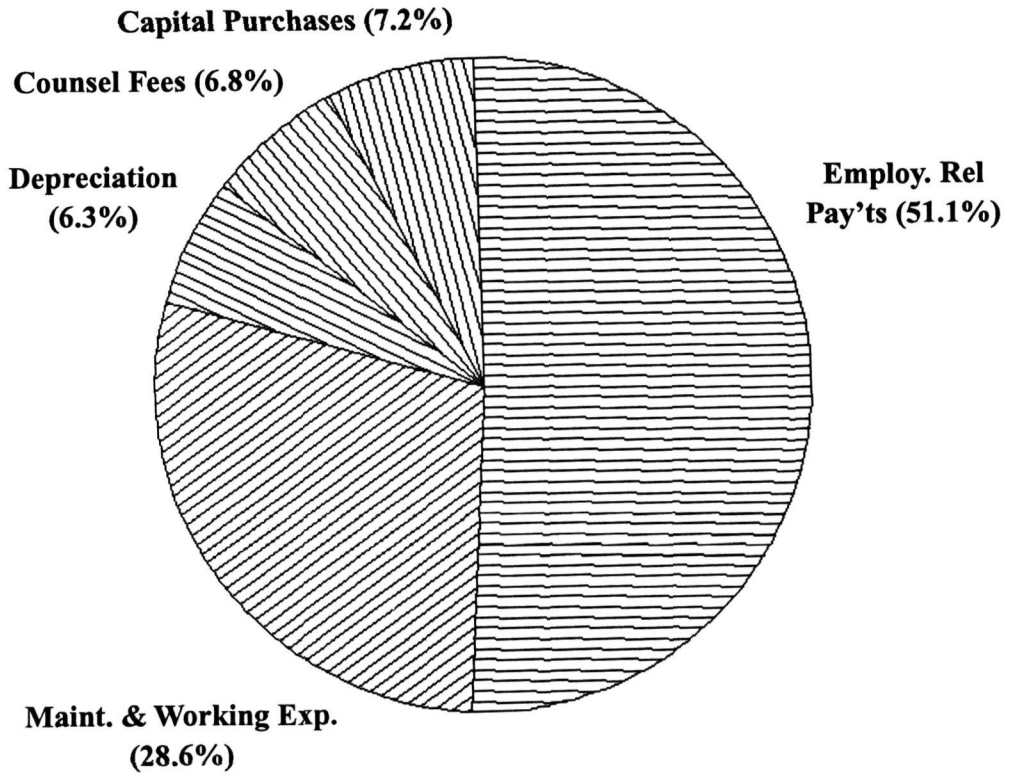
For the last quarter of the financial year accounts paid totalled \$1,998,343. Over 90% of of these accounts (\$1,798,509) were paid on time.

Interest Payments

During the financial year no payments were made for interest charges incurred for late payments.

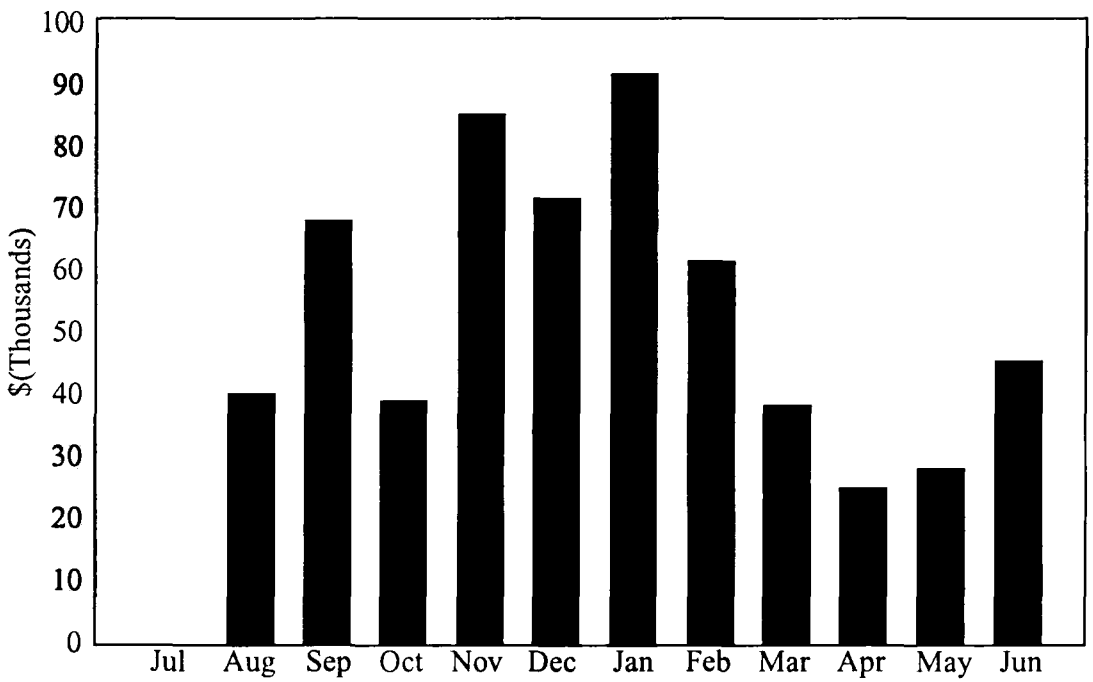
Appendix 11

DISSECTION OF EXPENDITURE



Appendix 12

EXPENDITURE ON STORES AND EQUIPMENT



Appendix 13

CONSULTANCIES UNDER \$30,000

During 1991/92 the Commission spent a total of \$46,270 for specialised services from 11 different consultants, as listed, each at an individual cost of less than \$30,000.

Adair Fire & Security

Emergency procedures

Forensic Document Services

Forensic services

Auditor General's Office

Financial analysis

Roy Morgan Research Centre

Public attitude survey

R K Bailey & Associates

Accounting & computer services

Multinet Systems

Technical services

Michael J Dever & Associates

Security advice

Property Services Group

Property advice

Ethnic Affairs Commission

Translation services

V Pursell

Library Services

W Fleming

Operational procedures

Index

A

Accountability 44, 93
Administration 72
Aims 1
Analysis of Commission's Formal Work 31
Analysis of Complaints 13
Anonymous Complaints 11
Assessment Section 11
Attitude Surveys 63
Australian Bureau of Crime Intelligence 17
Australian Taxation Office 17
Australian Transaction Reports and Analysis Centre 17

C

Cash Transaction Reports Agency 17, 69
Charter 1
Code of Conduct 54, 57, 88
Commission transcripts 70
Committees 75, 76
Community organisations - funds granted 79
Complainant response 16
Complaints 8, 9, 13, 100, 101
Consultants 79, 137
Contracting out 51, 57
Corporate Plan 7
Corrupt Conduct 10, 13
Corruption Prevention 1, 44-47, 49, 53, 57, 89
Costing of investigations 42, 87

D

Dispute resolution procedures 75

E

Education 59-65
EEO Management Plan 73
Establishment 1

F

Finance 78
Freedom of Information 68, 112 - 116
Functions 1, 44
Future Plans 57, 65

G

Guidelines 13

H

Hearings 18, 20, 21, 82, 83, 95, 100
Procedure at Hearings 82 - 86

I

ICAC Act Amendments 67
Information Furnished to Law Enforcement Agencies 17
Informers 34
Insurance and risk management 79
Investigations 1, 18, 19, 36 - 40, 64, 82, 84, 85, 89
Investigative teams 8
Issues publications 53
Issues Raised in the Reports 32

L

Leave 73
Legal and Policy Department 66
Legal Change 67 - 71
Legislation 1, 89
Listening Devices Act 19
Litigation 42

M

Major Acquisitions 78
Major Assets 78
Matters Referred to the Commission 11, 12
Method of complainant contact 12
Monitoring Corruption Prevention reports 48
Multi-Cultural Outreach Campaign 63

O

Occupational Health and Safety 75, 76
Official Corruption Offences 70
Operations 8
Operations Review Committee 4, 14, 15
Overseas Visits 79

P

Parliamentary Committee on ICAC 4, 5
Performance
Staff 91, 94, 101
Performance Review 74
Police Regulation 30, 70
Powers 18
Privatisation 51
Prosecutions 40

Prosecutions Not Commenced 41
Public Hearings 33
Publications 53, 61, 105

R

Recruitment 72
Reference from Parliament 10, 28
Reports - Investigation 9, 18, 20, 21, 45, 85, 95, 106
 The Planning and Building Department of South
 Sydney Council 22
 Roadworks in the Shire of Kyogle 24
 The New South Wales Film Corporation and Pepper
 Distribution 25
 Local Government, Public Duties and Conflicting
 Interests 25
 The Sydney Water Board and Sludge Tendering 27
 The Metherell Resignation and Appointment 27
 The Conduct of Peter Blackmore 30
 Unauthorised Release of Government Information 33
 State Rail Authority - Trackfast and Plant Hire in the
 Northern Region 35
Reports - Section 11 12
Research Unit 66

S

Section 11 13, 14
Schedule Reporting 12
Search Warrants 19
Search Warrants Act 1985 19
Seminars 44, 55, 56, 60
Senior Management 3, 4, 75, 96, 101
Speaking Engagements 103
Staff Development 74
Staff Training 74
Staffing Levels 72
Statutory Appointments 2

T

Time for Assessment of Complaints 16
Transcripts 70

W

Witness Protection Plan 8